

# CRS Report for Congress

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## Legislative Procedure for Possible Disapproval of President's Imposition of Safeguard Measures on Imports of Steel

Vladimir N. Pregelj  
Specialist in International Trade and Finance  
Foreign Affairs, Defense, and Trade Division

### Summary

President Bush's March 5, 2002, decision to remedy the injurious effect of imports of various steel products on a U.S. industry under the safeguards procedure (Sections 201 through 204) of the Trade Act of 1974, as amended, is subject to possible disapproval by congressional joint resolution. This is because the President did not implement the specific remedial action recommended by the U.S. International Trade Commission (USITC) after its investigation of the case and finding of injury. The enactment of a disapproval resolution, including a possible override of its veto by the President, results in the implementation of the USITC's recommended remedial measure. Such resolutions are enacted under a specific procedure, which is deemed to be part of the rules of either house and supersedes other rules inconsistent with it. The report will be updated when circumstances require.

### Background

On December 19, 2001, the U.S. International Trade Commission transmitted to the President the report on its investigation under Section 203 of the Trade Act of 1974 with respect to possible injury to the U.S. steel industry caused by imports of certain steel products. In it, the Commission determined the existence of injury and recommended, as a remedy, the imposition over four years of annually increasing tariff quotas and annually degressive increases in tariff rates sliding from between 20% and 10% in the first year to between 11% and 4% in the fourth year. Exempted would be several specific products from Canada or Mexico, imports from Israel and from beneficiaries of the Caribbean Basin and Andean preferences.<sup>1</sup>

On March 5, 2002, the President decided to impose a different, more restrictive set of remedial measures, consisting over three years of annually increasing tariff quotas and

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<sup>1</sup> U.S. International Trade Commission. "Steel; import investigations," 66 *Federal Register* 67304.

annually degressive increases in tariff rates sliding from between 30% and 8% in the first year to between 18% and 6% in the third year. Restrictions do not apply to a large array of specific products, and to any imports from Canada, Israel, Jordan, Mexico, and 99 GSP beneficiary countries which are WTO members.<sup>2</sup>

The President's action has been criticized by the steel industry, in Congress and in the affected foreign countries. In response, Representative William J. Jefferson, on March 7, 2002, introduced H.J.Res. 84 to disapprove the President's action.

This report describes in functional order the statutory procedure—and its actual current implementation—for the enactment of a joint resolution disapproving the President's remedial action of Section 201 cases where such action differs from the one recommended by the Commission. Since the disapproval procedure set out in Section 152 of the Trade Act of 1974 and described below applies also to the disapproval of other actions, the provisions that do not apply in the present legislative context are printed in *italics*.

## Detailed Congressional Disapproving Action

Relevant legislation provides a detailed specific procedure for the enactment of a joint resolution disapproving the President's action, which is set out in Section 152 of the Trade Act of 1974 (19 U.S.C. 2192). Under this procedure, a disapproval resolution is considered on a specific "fast track" ("expedited procedure"), providing for speedy legislative action, but containing several specific procedural requirements. Any departure from this procedure would disqualify the resolution from being so considered, and would subject it – like any other disapproving action that Congress might wish to take in lieu – to the regular legislative process for the enactment of a bill or a different joint resolution.

Although the disapproval procedure has been enacted, it does not constitute a law, but is considered an exercise of the rulemaking power of either House and deemed a part of its rules. Consequently, it can be changed by either House (with respect to its rules) in the same manner as any other rule. The procedure supersedes other rules only to the extent that they are inconsistent with it. (Section 151(a); 19 U.S.C. 2191(a)) and consists of the following steps and provisions<sup>3</sup> (with some explanatory comments added):

(1) *Introduction*. After the President has, as required, transmitted to Congress the report on his remedial action and that action differs from the one recommended by the USITC, a joint resolution disapproving the President's action may be introduced in either House, with the aim of implementing the Commission's recommendation.<sup>4</sup>

(2) *Mandatory language*. The operative language of the resolution is prescribed by law and must read, after the resolving clause: "That the Congress does not approve the

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<sup>2</sup> U.S. President (Bush). "To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products" (Proclamation 7529), March 5, 2002; *66 Federal Register 10553-10592*.

<sup>3</sup> While care has been taken in this report to accurately describe the procedure, it is recommended that the actual language of the relevant provisions as referenced in the report also be consulted.

<sup>4</sup> H.J.Res. 84 to disapprove the President's safeguard action was introduced March 7, 2002.

action taken by, or the determination of the President under Section 203 of the Trade Act of 1974 transmitted to the Congress on [the appropriate date].”

(3) *Referral.* The resolution is referred to the Committee on Ways and Means in the House and to the Committee on Finance in the Senate (Section 152(b); 19 U.S.C. 2192(b)).

(4) *Report or discharge.* If the committee of referral has not reported the resolution within 30 days (the days are “computed by excluding – (1) the days either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and (2) any Saturday and Sunday, not excluded under paragraph (1) when either House is not in session” (19 U.S.C. 2194(b)), the committee can be discharged from further consideration of that resolution or any other resolution on the same matter. The discharge motion must be made on the second legislative day after the calendar day on which the maker of the motion has announced his intention to do so and may be made only if the committee has not yet reported a resolution with respect to the same matter (Section 152(c)(1); 19 U.S.C. 2192(c)(1)).

