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REPORT
106–52

MEASURES RELATING TO STEEL IMPORTS

MARCH 15, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means, submitted the following

ADVERSE REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 975]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 975) to provide for a reduction in the volume of steel imports, and to establish a steel import notification and monitoring program, having considered the same, report unfavorably thereon without amendment and recommend that the bill do not pass.

CONTENTS

	Page
I. Introduction	2
A. Purpose and Summary	2
B. Background	2
C. Legislative History	4
II. Explanation of the Bill	4
A. Section 1: Reduction in Volume of Steel Imports	4
B. Section 2: Steel Import Notification and Monitoring Program	6
III. Voice of the Committee	8
IV. Budget Effects of the Bill	8
A. Committee Estimate of Budgetary Effects	8
B. Statement Regarding New Budget Authority and Tax Expenditures	8
C. Cost Estimate Prepared by the Congressional Budget Office	8
V. Other Matters Required to be Discussed Under the Rules of the House	12
A. Committee Oversight Findings and Recommendations	12
B. Summary of Findings and Recommendations of the Government Reform and Oversight Committee	12
C. Constitutional Authority Statement	12

69–008

D. Information Relating to Unfunded Mandates ... 12
VI. Correspondence ... 13
A. Correspondence from the Speaker of the House and the Majority Leader ... 13
B. Correspondence from Chief of Staff of the President of the United States ... 13
VII. Additional Views ... 15
VIII. Dissenting Views ... 16

I. INTRODUCTION

A. PURPOSE AND SUMMARY

Within 60 days of enactment, H.R. 975 would impose quotas for a three year period on U.S. imports of steel, based on tonnage, equal to the monthly average of such imports during the 36 months prior to July 1997. In addition, H.R. 975 would require the Secretary of Commerce to establish a steel import notification and monitoring program, within 30 days of enactment, which includes a requirement that any person importing steel into the United States first obtain an import notification certificate and that data collected from the certificate applications be made publicly available.

B. BACKGROUND

During the first 10 months of 1998, U.S. steel imports grew at record levels, rising 30 percent over the same period in 1997. Increases were particularly high in key products such as hot-rolled sheets and coils, where imports rose 66.3 percent in the first 10 months of 1998 versus the same period in 1997. Overall, import penetration grew from 24.2 percent in the first 10 months of 1997 to 29.5 percent during the same period of 1998. Steel imports from Japan, Russia, and Korea together accounted for 78 percent of the increase. At the same time, U.S. steel production for 1998 was at a near record level of 102 million metric tons (down slightly from the record of 105 million set in 1997), and steel demand in the United States during 1998 was the strongest in history, at over 141 million metric tons.

In response to the increase in steel imports, segments of the U.S. industry have sought relief under U.S. trade laws. On September 30, 1998, U.S. steel producers and workers filed antidumping petitions at the Commerce Department on U.S. imports of hot-rolled steel from Japan, Russia, and Brazil, and a countervailing duty petition on imports from Brazil. The U.S. International Trade Commission (ITC) issued a preliminary injury determination on these petitions on November 13, 1998, finding that imports from all three countries threatened the domestic industry with injury but did not cause present injury. On November 23, 1998, Commerce issued a preliminary ruling of critical circumstances with respect to hot-rolled steel imports from Japan and Russia. Based on this finding, importers may be retroactively assessed dumping duties reaching back 90 days before the preliminary determination to November 14, 1998, if an antidumping order is issued. As a result of the critical circumstances finding, importers have been put on notice of potential antidumping duty assessments.

Preliminary steel import statistics from the Commerce Department for January 1999 indicate a decrease of 1.2 million metric tons in monthly steel imports entering the United States from levels reached prior to the critical circumstances finding in the antidumping cases against Russia and Japan. The result of the critical circumstances finding, which put importers on notice of potential antidumping duty liability, was to virtually stop imports of hot-rolled steel from countries involved in pending investigations and to reduce by 70 percent the level of all hot-rolled imports entering the United States. Overall, imports of all steel mill products from all sources declined by 34 percent from their November levels, according to preliminary January 1999 statistics.

On February 12, 1999, the Commerce Department issued a preliminary affirmative determination of dumping with respect to Japan (margins ranging from 25.14 to 67.59 percent) and Brazil (margins of 50.66 to 71.02 percent). In addition, Commerce made an affirmative preliminary subsidy determination with respect to Brazil, with margins ranging from 6.62 to 9.45 percent. Commerce's final determinations with respect to Japan and Brazil are due April 28, unless extended, and the ITC's final determinations are due June 2, unless extended.

On February 22, 1999, Commerce announced a preliminary affirmative determination of dumping with respect to Russia (margins ranging from 71 to 218 percent). On the same day, Commerce reached tentative agreements with Russia to (1) suspend the antidumping investigation of Russian hot-rolled steel products and roll back those imports to 1996 levels; and (2) set imports of Russian steel at 1997 levels on a comprehensive list of other steel products. A Memorandum of Understanding was also initialed committing Commerce and the Russian Ministry of Trade to work together to assist the Russian government and business communities to eliminate unfair trade practices. Because the agreement on hot-rolled steel involves the suspension of the current antidumping investigation with respect to Russia, the views of the petitioners in the case must be considered before the agreement is finalized.

On December 30, 1998, another segment of the U.S. steel industry filed a petition for relief with the ITC. This petition, filed under section 201 of the Trade Act of 1974 on imports of steel wire rod, alleged that imports of the product are a substantial cause of serious injury to the U.S. industry. An injury determination on that petition is due mid-May.

On February 16, 1999, the U.S. steel industry and workers filed additional antidumping and countervailing duty petitions at the Commerce Department on imports of carbon steel plate imports from France, India, Indonesia, Italy, Korea, and Macedonia. Antidumping petitions only were also filed against the Czech Republic and Japan on carbon steel plate. Commerce initiated these investigations on March 8, 1999. Preliminary injury determinations by the ITC are due April 12, 1999. Preliminary countervailing duty determinations are due by May 12, 1999 unless extended, and preliminary antidumping determinations are due by July 26, 1999 unless extended.

C. LEGISLATIVE HISTORY

Committee action

H.R. 975 was introduced on March 4, 1999 by Representative Visclosky et alia and was referred to the Committee on Ways and Means. On March 5, 1999, Chairman Archer received a letter from the Speaker of the House and the Majority Leader requesting that the Committee consider and report unfavorably H.R. 975, despite their "share[d] . . . misgivings" about the policy, in order to ensure that the House will consider this measure under orderly legislative procedures (see attached letter). On March 10, 1999, the Committee ordered H.R. 975 reported adversely without amendment to the House by a voice vote with a quorum present. The Administration stated its opposition to the legislation at the Committee meeting (see attached letter).

Legislative hearing

The Subcommittee on Trade held a hearing on February 25, 1999, on steel trade issues. At the hearing, Members of Congress, as well as representatives of the steel industry and steel workers expressed concern about the current state of the U.S. steel industry. The Secretary of Commerce, William Daley, and the U.S. Trade Representative, Charlene Barshefsky, testified as to the Administration's actions in response to the increase in steel imports and the status of the ongoing antidumping and countervailing duty investigations into hot-rolled steel. Representatives of U.S. steel users testified as to the impact of restricting access to steel imports on other sectors of the U.S. economy.

