

# CRS Report for Congress

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## Steel: Key Issues for Congress

Stephen Cooney  
Industry Analyst  
Resources, Science, and Industry Division

### Summary

This report reviews steel industry issues facing Congress, including:

- ! President Bush's Section 201 steel trade case decision;
- ! The international response;
- ! Legacy costs and industry consolidation;
- ! Legislative proposals concerning the steel industry.

For more detail, see CRS Report RL31107, *Steel Industry and Trade Issues*, CRS Report RL31279, *Steel: Legacy Cost Issue*, and CRS Report RL31474, *Steel and the WTO: Summary and Timelines of Pending Proceedings Involving the United States*.

### The Section 201 Trade Case

**Presidential Request.** To address the question of imports, and in response to many requests from Congress, union representatives and steel companies, President Bush on June 5, 2001, announced that his Administration would call upon the U.S. International Trade Commission (ITC) to begin an investigation under Section 201 of U.S. trade law. He also announced that he would seek multilateral negotiations with U.S. trading partners on fundamental issues of overcapacity and subsidies.<sup>1</sup> On March 5, 2002, at the end of the Section 201 process, the President announced a series of temporary trade relief measures to safeguard the U.S. steel industry against injury from imports.<sup>2</sup>

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<sup>1</sup> President George W. Bush. *Statement by the President Regarding a Multilateral Initiative on Steel*. (June 5, 2001), [<http://www.whitehouse.gov/news/releases/2001/06/20010605-4.html>].

<sup>2</sup> President George W. Bush. *To Facilitate Positive Adjustment to Competition from Imports of Certain Steel Products*, Message to Congress, March 5, 2002, (House Doc. 107-185). The ITC case number was TA-201-73. The Section 201 process is described in CRS Trade Briefing Book entry, "Section 201 of the Trade Act of 1974," by Jeanne J. Grimmer ([<http://www.congress.gov/brbk/html/ebtra68.html>]).

The Bush Administration request was on a broad basis, covering more than 500 tariff line items, grouped by an ITC staff report into 33 products and four broad groups:

- ! carbon and alloy flat products, including semi-finished steel slabs, but not upstream inputs, such as iron ore, pig iron and coke;
- ! carbon and alloy long products;
- ! carbon and alloy pipe and tube products; and
- ! stainless and tool steel products.

**Injury Phase.** The ITC must find that imports are a “substantial” cause of serious injury (*i.e.*, “important and not less than any other cause”) in order to propose relief under Section 201. On October 22, 2001, the ITC determined that in 16 cases imports were a substantial cause of injury to the domestic industry, which covered three-quarters of all U.S. steel imports. In the other 17 product categories, the ITC found no substantial injury from imports, and dismissed them from further consideration. These products included stainless and carbon steel wire, rope and nails, and oil country tubular goods.

**Remedy Phase.** The ITC conducted hearings on possible trade remedies in November 2001. In general, the petitioners, representing especially U.S. integrated steel mills, minimills, and the United Steelworkers union (USWA) asked for high levels of protective tariffs, at the 40 to 50% level. Respondents, representing importers, mills that use imported steel in various stages of processing, and steel-consuming industries, in general preferred a solution based on quotas that would allow continued importation at historic levels without assessment of additional tariff charges. The ITC remedy recommendations were varied. All commissioners recommended relief for the maximum period, four years, with the highest remedy tariff levels ranging from 20% to 40% for semi-finished and most flat products. All of the six commissioners recommended a tariff-rate quota for semi-finished steel slabs. On the lower volume, but higher cost, tubular, stainless and tool steel products, the recommendations were generally for lower levels of remedy tariff relief. One commissioner essentially abjured remedy tariffs altogether and instead recommended import quotas across the board.<sup>3</sup>

**Presidential Decision.** Acting within the period prescribed by law, President Bush announced trade remedies for all products on which the ITC had found substantial injury, except for two specialty categories (tool steel and stainless steel flanges and fittings). All remedies were of three years duration and were imposed as of March 20, 2002. The President will also impose a general import licensing and monitoring system.

