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THE STEEL TRADE LIBERALIZATION PROGRAM IMPLEMENTATION ACT

NOVEMBER 15 (legislative day, NOVEMBER 6), 1989.—Ordered to be printed

Mr. BENTSEN, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 3275]

The Committee on Finance, to which was referred the bill (H.R. 3275) to implement the steel trade liberalization program, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

I. BACKGROUND

Since October 1984, U.S. steel imports have been restricted under the terms of voluntary restraint agreements (VRA's) negotiated between the United States and certain steel-exporting countries. President Reagan directed the United States Trade Representative (USTR) to negotiate the VRA's in September 1984 when he rejected a recommendation by the U.S. International Trade Commission (ITC) to provide import relief under section 203 of the Trade Act of 1974 for the U.S. industry producing carbon and alloy steel products. He rejected the ITC recommendation on the grounds that such relief was not in the national economic interest. The U.S. industry had petitioned for import relief in January 1984 in response to a decline in steel demand in the United States and an increase in steel imports and import market share.

Rather than providing import relief under section 203, President Reagan announced the establishment of a national policy for the steel industry. The policy combined elements of an adjustment program with the negotiation of VRA's to control surges of imports that resulted from subsidizing, dumping, or other unfair or restrictive trade practices on the part of steel-exporting countries. The

stated goal of the policy was to reduce imports of finished steel products to 18.5 percent of the U.S. market.

Legislation providing the President with express authority to enforce the VRA's was enacted into law as title VIII, the "Steel Import Stabilization Act," of the Trade and Tariff Act of 1984 (Public Law 98-573). The 1984 Act provided the President VRA enforcement authority for up to five years beginning October 1, 1984. Extensions within the five-year period were conditioned upon the President making, and submitting to the House Committee on Ways and Means and Senate Committee on Finance, an annual determination (which he has made) that the major steel companies had met certain requirements regarding reinvestment, competitiveness, and worker retraining expenditures during the previous year. In other words, the authority to enforce the VRA's is conditioned on the domestic industry making positive adjustment efforts.

To implement President Reagan's steel program, USTR negotiated VRA's with the European Community (EC) and 19 steel-exporting countries that had been identified as practicing dumping or subsidization in antidumping and countervailing duty petitions filed by the industry with the Commerce Department. Neither the 1984 Act nor this bill specifically authorizes the negotiation of the VRA's, which Presidents Reagan and Bush have sought under asserted constitutional authority; rather, the legislation provides the President with the necessary authority to enforce the VRA's. The VRA's by their own terms, like the enforcement authority under the 1984 Act, expired on September 30, 1989.

The Bush Administration's Steel Trade Liberalization Program.—On July 25, 1989, President Bush announced a program to extend the VRA's for two and one-half years, and to seek an international consensus to remove unfair trade practices in global steel markets. He directed the USTR to oversee implementation of the program.

The President directed the USTR to renegotiate the VRA's, for a transitional two and one-half years, covering all major steel mill products, and terminating no later than March 31, 1992. He directed that the aggregate ceiling on imports from VRA countries increased during that period by one percentage point annually (the VRA's currently limit steel imports from VRA countries to 18.4 percent of the U.S. market). The increase is to be allocated among countries that undertake, and abide by, disciplines to address trade-distorting practices.

The President also directed the USTR to seek to negotiate, both through the Uruguay Round of Multilateral Trade Negotiations and complementary bilateral agreements, an international consensus to provide effective disciplines over government aid and intervention in the steel sector and to lower barriers to global steel trade. The consensus is to contain three elements: discipline over trade-distorting government subsidies; lowering of tariff and nontariff trade barriers; and enforcement measures to deal with violations of consensus obligations.

Finally, the President announced that the Department of Commerce would expedite and streamline the existing short supply mechanism.