A motion to discharge, which may be made only by an individual favoring the resolution, is highly privileged in the House and privileged in the Senate; it is subject to limited debate (1 hour, equally divided between its supporters and opponents in the House, and between the majority leader and the minority leader, or their designees, in the Senate). The resolution may not be amended, and the vote on it may not be reconsidered (Section 152(c)(2); 19 U.S.C. 2192(c)(2)).

(5) *Initiation of consideration.* A motion to proceed to the consideration of a reported or discharged disapproval resolution is highly privileged in the House and privileged in the Senate; in either House, it may not be amended or debated, and the vote on it may not be reconsidered (Section 152(d)(1) and (e)(1); 19 U.S.C. 2192(d)(1) and (e)(1)).

(6) *Floor debate.* In either house, debate on the disapproval resolution is limited to 20 hours, equally divided, in the House, between the supporters and opponents and, in the Senate, between the majority leader and the minority leader or their designees (Section 152(d)(2) or (e)(2); 19 U.S.C. 2192(d)(2) or (e)(2); a motion further to limit debate on the resolution, *or on an amendment to it*, or, in the Senate, also on any other debatable motion or appeal, is not debatable (Section 152(d)(2) and (e)(4); 19 U.S.C. 2192(d)(2) and (e)(4)); a motion to recommit the resolution is not in order nor, in the House, is a motion to reconsider the vote on the resolution (Section 152(d)(2) and (e)(4); 19 U.S.C. 2192(d)(2) and (e)(4)).

*Debate on any amendment to the disapproval resolution is limited to one hour, equally divided in the House between the supporters and opponents of the amendment; in the Senate, the one-hour limit applies to any debatable motion or appeal and is divided between the mover and the manager of the resolution (except when the manager favors the amendment, motion, or appeal, in which case the time in opposition is controlled by the minority leader or his designee). Such leaders in the Senate may allot additional time to any Senator (Section 152(e)(3) and (4); 19 U.S.C. 2192(e)(3).*

In the Senate, the overall limit on debate time includes in each instance the time for debate of any debatable motion or appeal. In the House, time for debate of any other debatable motion would be limited by general rules of the House.

In the House, motions to postpone the consideration of a disapproval resolution, or to proceed to the consideration of other business, and appeals from the decisions of the Chair as to the application of the Rules of the House to the procedure relating to a disapproval resolution (which specifically govern such procedure except as provided for in Section 152(e); 19 U.S.C. 2192(e)) are not debatable (Section 152(d)(3)-(5); 19 U.S.C. 2192(d)(3)-(5)).

(7) *Special procedure for Senate consideration.* Specific steps are set out for the consideration in the Senate of a disapproval resolution passed by the House of Representatives (which must be referred in the Senate to the Committee on Finance; Section 152(f)(1)(A)(i); 19 U.S.C. 2192(f)(1)(A)(i)), namely:

(a) If a Senate resolution has been introduced (but not yet passed) before the Senate receives the passed House resolution, the House resolution is placed on the Senate calendar. If the Senate and the House resolutions contain identical matter (which they would in this case, since the language of the resolution is mandatory and nonamendable), the procedure in the Senate with respect to its resolution is the same as if no resolution had been received from the House, but the vote on passage is on the House resolution (Section 152(f)(1)(A)(ii); 19 U.S.C. 2192(f)(1)(A)(ii)).

(b) If the Senate passes its own joint resolution before receiving the passed House resolution containing identical matter, the Senate resolution is held at the desk, and the House resolution, when received, is deemed to have been passed (Section 152(f)(1)(B); 19 U.S.C. 2192(f)(1)(B)).

(c) *If the texts of the Senate and the House resolutions are not identical, the Senate votes on its own resolution and, if passed, automatically substitutes its text for that of the passed House resolution, which is then returned, as amended, with a request for conference (Section 152(f)(2); 19 U.S.C. 2192(f)(2)).*

(8) *Enactment.* Regardless of when introduced, a joint resolution of disapproval must be enacted (by simple majority) within 90 days (computed as in item (4)) after the President has transmitted to Congress his report on the remedial action he will take (see item (1)) and transmitted to the President for his signature or veto (Section 203(c)(2); 19 U.S.C. 2253(c)(2)).

(9) *Veto override.* If the President vetoes the resolution, consideration of any veto message in the Senate, including consideration of all debatable motions and appeals, is limited to 10 hours, equally divided between the majority and the minority leaders or their designees (Section 152(f)(3); 19 U.S.C. 2192(f)(3)). House consideration of the veto message is limited by general rules of the House. In both houses, the override procedure is also subject to the provisions of Article 7 of the U.S. Constitution (override by a two-thirds majority vote).

(10) *Entry into effect.* Unless disapproved by a joint resolution, the President's remedial action takes effect within 15 days after the President proclaims it. If the

disapproval resolution is enacted, the President must proclaim the remedial action recommended by the Commission within 30 days after its enactment (Section 203(d)(2); 19 U.S.C. 2253(d)(2)).