- ! For the high-volume flat, bar and tin mill products, the President imposed a remedy tariff of 30% for the first year, reduced to 24% in the second year and 18% in the third year.
- ! For semi-finished steel slabs the President established the same levels of tariff remedy, with a quota of 5.4 million tons, on which no remedy tariffs will be applied.
- ! For other products, the President set the following levels of remedy tariff protection: for rebar, welded tubular steel, stainless rod and stainless bar,

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<sup>3</sup> The commissioners’ injury determinations and remedy recommendations, plus background material for the hearings are compiled in U.S. International Trade Commission. *Steel: Investigation No. TA-201-73*, Publication 3479 (December, 2001), 3 volumes.

the remedy tariff is 15% for the first year, then declines by 3% per year; for carbon and alloy steel flanges and fittings the remedy relief is 13% in the first year, then declines by 3% per year; and for stainless steel wire the remedy relief is 8%, declining by 1% per year for the subsequent two years.<sup>4</sup>

**Exemptions and Exclusions.** Imports from free trade partners are excluded from the presidential order, meaning *Canada* and *Mexico* (significant exporters of steel products to the U.S. market), as well as *Israel* and *Jordan*. Semi-finished slabs from Mexico (a major supplier) are excluded from the tariff-rate quota, accordingly reduced from the level recommended by the ITC.<sup>5</sup> Also exempted are imports from developing countries that are World Trade Organization (WTO) members and eligible for tariff-free treatment under the Generalized System of Preferences. Exceptions to this exemption are when developing country products are significant shares of U.S. imports. *China*, *Russia* and the *Ukraine* are not included in the developing country exemption.<sup>6</sup> A wide range of specific products were also excluded on a case-by-case basis, particularly when it was argued that domestically produced substitutes are not available. Final decisions on exclusions were made by August 22, 2002, with 727 product requests granted, as listed in the *Annex* to the presidential proclamation and in supplemental lists.<sup>7</sup> Specific exemptions and exclusions under the safeguard tariffs will be reviewed annually.

An opponent of Section 201 remedy tariffs, Representative William Jefferson, introduced a resolution of disapproval, H.J.Res. 84, as provided under the 1974 Trade Act. The resolution would substitute for the presidential determination the lower tariff levels that represented the official recommendation of the ITC. On April 24, the House Ways and Means Committee voted to report H.J.Res. 84 unfavorably and on May 8, 2002, it was tabled in two procedural votes on the House floor.<sup>8</sup>

## International Reaction and Response

The Section 201 case is but one prong of the Bush Administration global steel policy. The Administration has also initiated international negotiations on global capacity reduction and improved trade discipline in the steel industry. The President's Section 201 remedy decision has led to concern among U.S. trading partners and WTO challenges.

The *European Union* (EU) has reacted most aggressively so far. It filed the first case under WTO dispute settlement rules. Its case has been combined with those of seven

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<sup>4</sup> President Bush. *Report under Section 203 (b) (1)*, pp. 2-4, and *Section 201 Steel Remedies List*, also at [<http://www.ustr.gov>].

<sup>5</sup> President Bush. *Report under Section 203 (b) (1)*, p. 4.

<sup>6</sup> See list, *Developing Countries Excluded/Not Excluded from Remedy* at [<http://www.ustr.gov>].

<sup>7</sup> See *Annex* in H. Doc. 107-185 and lists at the USTR website.

<sup>8</sup> BNA. *Daily Report for Executives (DER)*, "Rep. Jefferson Announces Challenge to Bush Decision to Impose Tariffs on Steel" (Mar. 8, 2002), "Key House Panel Backs White House Decision to Impose Steel Safeguards Up to 30 Percent" (Apr. 25, 2002), and "House Crushes Move to Overturn Controversial Safeguard Steel Tariffs" (May 9, 2002).

other members (*China, Japan, New Zealand, Norway, Korea, Switzerland and Brazil*).<sup>9</sup> The European Commission states that the EU could impose retaliatory tariffs almost immediately if it receives no U.S. compensation, even before any WTO ruling on the U.S. Section 201 actions, because they were clearly not in accordance with the WTO Safeguards Agreement. However, the EU has postponed its decision on retaliation until September 30, after the completion of the U.S. product exclusion reviews.<sup>10</sup> The EU has also announced its own safeguards against diversion of steel from the United States. *Canada* has supported the U.S. Section 201 policy, although it is enacting safeguards against any diversion of steel from the U.S. market.<sup>11</sup> *Mexico*, which had set a 25% safeguard tariff on non-NAFTA steel imports, raised it to 35% after the U.S. safeguard action.