II. EXPLANATION OF THE BILL

A. SECTION 1: REDUCTION IN VOLUME OF STEEL IMPORTS

Present law

No quotas exist under current U.S. law on imports of steel products.

Title VII of the Tariff Act of 1930, as amended, provides for the collection of antidumping or countervailing duties only after an administrative determination that foreign merchandise is being sold in the U.S. market at less than fair value, or that the imports are subsidized, and that such imports are materially injuring, or threatening material injury, to the U.S. industry.

Sections 201–204 of the Trade Act of 1974, commonly known as the "safeguard" law, sets forth the procedures for the President to take action, including import relief, to facilitate efforts by a domestic industry to make a positive adjustment to import competition. Relief is granted under Presidential discretion only if the ITC finds that the article is being imported in such increased quantities as to be a substantial cause of serious injury to the industry.

Explanation of provision

H.R. 975 directs the President, within 60 days of enactment, to take the necessary steps by imposing quotas, tariff surcharges, negotiated enforceable voluntary export restraint agreements, or otherwise, to ensure that the volume of steel products imported into

the United States during any month, based on tonnage, does not exceed the average volume of steel products that was imported monthly into the United States during the 36-month period preceding July 1997. The quotas in H.R. 975 apply to the following categories of steel products: semifinished, plates, sheets and strips, wire rods, wire and wire products, rail type products, bars structural shapes and units, pipes and tubes, iron ore, and coke products. The quotas expire at the end of the 3-year period beginning 60 days after enactment.

H.R. 975 directs the Secretary of the Treasury, through the U.S. Customs Service, and the Secretary of Commerce to implement a program for administering and enforcing the quotas in the bill and authorizes the U.S. Customs Service to refuse entry into the customs territory of the United States of any steel products that exceed the allowable levels of imports of such products.

Reasons for Committee action

The Committee sympathizes with the current situation faced by the U.S. steel industry and its workers, and notes that the steel industry is not alone in undergoing difficult times. The U.S. oil and gas industry has also experienced a downturn in the wake of low priced imports. In addition, U.S. farmers and ranchers have gone through a difficult period as a result of the drying up of export markets and drop in commodity prices.

The Committee on Ways and Means reports H.R. 975 adversely primarily because it would impose a quota on steel imports outside of U.S. trade remedy laws and U.S. obligations in the World Trade Organization (WTO). Specifically, the quotas under H.R. 975 would not be based on a determination of whether the imports are causing or threatening serious injury or whether unfair trade or subsidization is involved, as required by WTO. In addition, the bill would apply to steel imports coming to the United States from all countries, even fairly traded imports.

The Committee also believes that the quotas in H.R. 975 threaten the competitiveness of U.S. downstream steel users who manufacture products like defense equipment, cars, and machinery, and who employ 40 times as many U.S. workers as the integrated steel mills. The Committee is concerned that increased demand may create a situation in which the domestic industry is unable to supply sufficient quantities of particular products because of import limitations imposed by the quotas. In addition, in some circumstances, the domestic industry may be able to supply the product, but at aberrational prices, resulting in a functional lack of availability.

Moreover, H.R. 975 makes U.S. exporters vulnerable to retaliation in overseas markets. In fact, the United States, the Committee believes, would be setting a bad example for countries in the midst of a financial crisis, particularly those which have resisted closing their own markets in times of trouble.

The Committee is also concerned about the impact of the private sector mandate contained in the bill, as defined under the Unfunded Mandates Reform Act (UMRA) of 1995 (Public Law 104–4). The Congressional Budget Office (CBO) has determined that the direct costs to the private sector resulting from the enactment of H.R. 975 would exceed the statutory threshold each year that the bill is

in effect. Specifically, CBO estimates that the quotas in H.R. 975 would result in higher steel market prices costing the private sector nearly $400 million in 2000, $340 million in 2001, and $150 million in 2002.

Finally, the Committee believes that the actions taken by the Administration in response to the increase in steel imports last year are already having the intended effect of reducing the level of U.S. steel imports. In particular, hot-rolled steel imports from Japan, Russia, and Brazil, which are now subject to high preliminary antidumping margins, have virtually stopped according to preliminary January 1999 import statistics. Hot-rolled imports from all countries, even those not subject to investigation have dropped 70 percent since November and imports of all steel mill products from all sources are down 34 percent over the same time frame.

Effective date

The provision is effective within 60 days of enactment.

B. SECTION 2: STEEL IMPORT NOTIFICATION AND MONITORING PROGRAM

Present law

The Census Bureau within the Department of Commerce compiles and releases trade statistics under a directive from the Office of Management and Budget (OMB) related to the announcement of "Leading Economic Indicators." Statistics are generally released six to eight weeks after entry. In early 1999, the Secretary of Commerce received approval from OMB to release monthly steel import statistics compiled by the Census Bureau 20 days earlier than usual, approximately one month after entry.

Explanation of provision

H.R. 975 directs the Secretary of Commerce, in consultation with the Secretary of the Treasury, to establish a steel import notification and monitoring program, not later than 30 days after enactment, which includes a requirement that any person importing a product classified under chapter 72 or 73 of the Harmonized Tariff Schedule (HTS) of the United States obtain an import notification certificate before such products are entered into the United States.

To obtain a steel import notification certificate, H.R. 975 requires an importer to submit an application to the Secretary of Commerce containing:

(A) the importer's name and address;

(B) the name and address of the supplier of the goods to be imported;

(C) the name and address of the producer of the goods to be imported;

(D) the country of origin of the goods;

(E) the country from which the goods are to be imported;

(F) the U.S. Customs port of entry where the goods will be entered;

(G) the expected date of entry of the goods into the United States;

(H) a description of the goods, including the classification of such goods under the HTS;

(I) the quantity (in kilograms and net tons) of the goods to be imported;

(J) the cost insurance freight (CIF) and free alongside ship (FAS) values of the goods to be entered;

(K) whether the goods are being entered for consumption or for entry into a bonded warehouse or foreign trade zone;

(L) a certification that the information furnished in the certificate application is correct; and

(M) any other information the Secretary of Commerce determines to be necessary and appropriate.

In the case of merchandise classified under chapter 72 or 73 of the HTS that is initially entered into a bonded warehouse or foreign trade zone, H.R. 975 would require a steel import notification certificate before the merchandise is entered into the customs territory of the United States.

H.R. 975 directs the Secretary of Commerce to issue a steel import notification certificate to any person who files an application that meets the requirements of this section. Certificates would be valid for a period of 30 days from the date of issuance.

H.R. 975 further directs the Secretary of Commerce to compile and publish on a weekly basis information obtained from steel import notification certificate applications concerning steel imports into the United States including the HTS classification (to the tenth digit), the country of origin, the port of entry, quantity, value of steel imported, and whether the imports are entered for consumption or are entered into a bonded warehouse or foreign trade zone. Such information is also to be compiled in aggregate form and made available to the public by the Secretary of Commerce on a weekly basis by public posting on an Internet website. The information provided under this section is in addition to any information otherwise required by law.

