107TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
107–437

DISAPPROVAL OF ACTION OF THE PRESIDENT UNDER SECTION 203 OF THE TRADE ACT OF 1974

MAY 7, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

ADVERSE REPORT

together with

DISSENTING VIEWS

[To accompany H.J. Res. 84]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the joint resolution (H.J. Res. 84) disapproving the action taken by the President under section 203 of the Trade Act of 1974 transmitted to the Congress on March 5, 2002, having considered the same, report unfavorably thereon without amendment and recommend that the joint resolution do not pass.

I. INTRODUCTION

A. PURPOSE AND SUMMARY

House Joint Resolution 84 disapproves the action taken by the President under section 203 of the Trade Act of 1974 regarding steel imports, which was transmitted to Congress on March 5, 2002. The effect of the resolution is to enact instead the remedy recommendations of the U.S. International Trade Commission (ITC) transmitted to the President on December 19, 2001.

B. BACKGROUND

On June 22, 2001, USTR Robert Zoellick requested the ITC to initiate a section 201 investigation of the effect of steel imports on the U.S. steel industry. The request covered four broad categories of steel products: certain carbon and alloy flat products, certain

99–006

carbon and alloy long products, certain carbon and alloy pipe and tube, and certain stainless steel and alloy tool steel products.

For purposes of its investigation, the ITC divided steel imports into 33 product categories. On October 22, 2001, the ITC made an affirmative determination of injury for 12 of these product categories, finding that the products were being imported into the United States in such increased quantities that they are a substantial cause of serious injury or threat of serious injury to the U.S. industry. In addition, the ITC was evenly divided in its determinations for four product categories and made negative determinations for 17 product categories. In cases where the ITC was evenly divided, both determinations were forwarded to the President, who may consider either determination as the ITC's determination (section 330(d)(1) of the Tariff Act of 1930). The imported products covered by the ITC's affirmative and evenly divided determinations accounted in the year 2000 for 27 million tons of steel, valued at $10.7 billion (74 percent of the imports under investigation).

On December 7, 2001, the ITC announced the recommendations and views on the remedies regarding steel. According to section 202(e)(6) of the Trade Act of 1974, only Commissioners who made affirmative injury determinations for a product are eligible to recommend remedies for that product. On December 19, 2001, the ITC transmitted to the President its remedy recommendations.

Section 203 provides that the President, not the ITC, makes the final decision whether to provide relief to the U.S. industry and the type and amount of relief. On March 5, 2002, President Bush announced trade remedies for all products on which the ITC affirmatively determined or had an evenly divided determination that imports had caused substantial injury except two specialty categories (tool steel and stainless steel flanges and fittings). The President's remedies were imposed as of March 20, 2002, and are effective for three years and one day.

C. Legislative History

Committee action

House Joint Resolution 84 was introduced on March 7, 2002, by Mr. Jefferson to disapprove the action taken by the President under section 203 of the Trade Act of 1974 regarding steel imports, which was transmitted to Congress on March 5, 2002. The resolution was referred to the Committee on Ways and Means. On April 24, 2002, the Committee on Ways and Means ordered House Joint Resolution 84 reported adversely without amendment to the House of Representatives by a voice vote with a quorum present.

Legislative hearing

No legislative hearing was held.

II. EXPLANATION OF THE RESOLUTION

Present law

Title II of the Trade Act of 1974 authorizes safeguard actions to be taken under certain circumstances and sets forth applicable procedures.

In a section 201 investigation, the U.S. International Trade Commission (ITC) determines whether an article is being imported in such increased quantities that it is a substantial cause of serious injury, or threat thereof, to the U.S. industry producing an article like or directly competitive with the imported article (section 202(b)). After the ITC makes an affirmative or evenly decided injury determination, the ITC then recommends to the President relief that would prevent or remedy the injury and facilitate industry adjustment to import competition. The President, not the ITC, makes the final decision whether to provide relief to the U.S. industry and the type and amount of relief (section 203).

Section 203(c) states that if the President's remedy action differs from the ITC's remedy recommendation, the Congress may enact a joint resolution within 90 days to disapprove the President's remedy and instead enact the ITC's remedy.