On October 2, 1989, the House of Representatives passed H.R. 3275, a bill that provides for the implementation of the President's Steel Trade Liberalization Program. The bill amends the Steel Import Stabilization Act to extend the termination date for enforcement of VRA's until March 31, 1992, and otherwise to provide for implementation of the President's program. An identical measure (S. 1701) was also introduced in the Senate on September 29, 1989 with nine Members of the Committee on Finance as cosponsors. On October 27, 1989, the Subcommittee on International Trade of the Committee on Finance held a hearing on H.R. 3275. Administration and private sector witnesses testified before the Subcommittee, all in support of the bill.

II. General Explanation of the Bill

Section 1. Short title

Title VIII of the Trade and Tariff Act of 1984 (19 U.S.C. 2253 note) is entitled the "Steel Import Stabilization Act." The title of this bill is the "Steel Trade Liberalization Program Implementation Act."

Section 2. Congressional findings and purposes; sense of the Congress

Section 2 of the bill amends the Congressional findings and purposes and sense of the Congress provisions of the Steel Import Stabilization Act.

Congressional findings and purposes.—Section 802(a) of the Steel Import Stabilization Act sets forth Congressional findings concerning (1) the U.S. steel industry's need for increased capital investments to effect needed modernization to plant and equipment, (2) impediments to the industry's international competitiveness, (3) the burden imposed upon the industry in fighting unfair trade practices through the trade remedy laws, (4) the need for action under the President's national steel policy to eliminate the adverse effects of these unfair trade practices, (5) the link between import relief and the industry's efforts to modernize, and (6) the improvements to the economy and employment in the steel and iron ore-producing sectors that will result from implementation of the national steel policy. Section 802(b) of the Steel Import Stabilization Act sets forth the purposes of that Act as (1) granting to the President enforcement powers with respect to bilateral arrangements undertaken to implement the national steel policy, and (2) making the continuation of such powers contingent on the modernization efforts of the U.S. steel industry.

Section 2(a) of the bill amends section 802 of the Steel Import Stabilization Act to replace the 1984 findings and purposes with new, updated Congressional findings and purposes. The new findings state that (1) since 1984 the U.S. steel industry has made significant progress toward adjustment, (2) an extension of import relief in the form of transitional bilateral arrangements for two and one-half years will facilitate the industry's continued modernization and worker retraining efforts, (3) liberalization of market access through such bilateral arrangements will help ensure an orderly return to an open market, (4) negotiation of an international

consensus eliminating unfair practices in steel trade will strengthen the international trading system, and (5) the March 31, 1992 termination of bilateral arrangements and the full and forceful application of U.S. unfair trade laws will protect the U.S. national interest by preserving fair and open trade in the U.S. market.

The new purposes as set forth in the bill are (1) to endorse, and implement, the Steel Trade Liberalization Program announced by the President on July 25, 1989, (2) to grant specific enforcement powers to the President to carry out bilateral arrangements entered into pursuant to that program, and (3) to make continuation of such enforcement powers contingent upon the U.S. steel industry's efforts to modernize and provide appropriate worker retraining.

Sense of Congress.—Section 803 of the Steel Import Stabilization Act expresses the sense of the Congress that (1) the President should implement the national steel policy in a manner to ensure that the foreign share of the U.S. steel market is commensurate with that which would exist under under conditions of fair competition and that such implementation will result in a foreign share of 17 to 20.2 percent of the U.S. market, (2) the national steel policy should not be implemented in a manner contrary to the antitrust laws, and (3) the Congress will consider other legislative actions to stabilize steel market conditions if the national steel policy does not produce satisfactory results.

Section 2(b) of this bill amends section 803 by replacing it with a new provision expressing (1) Congressional support for the full and effective implementation of the Steel Trade Liberalization Program and (2) the sense of the Congress that such program should be implemented in a trade-liberalizing manner in order to prepare for the eventual termination of bilateral steel arrangements and a return thereafter to reliance on market forces and the full enforcement of the U.S. trade laws. Section 2(b) of the bill further amends section 803 to express the sense of Congress that the USTR should promptly conduct negotiations, through the Uruguay Round and complementary bilateral arrangements, to seek an international consensus regarding steel trade that provides for:

(1) strong disciplines over trade-distorting government subsidies;

(2) the lowering of trade barriers so as to ensure market access; and

(3) enforcement of measures to deal with violations of consensus obligations.