H.R. 975 authorizes the Secretary of Commerce to prescribe reasonable fees and charges to defray the costs of carrying out the provisions of this section, including a fee for issuing a certificate under this section.

The bill clarifies that the Secretary of Commerce shall make publicly available all information required to be released pursuant to this Act, including information obtained regarding imports from a foreign producer or exporter that is the only producer or exporter of goods subject to this section from a foreign country.

Finally, H.R. 975 authorizes the Secretary of Commerce to prescribe such rules and regulations relating to the steel import notification and monitoring program as may be necessary to carry out the provisions of this section.

Reasons for Committee action

The Committee believes that a new steel import notification and monitoring program is unnecessary in light of the steps taken earlier this year by the Commerce Department to provide steel trade information on an expedited basis. Under Commerce's expedited program, information is made available about three weeks after the end of the month. (normal procedures permit the release of infor-

mation six to eight weeks after entry). H.R. 975 would make information available only two weeks earlier that Commerce's expedited program.

The Committee is also concerned that H.R. 975 would permit the Secretary of Commerce to impose fees to cover the cost of the steel import notification and monitoring program when the current system, which provides for expedited release of information already collected from importers, costs firms nothing. CBO has estimated this added expense will cost the private sector about $500,000 annually. This added expense, as well as the lack of an expiration date associated with the program, raises potential problems with respect to U.S. obligations in the WTO.

Finally, the Committee is concerned that H.R. 975 would make available some information which may not be currently available to the public, potentially posing business confidentiality problems.

Effective date

The provision is effective within 30 days of enactment.

III. VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee in its consideration of H.R. 975.

MOTION TO REPORT THE BILL

H.R. 975 was ordered reported adversely without amendment by a voice vote with a quorum present.

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of H.R. 975, as reported: The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the provisions of H.R. 975 would decrease revenues by $43 million between fiscal year 2000 and 2002, and would increase discretionary spending by $2 million in 2000 and by less than $500,000 a year thereafter.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 15, 1999.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 975, a bill to provide for a reduction in the volume of steel imports and to establish a steel import notification and monitoring program.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Hester Grippando (for revenues), Mark Hadley (for spending), and Lesley Frymier (for the private sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 975—A bill to provide for reduction in the volume of steel imports, and to establish a steel import notification and monitoring program

Summary: H.R. 975 would temporarily set a limit on imports of steel and steel products into the United States and would establish a steel import notification and monitoring program. CBO estimates that this bill would reduce governmental receipts by $43 million between 2000 and 2002. CBO also estimates that implementing the bill would increase discretionary spending by $2 million in 2000 and by less than $500,000 a year thereafter, assuming appropriation of the necessary amounts. Because enacting H.R. 975 would affect receipts, pay-as-you-go procedures would apply.

H.R. 975 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. The bill would impose new private-sector mandates on importers of steel products. Based on information provided by government and industry sources, CBO estimates that the direct costs of the new private-sector mandates would exceed the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation) in fiscal years 2000 through 2002.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 975 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars					
	1999	2000	2001	2002	2003	2004
CHANGES IN REVENUES						
Estimated revenues	([1])	−21	−16	−6	0	0
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated authorization level	0	2	([1])	([1])	([1])	([1])
Estimated outlays	0	2	([1])	([1])	([1])	([1])

[1] Less than $500,000.

Basis of estimate: For the purpose of this estimate, CBO assumes that H.R. 975 will be enacted by July 1, 1999, and implemented on September 1, 1999.

Revenues

Section 1 of H.R. 975 would charge the President to take necessary steps to limit the volume of steel products imported into the United States during the three-year period starting 60 days after enactment. Imports could not exceed the average volume of steel products imported into the United States during the 36-month period preceding July 1997. Categories of steel products covered by H.R. 975 include semi-finished steel plates, sheets and strips, wire rods, wire and wire products, rail-type products, bars, structural shapes and units, pipes, and tubes, iron ore, and coke products. This estimate assumes that import quotas are imposed, but the projected revenue loss would be the same if the President negotiated voluntary export restraint agreements. CBO estimates that H.R. 975 would reduce revenues by less than $500,000 in fiscal year 1999, and by $43 million over the 1999 through 2004 period.

CBO estimated the bill's impact on revenue based on recent steel import forecasts in Standard and Poor's Fourth Quarter 1998 "Steel Industry Review" and WEFA's February 1999 "Steel Industry Outlook." Steel import projections from these forecasts were adjusted to match the overall import projections in CBO's January 1999 forecast. The forecast assumes that imports will fall from the 1998 level because of lower projected domestic demand, unusually high domestic inventories, lower projected domestic prices, and the effect of recent trade cases brought against U.S. importers of steel. Under current law, CBO projects steel imports to be 32 million short tons in 2000 and 30 million short tons in 2001. CBO projected the consumption value of steel imports using census historical data on the consumption value of steel and Standard and Poor's forecast of changes in steel import prices. Revenue losses were estimated by applying a trade-weighted duty rate adjusted for tariff reductions scheduled by the World Trade Organization (WTO).

Spending Subject to Appropriation

Section 2 would require importers of steel mill products to obtain a certificate from the Department of Commerce before such products are shipped. The Department of Commerce would collect trade data from steel importers and provide the data to the public through an Internet Web site. Information from the Department of Commerce and experience with similar programs suggest that most of the costs would be for developing the certificate system and Web site, with negligible amounts for maintaining the system. Subject to appropriation of the necessary amounts, CBO estimates that implementing section 2 would cost about $2 million in 2000 and less than $500,000 in each subsequent year. In addition, H.R. 975 would allow the Department of Commerce to impose fees that may offset some or all of the costs associated with this section. The amounts collected are not likely to be significant.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for leg-

islation affecting direct spending or receipts. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the affects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
	Not applicable										
Change in outlays											
Changes in receipts	0	−21	−16	−6	0	0	0	0	0	0	0

Estimated impact on State, local, and tribal governments: S. 975 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: H.R. 975 would impose new private-sector mandates on importers of steel products. Based on information provided by government and industry sources, CBO estimates that the direct costs of the new private-sector mandates would exceed the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation) in fiscal years 2000 through 2002.

H.R. 975 would effectively prohibit imports of certain steel products in excess of the average volume of steel products that was imported monthly into the United States during the 36-month period preceding July 1997. Such a quota would reduce the availability of imported steel and raise prices faced by U.S. importers of steel. Just how much prices will rise is uncertain, but based on published estimates of demand elasticities for steel products, CBO estimates the increased cost to importers would be nearly $400 million in 2000, $340 million in 2001, and $150 million in 2002.