Explanation of resolution

House Joint Resolution 84 states that Congress disapproves the action taken by the President under section 203 of the Trade Act of 1974 regarding steel imports, which was transmitted to Congress on March 5, 2002. The effect of the resolution is to enact instead the remedy recommendations of the ITC transmitted to the President on December 19, 2001.

Reasons for Committee action

The Committee on Ways and Means reports House Joint Resolution 84 adversely because the Members believe the President's remedy is better tailored than the recommendations proposed by the ITC to provide relief to the steel industry while minimizing the negative impact on the rest of the economy. The President's remedy acknowledges that the U.S. industry is not homogenous, and it provides the segments of the industry that have already restructured with the flexibility they need to continue to operate.

The President's remedy rewards America's Free Trade Agreement (FTA) partners (Canada, Israel, Jordan, and Mexico) for their commitments to free trade by excluding them from the relief and excludes those developing countries accounting for a very small share of the U.S. market.

The Committee notes that the President made his determination after a thorough investigation by the ITC which followed World Trade Organization (WTO) rules on safeguard measures. This is in direct contradiction to the actions by the European Union (EU) when it implemented its own provisional safeguard protections on steel in March 2002 without conducting any investigation. Moreover, Committee Members are very concerned about the EU's contention that it can retaliate against the United States prior to an adverse ruling by the WTO.

Effective date

If a joint resolution is enacted, section 203(d)(2) of the Trade Act of 1974 provides that the President shall proclaim the remedy recommendations of the ITC within 30 days after 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 votes of the Committee in its consideration of House Joint Resolution 84.

MOTION TO REPORT THE RESOLUTION

House Joint Resolution 84 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 House Joint Resolution 84, 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 subdivision 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that House Joint Resolution 84 does not involve any new budget authority or tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with 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, May 6, 2002.

Hon. WILLIAM "BILL" M. THOMAS,
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.J. Res. 84, disapproving the action taken by the President under section 203 of the Trade Act of 1974 transmitted to the Congress on March 5, 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Erin Whitaker (for revenues), and Lauren Marks (for private-sector mandates).

Sincerely,

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

Enclosure.

H.J. Res. 84—Disapproving the action taken by the President under section 203 of the Trade Act of 1974 transmitted to the Congress on March 5, 2002

Summary: Under the Trade Act of 1974, the President may proclaim that additional tariffs, quotas, or other actions be imposed on certain articles if the International Trade Commission (ITC) determines that the import of such articles causes serious injury to a domestic industry. However, the President may proclaim that different remedies be imposed than those recommended by the ITC in its report. On March 5, 2002, President Bush transmitted to the Congress his decision to raise tariffs on certain steel imports from March 20, 2002, through March 20, 2005. H.J. Res. 84 would disapprove the President's action. This resolution would, if enacted, replace the remedies imposed by the President with the remedies recommended by the ITC. CBO estimates that altering these remedies would reduce revenues by $80 million in 2002, and increase revenues by $93 million over the 2002–2006 period. Since adopting this resolution would affect receipts, pay-as-you-go procedures would apply.

The bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. H.J. Res. 84 would impose a private-sector mandate on importers of steel that would be subject to higher tariffs. Although the amount paid by importers would be lower compared to current law in the first three years that the new system of tariffs is in effect, CBO estimates that the net increased costs to importers would total about $300 million in fiscal year 2006. That amount exceeds the threshold for private-sector mandates established in UMRA ($115 million in 2002, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.J. Res. 84 is shown in the following table.

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
CHANGES IN REVENUES						
Estimated Revenues	−80	−81	−92	52	294	0

Basis of estimate: Under the Administration's steel action, tariffs on most U.S. imports of steel were increased for the period between March 20, 2002, and March 20, 2005. Tariffs were phased in for product groupings under several schedules, with the greatest tariff increase occurring between March 20, 2002, and March 20, 2003. In certain cases, products would be subject to tariff-rate quotas, under which products would not be subject to higher tariffs until a certain quantity of imports had entered the United States. Under the Administration's action, imports generally would enter with duty rates as in current law if such imports were from Mexico, Canada, Israel, Jordan, countries receiving Carribean Basin Economic Recovery Act (CBERA) treatment, or from countries who had received Generalized System of Preferences (GSP) treatment.