Section 803 as amended by this bill also requires the President to provide to Congress an annual assessment of the progress in the negotiations regarding an international consensus on steel trade. The assessment may be included in the annual report required under section 163(a) of the Trade Act of 1974, as amended by section 1641 of the Omnibus Trade and Competitiveness of 1988, the President's Annual Report on the Operation of the Trade Agreements Program. The purpose of requiring this report is to allow the Congress to follow the progress of these negotiations.

The Committee wishes to stress that it seeks a comprehensive, effective, and enforceable international consensus. For example, the

consensus should contain immediate prohibitions of the broadest range of both export and domestic subsidies.

The Administration's framework agreement for the international steel consensus envisions agreement by all signatories to obtain the elimination of steel tariffs through the Uruguay Round. The Committee supports this objective which will liberalize steel trade. The Committee also strongly supports the elimination of the tariff inversion contained in the Harmonized Tariff Schedules of the United States (HTSUS) between flat-rolled steel and pipe and tube products. An added benefit of the elimination of steel tariffs is that the tariff inversion will also be eliminated.

The Committee recognizes that tariff and non-tariff barriers to foreign market access are prevalent in the steel area. The Committee further recognizes that these measures, among others, cause diversion of steel to the U.S. market and foster dumping by keeping protected home-market prices high. The Committee urges the Administration to seek to eliminate tariff and non-tariff barriers to steel trade. The Committee is concerned that commitments to remove non-tariff barriers be verifiable, and expects that any consensus will contain specific means for determining compliance with the commitments.

Furthermore, the Committee believes that prompt, effective enforcement of the provisions of any international consensus is critical to the ultimate success of the President's Steel Trade Liberalization Program. In this regard, the Committee believes that the United States must retain its authority to enforce the rights of the United States under any international trade agreements.

The Committee believes that the availability of current trade law remedies to the steel industry is critical to the ultimate success of this legislation and the desired international consensus. The Committee received unequivocal testimony from the Administration that the bilateral arrangements already negotiated or being negotiated in no way will affect (1) the right of U.S. petitioners to pursue antidumping or countervailing duty cases and (2) the willingness of the U.S. Government to take up any such cases either before or after March 1992. Additionally, the Administration testified that, after March 1992, the domestic steel industry would depend exclusively upon U.S. trade laws, particularly the antidumping and countervailing duty laws, rather than VRA's to remedy foreign unfair trade practices affecting steel imports. They further testified that the Administration would neither offer nor support any proposals in the Uruguay Round that woud make U.S. antidumping or countervailing duty laws less effective tools for combating unfair trade practices. The Committee supports that position.

Section 3. Extension of act

Section 805 of the Steel Import Stabilization Act authorizes the President to carry out such actions as may be necessary or appropriate to enforce quantitative limitations, restrictions and other terms of bilateral arrangements agreed between the United States and steel-exporting countries. Under the terms of section 806, this enforcement authority extends for five years, or until September 30, 1989, subject to a requirement that the President determine annually that the major U.S. steel companies are meeting certain

conditions regarding reinvestment, competitiveness, and worker retraining, and that the authority continues to be necessary. For the enforcement authority to continue in effect, the President must submit to the House Committee on Ways and Means and Senate Committee on Finance by October 1 of each year an affirmative determination regarding these conditions.

Section 3(a) of this bill amends section 806 of the Steel Import Stabilization Act to extend the President's authority to enforce bilateral arrangements regarding steel trade through March 31, 1992. The amendment maintains the same requirements as under current law for an annual determination, and submission to the House Committee on Ways and Means and Senate Committee on Finance, by the President in order for the enforcement authority to continue.