H.R. 975 also would require importers of certain products to apply for and obtain a steel import notification certificate from the Department of Commerce. Although the Secretary of Commerce would have the authority to charge a fee for issuing a certificate, the Department of Commerce was unable to provide CBO with any information on the establishment of such a fee. If a reasonable fee were established, CBO estimates that the direct cost to importers to obtain a certificate would be about $500,000 annually.

H.R. 975 would likely yield benefits and impose other costs on the private sector. If domestic steel prices rise, H.R. 975 would benefit U.S. steel producers and impose costs on U.S. consumers of steel. By increasing the gap between the domestic and world price of steel, the bill could result in an increase in imports of finished products from foreign countries and place some U.S. products at a competitive disadvantage in foreign markets.

Estimate prepared by: Federal Revenues: Hester Grippando; Federal Spending: Mark Hadley; Impact on the Private Sector: Lesley Frymier.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis and Tom Woodward, Assistant Director for Tax Analysis.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing information and information from the Administration, believes that imposing quotas on U.S. steel imports by enacting H.R. 975 would be unwise and counterproductive.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that no oversight findings or recommendations have been submitted by the Committee on Government Reform and Oversight with respect to the subject matter contained in H.R. 975.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States * * *").

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act (UMRA) of 1995 (Public Law 104–4).

The Committee has determined that the following provisions of H.R. 975 contain Federal mandates on the private sector: (1) the imposition of quotas on U.S. steel imports, and (2) the establishment of the steel import notification and monitoring program. The direct costs to the private sector are significant and are estimated to exceed the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation) in fiscal years 2000 through 2002. Specifically, CBO estimates that the quotas in H.R. 975 would result in higher prices in the steel market costing the private sector nearly $400 million in 2000, $340 million in 2001, and $150 million in 2002. In addition, CBO estimates that the establishment of the steel import notification and monitoring program would cost the private sector an additional $500,000 per year.

H.R. 975 contains no intergovernmental mandate as defined in the UMRA and would not affect the budgets of state, local, or tribal governments.

The Committee agrees with the analysis provided by the CBO as to the impact on the private sector of the price increases that would result in the steel market from the imposition of steel quotas, as well as costs to the private sector associated with the establishment of the steel import notification and monitoring program.

VI. CORRESPONDENCE

CONGRESS OF THE UNITED STATES,
Washington, DC, March 5, 1999.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means,
Longworth House Office Building, Washington, DC.

DEAR BILL: It is our request that the Ways and Means Committee consider and report unfavorably the Visclosky-Quinn steel legislation (H.R. 975) next week. H.R. 975 includes the text of H.R. 506, along with legislative language that establishes a steel monitoring program. While we share your misgivings about this policy, the committee's action ensures that the House will consider this measure under orderly legislative procedures.

Thank you for your consideration of this matter.

Sincerely,

DENNIS HASTERT,
Speaker.
DICK ARMEY,
Majority Leader.

THE WHITE HOUSE,
Washington, March 10, 1999.

Hon. BILL ARCHER,
Chairman, Ways and Means Committee,
House of Representatives, Washington, DC.

DEAR CHAIRMAN ARCHER: I want to convey to you the Administration's opposition to H.R. 975 and, in particular, its mandate that the President take action to roll back steel imports to the average monthly import levels preceding the current import surge.

The President is determined to maintain the U.S.' strong manufacturing base and the good jobs it provides. The President share the co-sponsors deep concern about the impact on our steelworkers, communities and companies of the surge in steel imports. He believes that the best way to address the current steel crisis is by insisting that other countries play by the international trade rules, just as the United States will continue to abide by those rules. The President's commitment to effective, vigorous and timely enforcement of our trade laws is producing results. Imports of carbon hot-rolled steel have fallen 70% between November and January. Imports of these products also have virtually ceased from Russia and Japan (down 98% and 96% respectively) and declined 76% from Brazil. We are committed to sustained implementation of this place and the expeditious resolution of pending cases.

Quotas imposed outside the World Trade Organization (WTO)-consistent processes contained in our trade laws (section 201 safeguards law or the quota suspension agreement provisions in our antidumping and countervailing duty laws) violated our international trade obligations. These quotas would not be based on a determination of whether the imports are causing or threatening serious injury, or whether unfair trade or subsidization is involved as required by WTO. Moreover, our current laws already provide the means for U.S. industry and workers to request an investiga-

tion and, if a threat of injury is demonstrated, quotas or other trade remedies can be imposed in a WTO consistent manner. In addition, when the orderly and thorough procedures mandated by our trade laws are followed, we can take into account the full range of U.S. industry and worker concerns and fashion remedies that do not result in additional market distortion, import shortages, excessive price hikes or retaliation that could harm U.S. export industries and customers.

We believe that implementing H.R. 975 constitutes a violation of our international obligations under the WTO and is not in our nation's economic interest. Because of these concerns, the President's senior advisors would recommend that the President veto the bill.

Nonetheless, the steel crisis has demonstrated that there is room for improvements to our trade laws to ensure they deliver strong, effective relief in an expeditious manner, while maintaining their consistency with our international WTO obligations. We believe the legislation proposed by Congressman Levin constitutes a constructive approach, and we stand ready to work with him and other members of Congress to develop a bill that we could recommend the President sign.

Sincerely,

JOHN PODESTA.

VII. ADDITIONAL VIEWS

We strongly oppose this legislation for two reasons and urge its rejection by the House as a result. We recognize the difficulty facing steel workers and companies. What we find unacceptable is the way in which steel import restrictions imposed by this bill would place other Americans at risk while ignoring the plight of other working people who have seen imports destroy their jobs in other industries.

There is no doubt that this legislation poses a risk of retaliation against other American industries and those they employ. The World Trade Organization agreement requires member states to meet specific tests on causation and harm before import restrictions may be adopted in defense of one's domestic industries. H.R. 975 in no way meets the requirements we accepted in trade agreements.

Failing to adhere to the rules by limiting steel imports will entitle other nations to restrict our exports. American jobs tied to those exports will be at risk. For export-oriented industries such as American agriculture, the results will be lost income and lost jobs. Acting hastily without taking farmers's and others' concerns into account is foolish.

Equally disturbing to us, however, is the favoritism embodied in this bill. H.R. 975 only recognizes the problems of one industry. Our constituents in the oil and gas industry have seen 30,000 jobs vanish in the last year. That loss is three times the amount of steel jobs lost in the same period. Low oil prices place our ability to preserve domestic, secure supplies of crude at risk. It disturbs us that no one seems willing to take drastic steps on behalf of our constituents. We can assure you that our constituents who have lost their jobs in the oil trade feel the pain of unemployment no less than the steel workers H.R. 975 seeks to help. We see no reason to favor steel over other working Americans in industries which are also struggling.

If the United States is going to abandon international trade rules we fought hard for during the past half century, we should consider the risks and equities involved. We should not play favorites by sacrificing or ignoring the needs of other working people and industries. H.R. 975's clear favoritism and the immense potential for harm it poses causes us to oppose the bill and we urge our colleagues to do the same.

BILL THOMAS.
WES WATKINS.
JIM MCCRERY.