Under the ITC recommendation, as submitted on December 19, 2001, tariffs on most U.S. imports of steel would be increased for four years rather than three, with most product schedules including lower tariff increases for the first three years than under the

Administration's action. The ITC recommendation also included more products that would be subject to tariff-rate quotas. In certain cases, imports from countries not subject to the Administration tariff increases would be subject to the tariff increases under ITC recommendations. Based on information from the ITC, the United States Trade Representative, and other trade sources, CBO estimates that the replacement of Administration steel remedies with those recommended by the ITC would reduce revenues by about $80 million in 2002, and increase revenues by $93 million over the 2002–2006 period, net of income and payroll tax offsets. This estimate includes the effects of increased (decreased) imports from trading partners that would result from the reduced (increased) prices of imported products in the U.S.—reflecting the lower (higher) tariff rates relative to the Administration action—and has been estimated based on the expected substitution between U.S. steel products and imports from trading partners.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation 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 effects through 2006 are counted.

	By fiscal year, in millions of dollars—										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	Not applicable										
Changes in receipts	−80	−81	−92	52	294	0	0	0	0	0	0

Estimated impact on state, local, and tribal governments: H.J. Res. 84 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: H.J. Res. 84 would impose a private-sector mandate on importers of steel and steel products that would be subject to higher tariffs. Although the amount paid by importers would be lower compared to current law in the first three years that the new system of tariffs is in effect, CBO estimates that the net increased costs to importers would total about $300 million in fiscal year 2006. That amount exceeds the threshold for private-sector mandates established in UMRA ($115 million in 2002, adjusted annually for inflation).

Estimate prepared by: Federal Costs: Erin Whitaker; Impact on the Private Sector: Lauren Marks; and Impact on State, Local, and Tribal Governments: Elyse Goldman.

Estimate approved by: Roberton Williams, Deputy 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 believes, based on a comparison of the remedy actions proposed by the President and the ITC, that the President's remedy is preferred and disapproving such action by enacting House Joint Resolution 84 would be unwise and more harmful to the economy.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that H.J. Res. 84 has no general performance goals or objectives.

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 * * *").

VI. DISSENTING VIEW OF HON. WILLIAM J. JEFFERSON

Conditions in the US steel industry are difficult. There is a need to do something. The critical issue is whether a 30% or even a 20% tariff is the right decision. The answer must be a resounding no. The President's decision is an economically indefensible, politically driven, WTO-inconsistent decision that has, in the short span of 6 weeks, damaged relations with our key trading partners; increased taxes on consumers; and threatened hundreds of thousands of jobs across the country. Steel imports have declined steadily over the past four years and the problems with the domestic steel industry are primarily internal.

The President's action simply does not meet the strict standard for applying safeguards. Better remedies would include global negotiations to reduce steel overcapacity. (At the very least, setting quotas at historic levels would protect the domestic steel industry against import surges).

On several fronts, the President's action on the section 201 steel investigation is unsupportable.

The Decision is Economically Indefensible and Politically Driven

The President's decision is not supported by any mainstream economist. Even senior Bush Administration economic advisers such as the Treasury Secretary and the Chairman of the National Economic Council did not support the imposition of tariffs against steel imports. Ambassador Zoellick, you may recall, initially expressed skepticism about the tariffs but later adjusted his views.

The bottom line is that the President's action is economically indefensible. It was unadulterated election year politicking. The Washington Post's David Broder had it exactly right when he described the President's decision as follows:

"Bush managed to rise above principle to please industry and workers in two * * * states, Ohio and Pennsylvania. His deviation from his avowed free-trade beliefs was described in a Wall Street Journal news story—not an editorial—as 'the most dramatically protectionist step of any president in decades.'"

Commentator George Will described the tariffs as "an $8 billion contribution coerced from manufacturers and consumers of steel products, for the benefit of about six Republican congressional candidates in steel-producing districts, and for Bush's re-election campaign."

The President's Decision Constitutes an Enormous Tax on American Consumers

President Bush has been a forceful advocate of tax breaks. "Tax relief for American workers and businesses" has been a key component of this Administration's agenda. Ironically, his decision constitutes one of the biggest tax increases that our nation has seen in years. In a Washington Post op/ed, George Will describes the steel tariffs as “new taxes on American consumers—approaching $1 billion annually just on the purchasers of cars and trucks.”