Meanwhile, multilateral discussions in the steel committee of the Organization for Economic Cooperation and Development (OECD) have produced promised global capacity reductions of about 120 million metric tons (MT) by 2005. This total includes roughly equal U.S. and EU projections of 15-20 million MT of reductions. So far, the talks are continuing, despite the U.S. Section 201 actions.<sup>12</sup>

## Legacy Costs and Steel Industry Consolidation

Legacy costs may be defined as pension and health care provisions of steel worker contracts that are funded by earnings of steel companies. These benefits were negotiated at unionized integrated steel companies to encourage workers to accept downsizing and productivity improvements necessary to keep these companies competitive. Now many of these companies are in bankruptcy and facing liquidation, leaving retirees facing loss of benefits. A number of legislative proposals have been made to address this issue; a major question is whether responsibility for benefits deals negotiated by private parties should be transferred to the U.S. government.

The USWA calculates that total unfunded liabilities may be \$13 billion and USWA president Leo Gerard estimated the number of affected retirees at 600,000 in a letter to Members of Congress dated January 15, 2002.<sup>13</sup> They argue that the major integrated companies are at a competitive disadvantage against many steel minimills, which do not

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<sup>9</sup> *DER*, "U.S. Agrees with Complainants on Way to Approach Steel Tariffs Dispute Panels," (July 23, 2002).

<sup>10</sup> European Commission press release, "Last Minute U.S. Steel Concessions Persuade EU to Hold Fire on Sanctions" (July 19, 2002); *DER*, "EU Agrees to Hold Fire on Steel Sanctions Against U.S. Until Sept. 30 Due to Exclusions" (July 22, 2002).

<sup>11</sup> Canada Dept. of Foreign Affairs and International Trade, press release (Mar. 5, 2002); *American Metal Markets (AMM)*, July 8, 2002 (print ed.).

<sup>12</sup> OECD press statement, "High-Level Meeting on Steel, 18-19 April 2002." *DER*, "U.S. Official Welcomes EU Initiative on Reduction of Global Steel Capacity," July 18, 2002. See also special *AMM* section, "Passport to Paris" in Aug. 26, 2002 print ed.

<sup>13</sup> USWA sources include: *Domestic Steelmakers, Retiree Health Insurance Costs*, 1999. *The Crisis in American Steel*, May 22, 2001. Major integrated steelmakers included U. S. Steel, Bethlehem Steel, LTV Steel, AK Steel, National Steel, Ispat Inland and Wheeling-Pittsburgh. The latest estimate is quoted in a *New York Times* article of December 5, 2001.

face legacy costs, or foreign manufacturers whose governments cover all steelworkers through national health care plans.<sup>14</sup> Retirees and active employees of a company providing health care would have lost all coverage, if the employer ends the plan upon a liquidation under Chapter 7 of the bankruptcy law, though now limited assistance is provided under the expanded Trade Adjustment Assistance Act (TAA). Retiree health coverage may still be subject to modification or termination in a bankruptcy reorganization.<sup>15</sup>

The U.S. Steel Corporation has proposed a comprehensive plan for consolidating much of the integrated steel industry, but it would require a resolution of the legacy cost problem through some form of government involvement. The minimills have opposed direct legacy cost aid and support only a very limited form of legacy cost relief, with no direct government payments or subsidies to operating steel companies.<sup>16</sup> Gerard indicated labor's support for the U.S. Steel plan and government aid in covering legacy costs.<sup>17</sup> The Bush Administration has not supported legacy cost relief to industry, emphasizing that Members of Congress urged it to focus on Section 201 trade relief as its initial step.<sup>18</sup>

## Legislative Proposals

***Implementation of the 2000 Continued Dumping and Subsidy Offset Act.*** Under this law antidumping duties are being distributed among successful petitioners ("Byrd Amendment" in P.L. 106-387). More than \$200 million has been distributed so far, about half to steel companies. The law was challenged by 11 U.S. trading partners in the WTO. The interim report of the WTO dispute settlement panel on July 17, 2002, reportedly found against this law, but the distribution will continue to be administered for FY 2002, pending a possible U.S. appeal.<sup>19</sup>

***Amendment of the Emergency Steel Loan Guarantee Program (P.L. 106-51).*** It was passed in 1999, but only one company has been able to use a guarantee to obtain a loan. An amendment to the FY 2002 Interior appropriations law (P.L. 107-63) made conditions easier for obtaining loan guarantees, primarily by extending the

<sup>14</sup> USWA. *Domestic Steelmakers: Retiree Health Care Legacy Costs* (no date).