VIII. DISSENTING VIEWS OF REPRESENTATIVE PHIL ENGLISH

I applaud the Committee's decision to report this bill to the full House of Representatives. I believe that the crisis facing the U.S. steel industry and the lack of effective response by the Clinton/Gore Administration has forced the Congress to take action. I very much regret that circumstances have brought us to the point that Congressional action was necessary. I believe, and I think that many parties agree, that is would not be necessary for us to consider this legislation today if the Administration had used *all* of the tools available to it under current laws and consistent with all of our international obligations.

I support this legislation and urge its passage by the full House of Representatives. Section 1 of H.R. 975 will reduce the burden of imports into our market to pre-crisis levels and will help to limit the damage done to communities, workers, and firms in the U.S. steel industry in the short term. Section 2 of the bill will establish an effective import monitoring system. Many of our trading partners already have systems for this purpose in place. The steel import notification and monitoring system proposed, which is modeled on similar systems currently in use by our largest trading partners, Canada and Mexico, would allow the U.S. government to receive and analyze critical import data in a more timely manner and allow industry to determine more quickly whether unfair imports are disrupting the market.

BACKGROUND

The American steel industry is facing a crisis due to an immense surge of illegally dumped and subsidized foreign steel imports. Since mid 1997, many foreign markets have been rocked by economic and financial crises. One consequence of these financial crises has been the significant drop in demand for steel products in foreign markets. When combined with preexisting overcapacity and subsidized foreign producers, the drying up of foreign demand for steel has led many countries to attempt to illegally unload their excess steel onto the U.S. market.

Since the 1980s the American steel industry has reinvented itself as on of the most efficient, most competitive in the world. Through sacrifice by the industry and its workers, streamlining and investments, the U.S. steel industry has nearly tripled productivity. The new U.S. steel industry can compete against anyone in the world. The sad part of this story is that our industry plays by the rules and has restructured itself to be a model of economic efficiency. It is only through illegal and unfair trading practices that foreign producers have been able to undercut U.S. producers.

Import volumes in 1998 reached record levels, surging 33 percent over 1997. And 1997 was itself a record year for steel imports. Im-

ports have surged over a wide variety of product lines. We have recently seen, in response to trade cases filed by the industry and unions, a decline in certain products that are subject to duties that would be imposed by the final disposition of the cases. But steel is still flowing in massive quantities from countries not covered and in the form of products not listed by the cases. Also it is entirely possible that imports have declined temporarily because we're simply out of storage space at U.S. ports.

This crisis is precisely the reason why the Congressional Steel Caucus, Republicans and Democrats together, have been urging the Administration to use all of the tools at its disposal under our trade laws to take decisive action to address this crisis. So far, we have all been disappointed by the Administration's general lack of concrete, effective action.

At the hearing on February 25, 1999, before the Ways and Means' Subcommittee on Trade, I stated that "the question before us today is this: What can Congress do to stop the current steel crisis and reduce the possibility of another crisis that could be devastating to the industry and its workers?"

I concluded that we needed legislative action. Passage of H.R. 975 meets the test of addressing the current crisis in the short term and the import monitoring language would help the U.S. steel industry and its workers discern future import surges while there is still time to prevent unnecessary damage to our economy. I believe that there is additional room for legislative action to strengthen and enhance our trade laws so that they can more effectively enforce a level playing field.

DISCUSSION

I find it interesting that, at this late date, the Administration and its representatives are arguing that we should consider other legislative approaches to deal with these issues. I was the primary cosponsor of H.R. 412, the Trade Fairness Act, which was introduced by Steel Caucus Chairman Ralph Regula on January 19, 1999. We would have been more than pleased to have had the Administration's support while we were advocating this legislation and recruiting cosponsors. The language in this bill would make laws which have been on our books for years, such as Section 201 of the Trade Act, more effective and easier to use. H.R. 412 would make it easier for the President to impose duties, impost a tariff-rate quota system, or impose quantitative restrictions under section 201 in a way that is fully consistent with our WTO obligations and the WTO "Safeguards Agreement."

This approach is completely "WTO compliant" and could hardly be colored as sending any sort of protectionist signal(s) to our trading partners.

The Administration was silent on our proposal and declined numerous opportunities to support it or work with members from both the Republican and Democratic parties to offer constructive criticism to strengthen and advance the legislation. As recently as February 25, 1999, at a hearing of the Ways and Means' Subcommittee on Trade, Ambassador Barshefsky (USTR) and Secretary Daley (Commerce) refused to endorse trade law changes that

their departments today seem to be open to, if not outrightly endorsing.

What has happened to cause this renewed focus by the Administration on the steel crisis? We have put together a bipartisan coalition of over 200 members of the House of Representatives to cosponsor the legislation we have before us today, which was introduced by our colleague, Rep. Peter Visclosky. The Administration needs to be reminded that, if they choose to ignore opportunities to find constructive solutions to the problems facing our nation, its workers, and communities, they may find their hand forced by Congressional action.

I believe that this is a proper role for Congress to play. As the elected representatives of the people, if the Executive Branch does not properly respond to a situation when the people of this great nation are crying out for some action, the Congress must move legislation to address the situation.

I therefore dissent from the negative recommendation that the Committee today places on this report and urge the passage of this legislation by the House of Representatives.

PHIL ENGLISH.

DISSENTING VIEWS OF REPRESENTATIVE SANDER LEVIN

The steel surge over the last year has been real and, indeed, very harmful.

More than 10,000 hard-working steel workers have lost their livelihood as companies have reduced their workforces, engaged in production cuts, and in some cases, declared bankruptcy. The U.S. steel industry, efficient as any in the world, could not withstand the deluge of low-priced imports of steel flooding our markets.

The prime author of H.R. 975, Pete Visclosky and others, have played a critical role in highlighting this crisis and spotlighting the injury done to thousands of steel workers and the steel industry from the dumping of foreign steel.

It is clear that the Government did not act soon enough. It is also clear that even when government does act aggressively, under present law they do not have the tools necessary to remedy this situation.

PRESENT TRADE LAW REACTS TOO SLOWLY

Under present law, petitions to stop the dumping of steel were not filed until last September. And, while the Administration acted aggressively on these cases—including Commerce's effective use of the critical circumstance provision of U.S. law—existing U.S. trade remedies do not provide U.S. producers and workers with expeditious relief, particularly in the face of sudden, dramatic import surges.

PRESENT REMEDIES ARE INCOMPLETE AND CAN BE EVADED

Our present response is ad hoc in that relief under the antidumping law only covers certain products from specific countries, and does nothing to prevent foreign producers from shifting to other production areas or producers from other countries from stepping in to fill the gap.

Only section 201 could provide a comprehensive response, and the way it is presently structured to require a long period of import surges, indeed five years of them, an industry could be devastated before meeting present standards for relief.

PRESENT TRADE LAW FAILS TO CONSIDER FUNDAMENTAL PROBLEMS

Our current laws do not address the more fundamental, systemic problems of structural overcapacity and anti-competitive foreign practices that underlie import surges such as the one that occurred in 1998.