Beyond the pain of imposing a billion dollars in new taxes on American consumers, these tariffs have already resulted in higher prices for products manufactured by a broad range of steel-consuming industries. Invariably, these higher costs will be passed on to average American consumers of products such as refrigerators, dishwashers and microwave ovens. Here are a few examples:

- Domestic steelmakers have begun to ration steel and increase prices in response to demand surges. One major domestic steelmaker has already announced price increases of $50 per ton for hot-rolled steel and $70 ton for coated steel.
- A Chicago-based auto parts manufacturer has reported a 15% increase in stainless steel prices.
- As of April 1, an Ohio-based manufacturer of cryogenic containers has applied a surcharge of 8% to 18% on several of its products.

At a time when our nation is recovering from a recession, the steel tariffs have the potential of plunging us back into recession.

Steel Tariffs Will Trigger Job Losses Nationwide

Some have argued that the President’s steel measures will eliminate 10 jobs in steel-consuming industries for every steel-making job that is saved. This is not a tradeoff that our nation can accept.

The national maritime industry will be harshly affected. In the Port of New Orleans, for example, employment for stevedores has already dropped by 35%. Barge traffic in ports throughout the nation has begun to drop. One shipping executive in New Orleans expects to clear only 15 barges during the month of April. His average volume is 40 to 50 barges.

The President’s Action Has Created Tension With Our Trading Partners and Triggered WTO Complaints

The President’s decision has significantly exacerbated transatlantic trade tensions. The EU announced temporary tariff measures—ranging from 14.9% to 26%—to protect the European steel industry from a flood of diverted imports resulting from the President’s decision. The EU estimates that it will incur losses of $2.4 billion on steel exports to the U.S. This situation is compounded by the fact that the EU has applied to the WTO for authority to impose $4 billion in sanctions on our country as compensation for tax breaks that are provided to U.S. exporters.

- The European Commission has just proposed a set of new tariffs (some of which are as high as 100%) on a range of U.S. goods including clothing, citrus fruit, gaming tables, nuts, footwear and cardboard boxes. The WTO will have to be notified by May 17. Once this happens, the tariffs will go into effect on June 18.
- The products for which new tariffs were imposed were selected for maximum domestic political impact in the United States. Citrus fruit exports are critically important to the state of Florida; we all know of steel’s importance to West Virginia, Pennsylvania and Ohio. Textile and footwear exports are important to the Carolinas.

• Russia has begun to restrict imports of frozen chickens from the US.

• China, New Zealand, Korea, Venezuela, Japan and Norway have filed complaints with the World Trade organization.

• Later this year, the US and Brazil will assume joint chairmanship of the FTAA negotiations. Brazil's presidential elections are scheduled in October. There is evidence that the President's decision has strengthened the hand of protectionist candidates running for office. Clearly, during an election year, the President's decision has the potential for triggering delays in the FTAA talks.

The U.S. Steel Industry and WTO Safeguards

The WTO has very strict definitions as to how safeguards should be applied. For example, safeguards can be justified when there are sudden, recent and significant increases in imports. However, as the distinguished Chairman of the Trade Subcommittee noted in a recent interview, "It (the President's decision on steel) was unwarranted because the steel imports have been declining every years since 1998."

In addition, WTO safeguards should not be applied when an industry's problems are primarily internal. In the case of the steel industry, it is abundantly clear that this is the case. Decades of inefficiency in the domestic U.S. steel industry have created a situation where steel companies are saddled with nearly $10 billion in unfunded pensions and health benefits for 600,000 steel workers (so-called legacy costs). The President is unwilling to pay these costs.

Instead, the President imposes a 30% tariff on steel imports that have steadily declined over the past four years in an effort to prop up an industry that is unwilling to make the hard choices to increase its competitiveness. It is not steel imports that have hurt the U.S. steel industry. The wounds of this industry are largely self-inflicted.

I do not believe that it is in our national economic interest to prop up a highly inefficient industry at the expense of dozens of other more competitive industries and hundreds of thousands of jobs in the United States and around the world. Sacrificing the global economy at the altar of political expediency by imposing tariffs of 30% or 20% is not the solution to the woes of the U.S. steel industry. This Committee—indeed the entire Congress—has an obligation to do the right thing and to urge the President to change his decision. The economic well-being of millions of Americans is at stake.

I respectfully dissent and oppose the Committee's decision to adversely report H.J. Res. 84.

WILLIAM J. JEFFERSON.

○