<sup>15</sup> Health care and pension benefits for employees and retirees of a company that has entered Chapter 7 or Chapter 11 bankruptcy proceedings are discussed by Robin Jeweler, CRS Report RL30641, *Employment Benefits in Bankruptcy*; see especially pp. 6-7 on retiree health care issues. For recent changes to TAA that address this situation, see below.

<sup>16</sup> "U.S. Steel Developing Plan for Significant Consolidation in Domestic Integrated Steel Industry," USX press release (Dec. 4, 2001). Identical press releases of Nucor and U.S. Steel, January 15, 2002; see also *DER*, "Steel Industry Heads Announce Plan for Steel Industry Recovery," January 16, 2002; Steel Manufacturers Association, "Steel Industry Statement on Sections 201-203 Trade Remedy" (February 8, 2002).

<sup>17</sup> *New York Times*, December 5, 2001; *DER*, "Steelworkers' President Says Health Care Is Next Step for Protecting Industry Workers" (March 7, 2002).

<sup>18</sup> Press Briefing by U.S. Trade Representative Robert Zoellick (March 5, 2002).

<sup>19</sup> *DER*, "WTO Panel Shots Down Byrd Amendment in Preliminary Ruling, Urges Straight Repeal" July 18, 2002; *Inside US Trade*, "WTO Interim Panel Rules Against Byrd Law Distributing Duties to Private Parties," July 17, 2002.

repayment deadline to 2015. In view of LTV's failure to obtain a loan guarantee and its subsequent liquidation, legislation has been introduced in the 107<sup>th</sup> Congress to ease these conditions further (H.R. 3428 and S. 1884/H.R. 3559).

***Steel Revitalization Act (H.R. 808/S.957).*** This comprehensive relief bill includes mandatory five-year import or other trade restraints, a steel sales tax to pay for industry legacy costs, and other industry relief measures. The bill has gained 228 House co-sponsors and a discharge petition has gained 123 signatures out of the 218 required to bring the bill to the House floor. President Bush's Section 201 remedies appear to have rendered the trade provisions of this bill moot.

***Steel Industry Legacy Cost Bills (S. 2189, H.R. 4574, H.R. 4646).*** Sens. Rockefeller and Specter introduced a Senate bill in April 2002. It would provide federal health care coverage for steel industry retirees who lose their private coverage through an industry bankruptcy. It would also encourage industry consolidation by allowing acquiring steel companies to shift responsibility for acquired companies' retirees to the new federal program. The program would be financed by Section 201 duties, current health care assets and premiums, a \$5 per ton tax on assets of acquired operations, and further appropriations as necessary. Senator Stevens attempted to add an earlier version of this bill to the Senate energy package, with funding also from Alaska oil royalties, but was defeated in a floor cloture vote. House bills with similar goals and approaches to S. 2189 are H.R. 4574 and H.R. 4646.

***Trade Adjustment Assistance Act (TAA) Reauthorization.*** TAA provides assistance to workers who have lost their jobs because of competition from imports. Authorization of the program expired at the end of 2001. TAA reform provisions were added in the Senate to the bill granting President Bush trade promotion authority (H.R. 3009), but an effort on the floor to include health care coverage for retired steelworkers was not successful on May 21, 2002.<sup>20</sup> However, a limited health care benefit for all retirees was added to the final trade package as approved by Congress and signed into law by President Bush on August 6, 2002. Retirees who are not eligible for Medicare will be eligible for a tax credit covering 65% of the cost of participation in a qualified health care plan, if their company's pension plan has been liquidated and they receive a pension from the Pension Benefit Guarantee Corporation.<sup>21</sup>

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<sup>20</sup> *DER*, "Trade Adjustment Assistance Measure Includes 70 Percent Health Care Subsidy" (May 10, 2002); *Congressional Record* (May 21, 2002) S4581-91; *Inside U.S. Trade*, "Steel TPA Amendment Fails on Procedure, Withdrawn by Sponsors" (May 21, 2002).

<sup>21</sup> *Ibid.* "Measure Cleared for Bush to Provide Health Care to Workers Displaced by Trade," (Aug. 2, 2002); see P.L. 107-210, Sec. 201 and H. Rept. 107-518, p. 2.