These problems brought to the fore by the steel crisis require that we reform and strengthen our trade laws. We must provide

the necessary tools to deal with this crisis and prepare for similar situations in the future.

H.R. 975 is not the right mechanism.

First, it calls for action in a way that is contrary to the rules of the World Trade Organization (WTO) and our obligations thereunder. Because of this, John Podesta, the White House Chief of Staff has recommended a veto to the President. The reason is clear. We cannot seek to use the WTO to enforce international rules of law regarding trade—as we currently are in many cases—while at the same time advancing a proposal which is clearly in violation of those rules.

I have actively participated over the years in battles to improve our trade laws, with some success in the passage of the '88 Act and in the maintenance under WTO of the very dumping laws invoked in this case. I have fought to broaden the ability in negotiating our trade agreements to include vital labor market and environmental concerns.

In each instance it has been to strengthen the rules of competition and trade, and to adapt them to the changing nature of trade or to oppose them when they failed to do so. It has been within a framework built on rules that will govern, not ones that can be set aside as a nation sees fit.

Second, we have an instruction—unprecedented as we can determine in this Committee's history—from the Majority leadership that opposes the bill, to a Committee Chairman who opposes the bill, to report that bill to the Floor. To appear consistent with these views, they say it should be reported out unfavorably, but from their perspective the political benefit would seem the same—to divide House Democrats from the Administration which will veto the bill, while at the same time giving Republicans in marginal seats a boost by appearing to be concerned about steel workers and the steel industry.

To further the chance that at some point in this proceeding we will step back and seize an opportunity to pass needed legislation that can become law and have an immediate impact on the steel crisis and a long-term on our trade policy, I am introducing legislation that would do the following:

> Strenthen section 201 by removing the unduly high causation standard, requiring consideration of the impact of import surges, shortening the time period for obtaining and expanding the availability of provisional relief, and requiring the ITC to perform a more comprehensive injury and threat analysis.
>
> Create early warning import monitoring systems by creating mechanisms for U.S. industries and workers to request monitoring of specific products, establishing an import monitoring center, providing for the early release of import data when import surges are detected, and implementing a system to allow for the accurate tracking of products subject to antidumping/countervailing duty orders or safeguards actions.
>
> Reaffirm the U.S. antidumping and countervailing duty laws by restoring the Department of Commerce's ability to use petition information where foreign producers or importers refuse to cooperate in an investigation, and restoring the correct injury causation standard.

Address the systemic problems underlying import surges by requesting the ITC to conduct a section 332 investigation on anti-competitive practices in international steel trade, and directing the Office of the U.S. Trade Representative to follow up on the ITC's findings.

Promote expedient, effective enforcement of U.S. trade laws by providing additional funding to the Department of Commerce, the Office of the U.S. Trade Representative, the International Trade Commission and other agencies to administer, enforce, and defend U.S. trade laws and actions.

Initiate a section 201 investigation on the impact of increased steel imports on the U.S. industry.

I am providing each of you a more detailed summary. As a result of these provisions, this bill would provide access to comprehensive relief to the steel industry now and access to relief against future import surges more quickly, more readily, and comprehensively.

I have received word from the Majority that if I introduced this bill as an amendment to H.R. 975, it would be ruled out of order on grounds of germaneness. While it deals directly with the steel crisis, it also applies the reforms to any and all import surges and related crises.

Therefore, I will not offer it today. But I hope it helps point the way toward significant remedial action that can actually become the law of the land.

IMPORT SURGE RESPONSE ACT OF 1999

OUTLINE AND PURPOSE OF PROPOSAL

Over the last year low-priced imports of steel have flooded the U.S. market. Although U.S. steel companies and workers are among the most modern, efficient, low-cost producers in the world, they have not been able to withstand this deluge. Over 10,000 hard-working steel workers have lost their livelihood as companies have reduced their workforces, engaged in production cuts, and in some cases, declared bankruptcy.

Over the last few weeks, the Administration has taken some important steps to address this problem, including aggressively enforcing U.S. trade laws. Last month, the Department of Commerce preliminarily determined that Japanese, Brazilian and Russian producers were dumping hot rolled steel into the United States. Commerce also has reached two agreements with Russia to curb steel imports into the United States. As a result of these steps—including Commerce's effective use of the critical circumstances provisions of U.S. law—steel imports into the United States have slowed substantially in key product categories. However, in other product categories, imports remain at historically high levels, and in some instances have actually continued to increase.

The purpose of the Import Surge Response Act is to provide a comprehensive, coherent and sustainable response to the current import surge and the crisis it has created for workers and firms in the U.S. steel industry, and to ensure that future import surges are addressed far more quickly and effectively. In particular, the bill, together with a proposal that the Committee on Ways and Means request the U.S. International Trade Commission (ITC) to initiate

an investigation under section 201, will provide a three-part strategy to address the current crisis for workers and firms in the U.S. industry, and to provide more effective tools for the United States to address future crises.

First, the bill contains a complete package of amendments to section 201 so that it provides a more effective tool to address sudden import surges in the steel and other industries in this crisis and in the future. Section 201 offers a comprehensive mechanism to address the current import surge in steel, because a section 201 investigation will be able to cover all product categories, rather than just specific product sectors as under the antidumping and countervailing duty laws. In addition, under section 201 the U.S. industry can receive various forms of relief, including tariffs and import quotas. These amendments, with the proposal (attached) that the Ways and Means Committee request the ITC to conduct an investigation of the steel industry under section 201 as amended by this bill, provide a swift, effective and pragmatic solution to the current crisis and will enable us to address future crises more effectively.

Second, the bill would establish and codify several early warning and anticircumvention systems. The early warning systems will enable the United States to detect future import surges and prevent unnecessary adverse consequences to U.S. industry. The anticircumvention provisions will help to ensure that relief put into place remains effective and is not undermined by evasive actions taken by our trading partners.

Third, the bill includes provisions to address underlying problems in world steel trade—such as cartel arrangements and other anticompetitive practices, as well as import licensing requirements—that tend to channel excess production capacity in foreign industries directly into the U.S. market, while other markets remain largely immune to the import surge. The existence of these practices has contributed to the devastating import surge that has occurred over the past year and has magnified its impact on the U.S. market.

SUMMARY OF PROPOSAL

Create stronger, more effective safeguard relief

Section 1 of the bill contains six key amendments to strengthen sections 201–204 of the Trade Act of 1974. Sections 201–204 allow U.S. industries to obtain relief from imports—including in the form of higher tariffs and import quotas—even when unfair trade practices such as dumping are not present. The amendments in the bill provide a coherent package of changes that will: remove the current, unnecessarily high standard for demonstrating a causal link between imports and injury to the U.S. industry; restructure section 201 standards to ensure that import surges can be addressed more quickly and effectively; expand the availability of early and meaningful provisional relief; extend application of the captive production provision of U.S. antidumping and countervailing duty law to section 201; and improve injury analysis by adding common sense factors to the injury analysis the ITC is required to conduct.

Remove unduly high causation standard.—Under current law, increased imports must be a "substantial cause of serious injury, or

threat thereof" for the ITC to make an affirmative determination under section 201. The "substantial cause" standard establishes a significant and unnecessary obstacle to obtaining relief under the statute, because it requires that increased imports be "not less than any other cause" of injury, typically the primary or leading cause of injury. Moreover, this standard is higher than that allowed under the WTO Agreement on Safeguards, which requires only that increased imports "cause serious injury, or threat thereof."

Section 1 of the bill amends the section 201 causation standard to comport with the causation standard established in the WTO Safeguards Agreement. As amended, U.S. law will require that increased imports would have to cause, or threaten to cause serious injury for the ITC to issue an affirmative determination. Imports will no longer have to be the leading cause or most important cause of injury, or even more important than any other cause, so long as imports contribute significantly to the serious injury.

To assist the ITC in applying this causation standard, the bill directs the ITC to focus its analysis on the rate and amount of the increase in imports, the import share of the domestic market, and the timing and volume of imports (see section on import surges, below).

Address import surges more quickly and effectively.—A substantial shortcoming in existing U.S. law is its failure to recognize expressly that import surges occurring in a short period of time, such as the import surge that has occurred over the last year in steel, can cause or threaten to cause serious injury. In particular, the ITC's practice of examining injury, typically over a five-year period, has led to the perception that injury must ripen or mature over a number of years in order to meet the standards in the statute. Section 1 of the bill corrects this problem by requiring the ITC to consider in its causation analysis the timing and volume of imports, specifically including whether there has been a substantial increase in imports over a short period of time. The bill makes a clear that an import surge is not required in order to establish causation—in other words, that there are many different circumstances in which the ITC may find that causation standard is met, including circumstances that do not involve import surges.

Provide faster provisional relief under section 201—Section 1 of the bill shortens the time frame for provisional relief by almost one-third, from 90 to 65 days. This change will enable firms and workers facing critical import surges to obtain provisional relief more quickly.

Improve effectiveness of section 201 by including common-sense factors for injury determinations.—Section 1 of the bill also clarifies the factors that the ITC is required to consider in determining whether the U.S. industry is experiencing or is threatened with serious injury. With respect to serious injury, section 1 of the bill requires the ITC to consider, in addition to the factors currently enumerated in the statute, the change in the levels of sales, production, productivity, capacity utilization, profits and losses, and employment. These indicia, which are provided for in the WTO Agreement on Safeguards, should assist the ITC in focusing its analysis

on current industry conditions, in addition to any historical trends in the domestic industry that may be relevant.

Section 1 of the bill also makes the section 201 provisions governing threat of serious injury more effective. For example, section 1 requires the ITC to consider conditions in foreign industries that point to the possibility of further increases in exports to the U.S. market. These factors include foreign production capacity, foreign inventories, the level of demand in third country markets, and the availability foreclosure of other export markets. These modifications will ensure that the ITC conducts a more comprehensive threat analysis as it requires the ITC not only to consider the state of the U.S. industry, but also conditions in foreign industries and markets.

The threat standard is particularly important, because it can be used to provide relief before workers and firms suffer full-blown injury, if the evidence indicates that such injury is imminent. Proper and effective use of the threat standard can save jobs and avoid injury to firms.

Expand availability of early, provisional relief.—Existing U.S. law authorizes imposition of provisional measures after 90 days, if circumstances warrant this relief. The bill strengthens these provisions in two ways.

First, the bill directs the ITC to consider whether there is or has been an import surge in determining whether provisional relief should be provided. By requiring ITC to look at import surges, the bill makes clear that import surges can be an important indicator that critical circumstances exist, and that provisional relief should be provided.

Second, under current law, the ITC is allowed to make a critical circumstances finding and recommend provisional relief only if the investigation resulted from a petition by a domestic industry. Current law does not allow for the possibility of provisional relief in the case of section 201 investigations begun at the request of USTR, the Committee on Ways and Means or the Committee on Finance, or in the case of investigations self-initiated by the ITC.

The current steel import crisis has made clear that expeditious provisional measures often are crucial in preventing irreparable harm to a domestic industry adversely affected by increased imports. As a consequence, section 1 of the bill changes U.S. law to allow the President and respective Committees to assert critical circumstances, and to request provisional relief in situations where they have requested initiation of a section 201 investigation.

Extend application of the captive production provisions of U.S. antidumping and countervailing duty laws.—Section 1 also would extend to section 201 the “captive production” provision of U.S. antidumping and countervailing duty law. This provision, enacted as part of the Uruguay Round Agreements Act, is intended to ensure that the ITC, in conducting an injury analysis, does not double-count production by the domestic industry in certain circumstances in which upstream and/or downstream products are subject to an investigation.

Create improved early warning import monitoring systems

Amend section 332 of the Tariff Act of 1930 to allow private parties to bequest import monitoring.—To promote early detection of import surges and other potentially damaging trade flows, section 2 of the bill creates a mechanism for domestic industries to request import monitoring of particular products. Under existing section 332 of the Tariff Act of 1930, the President, the House Committee on Ways and Means and the Senate Committee on Finance each may request the ITC to monitor and investigate imports and conditions of competition between U.S. and foreign industries, including the collection of data that may be used in making a safeguards determination. Section 2 of the bill amends section 332 to establish a statutory procedure that would enable domestic industries or representatives of domestic industries to request that the President consider whether import monitoring is appropriate, and if so, to request such monitoring and data collection by the ITC. Under this provision of the bill, a request by the President to commence monitoring and data collection would be without prejudice to whether an investigation under section 201 would eventually be initiated by the ITC.

Ensure early release of import data.—Current regulations of the Office of Management and Budget (OMB) authorize the Census Bureau to release preliminary steel import data to the public in extraordinary situations, prior to the release of overall trade data. To improve monitoring and permit an earlier response to potential imports surges, the bill expands and codifies this practice for early release of data. Under section 3 of the bill, OMB may release preliminary trade data whenever it detects an import surge in a product category, subject to Congressional notification. This provision will improve the ability of U.S. workers and firms to detect import surges more quickly and take actions to respond to such surges effectively.

Detect and prevent circumvention I.—Establish import monitoring center.—Section 4 of the bill authorizes funding for the creation of a new Steel Import Monitoring and Enforcement Support Center within the Customs Service. The Center will be responsible for monitoring and preventing illegal transshipment and other attempts to circumvent U.S. antidumping, countervailing, and other trade remedy laws.

Detect and prevent circumvention II.—Monitor imports of products subject to AD/CVD orders and safeguard actions.—The statistical trade data currently collected by Customs and compiled by the Census Bureau does not allow for precise monitoring of products subject to antidumping orders, countervailing duty orders, or safeguard actions. Collecting relevant statistics on imports of these products will facilitate the monitoring of product shifts and other actions that circumvent trade remedy restrictions. Therefore, to allow easier tracking of products covered by trade cases and to detect shifts in imports expeditiously, section 5 of the bill directs the ITC to establish a suffix to the Harmonized Tariff Schedule for products subject to trade actions, that will be used to track imports of these products.

Maintain steel early warning system.—Ensure continued monitoring of steel imports.—Section 5 of the bill directs the Commerce

Department to continue its current comprehensive steel import monitoring program.

Strengthen U.S. antidumping and countervailing duty laws

Protect commerce department ability to investigate.—Under the antidumping provisions of U.S. law, the Department of Commerce is authorized to use adverse inferences to determine the dumping margin for uncooperative foreign producers or importers: *i.e.*, those that fail to respond to a request for information. Department practice, consistent with U.S. WTO obligations, had been to use information contained in the antidumping petition, as corroborated by third-party sources, as the basis for drawing adverse inferences. However, a recent court decision in *Borden Inc., et al* v. *United States* bars that practice. Section 5 of the bill amends Title VII of the Tariff Act of 1930, to restore the ability of the Commerce Department to use petition information as the basis for calculating dumping margins for uncooperative parties.

Restore correct injury causation standard.—A recent decision by the Court of Appeals for the Federal Circuit in *Gerald Metals* v. *United States,* undermines the long-recognized standard under U.S. antidumping and countervailing duty law that imports need only be a contributing cause of material injury and that the ITC shall not weigh the injury caused by unfair imports against other factors in reaching its injury determination. Based on the 1979 legislative language, the court of International Trade has recognized in several opinions, some of which have been affirmed by the CAFC, that the Commission is permitted to reach an affirmative determination if it finds that subject imports contribute even minimally, or in a more than de minimis fashion, to the material injury suffered by the domestic industry. *Grupo Industrial Camesa* v. *United States,* 853 F. Supp. 440, 444 (Ct. Int'l Trade 1994), aff'd 85 F. 3d 1577 (Fed. Cir. 1996); *U.S. Steel Group* v. *United States,* 873 F. Supp. 673, 694 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (fed. Cir. 1996); *British Steel Corp.* v. *United States,* 593 F. Supp. 959, 971 (1984).

The CAFC's decision in *Gerald Metals* directly contradicts the well-established legislative intent, as well as judicial interpretations and ITC practice following that intent. Accordingly, section 5 of the bill clarifies this essential injury standard expressly to reject that ruling.

Investigate causes underlying import surges

Section 7 of the bill directs the ITC to conduct an investigation and prepare a report within one year on anticompetitive activities in international steel trade. In particular, section 7 of the bill directs the ITC to investigate the extent of cartelization and other anticompetitive practices in international steel trade pursuant to its authority under section 332 of the Tariff Act of 1930. This investigation will require gathering of empirical information in other countries and from U.S. and foreign industry sources, drawing on U.S. embassies, the Foreign Commercial Service, local U.S. Chamber of Commerce and other business groups, other executive branch agencies with relevant information, and such other public and private fact-finding resources as may be available. The ITC will be directed to use its full authority, including under section 333, to col-

lect and provide as much detail as possible about the anticompetitive practices themselves and on their trade effects, including: foreclosure of U.S. and third country exports; dumping in the U.S. and third markets; trade diversion into the U.S. market; and the contribution of anticompetitive practices to the problem of overcapacity. The provision will make clear that this will be an empirical investigation, not a theoretical exercise. While analysis of trade data will be necessary, the use of economic modeling techniques is not expected to play a role in this investigation. Section 7 further directs the ITC to provide its report to the USTR, and the Committees on Ways and Means and Finance, and directs USTR to include the Commission's findings in its National Trade Estimates report and to propose there or in a separate report to the Committees, steps to be taken to address any anticompetitive practices in international steel trade. In addition, the bill provides that USTR in the National Trade Estimates report identify import licensing systems of foreign countries in the steel sector and evaluate the consistency of those systems with WTO or other international trade obligations of those countries.

Authorizations to support enhanced enforcement and monitoring

The Bill authorizes additional funding for enhanced import monitoring and enforcement of U.S. trade laws.

Provide for import monitoring and expeditious relief.—Section 8 of the bill provides additional funding for the Commerce Department to implement more comprehensive import monitoring programs and to provide for stronger, more expeditious enforcement of the antidumping and countervailing duty laws. The increased funding will ensure more effective import monitoring and should shorten the time required to conduct and complete antidumping and countervailing duty investigations. Additional funding is also authorized for the ITC to allow for more expeditious determinations.

Assist domestic industries and U.S. workers seeking relief under the trade laws.—Section 8 authorizes funding for the Economic Development Administration to create a Federal Trade Law assistance fund. The Fund will provide grants to small and medium size businesses, and U.S. workers, for the preparation, filing and prosecution of trade remedy cases.

Maintain the integrity of U.S. trade remedies.—Section 8 of the bill authorizes additional funding to the Office of the U.S. Trade Representative to hire additional staff to defend U.S. antidumping, countervailing duty and safeguards actions, and challenge antidumping, countervailing duty and safeguard actions by U.S. trading partners that are inconsistent with their WTO obligations.

Ways and Means Committee request for section 201 investigation

In addition to the measures described above, the proposal would include a resolution by the Committee on Ways and Means directing the ITC to commence a comprehensive section 201 investigation of the impact of increased imports on the steel industry, applying the standards set forth in the bill. Commencing a section 201 investigation would provide an opportunity for the industry to obtain a comprehensive response to the import surge that has harmed so many U.S. workers and firms.

Additional programs

The proposals outlined above are designed to provide a comprehensive response to the current import surge in the steel sector and to create stronger, more effective tools to detect and prevent, and, if necessary, respond more quickly and effective to future import surges—all by taking full advantage of, but not taking actions that are inconsistent with, the international obligations of the United States. The purposes of this package is to strengthen U.S. trade policy and administrative instruments that can be used by U.S. workers and firms. Additional proposals that improve the effectiveness of U.S. trade laws may be considered. In addition, further proposals to address directly the immediate needs of workers and firms in the interval until trade remedies take effect may also be considered.

SANDER LEVIN.

DISSENTING VIEWS OF REPRESENTATIVE MICHAEL R. McNULTY

Mr. Chairman, I am a co-sponsor and strong supporter of Rep. Visclosky's bill, HR 975. This Congress must send a strong message that we will not tolerate the continued dumping of steel—dumping that is causing tremendous harm to the industry and forcing huge lay-offs of hard-working U.S. steel workers.

As I mentioned during the Trade Subcommittee hearing on this issue, over 10,000 steel workers have been laid off in the past year as a result of this flood of under-priced steel coming into the United States.

America was built on the backs of laborers. We cannot turn *our* backs on them now.

HR 975 is clear and straightforward. It would reduce steel imports to 25% of the U.S. market. That is the level that prevailed in July 1997—before the dumping began. The bill authorizes the U.S. Customs Service to refuse entry to any steel products that exceed the allowable levels. The bill also creates a steel import notification and monitoring system. This system would require any person importing steel products to obtain an import notification certificate before those products can enter the U.S.

American steel companies and organized labor have worked very hard over the last decade to restructure and to restore the integrity of this important industry. We cannot allow these sacrifices to be in vain.

I urge this Committee to favorably report this bill to the floor of the House of Representatives.

MICHAEL R. MCNULTY.

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