The purpose of this section is to extend the President's authority to enforce bilateral arrangements regarding steel trade until March 31, 1992, consistent with the July 25, 1989 announcement of the President's Steel Trade Liberalization Program. The bill maintains the provisions in current law requiring the President to determine annually that major U.S. steel companies have steps to modernize and maintain their international competitiveness because the Committee believes that the continuation of import relief authorized by this bill should be matched by continued industry efforts to adjust to international competition.

Since this bill will not be enacted before October 1, 1989, the bill contains a special transitional provision regarding the submission date for the President's fifth annual determination. Section 3(b) states that, if the bill is not enacted by October 1, 1989, then the reference in section 806(a)(2) of the Steel Import Stabilization Act (as amended by this Act) to the fifth anniversary of the effective date of the Act shall be treated as a reference to the 30th day after the date of enactment of this bill.

Section 4. Enforcement authority

Interim enforcement authority.—On September 30, 1989, both the President's authority to enforce bilateral arrangements regarding steel trade and bilateral arrangements themselves expired. Section 4(a) of this bill amends section 805(a) of the Steel Import Stabilization Act to provide the President with authority to carry out, between October 1, 1989, and the date of concluding any bilateral arrangement, such actions as may be necessary or appropriate to ensure an orderly transition to that arrangement. The provision is included because in fact the negotiation and conclusion of new bilateral arrangements under the President's Steel Trade Liberalization Program was not accomplished prior to September 30, 1989. The Committee is concerned about a potential surge in steel imports between the date that the previous arrangements expired and the date that the new arrangements are concluded. This provision gives the President authority to take action to forestall such a surge.

Short supply situations.—Section 805(b)(3) of the Steel Import Stabilization Act states, in connnection with the U.S.-EC arrangement on steel pipe and tube exports, that nothing in this subsection shall be construed as prohibiting the Secretary of Commerce

from permitting imports of specific products above levels agreed upon under the arrangement where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist. However, section 805(b)(3) specifically states that such situations shall not be considered to exist solely because domestic producers are unwilling to supply products at prices below their costs or production (as determined by the Secretary of Commerce). In addition, 16 of the bilateral arrangements negotiated by the U.S. Government during the 1984-1989 period included specific short supply provisions. The President has delegated the administration of these provisions to the Secretary of Commerce.

Section 4(b) of this bill replaces section 805(b) of the Steel Import Stabilization Act with a new provision that specifically authorizes the Secretary of Commerce to make short supply determinations. The provision sets forth specific guidelines and procedures governing the consideration of short supply requests.

If a bilateral arrangement includes a provision relating to short supply situations and the Secretary of Commerce determines that a short supply situation exists with respect to a specific product subject to a quantitative limitation under such arrangement, then the bill requires the Secretary to authorize the importation of additional quantities of such product without regard to any aggregate quantitative import limitations in effect under such arrangement. In making a short supply determination, the Secretary is required by the bill to take into account all relevant factors, including five factors specifically set forth in the bill. The factors that the bill specifically requires the Secretary to consider are: (1) recent levels of capacity utilization for domestic facilities producing the product (to the extent information is available); (2) the quantity of the product requested in a short supply petition and the ability of domestic producers to supply such quantity; (3) the willingness of a domestic producer to supply the product at a price which is not an aberration from prevailing domestic market prices; (4) reasonable specifications requested by the purchaser or any end user; and (5) delivery times to the purchaser and any end user.

Under the procedures set forth in the bill, a petition requesting a short supply determination may be filed at any time with the Secretary. The petition must be in the form, and contain such information as, required by the Secretary. If the Secretary considers the petition to be adequate, notice that such a determination is under consideration shall be published in the Federal Register. The Secretary shall provide an opportunity for interested persons to comment on the issues raised by the petition. The petitioner and other interested persons submitting information to the Secretary shall certify that such information is accurate and complete to the best of their knowledge.

The bill requires the Secretary to determine within 30 days after a petition is filed whether a short supply situation exists with respect to such product and, if affirmative, the quantity of such product that the Secretary will authorize for importation. In certain circumstances prescribed by the bill, the Secretary would be required to act on short supply requests within 15 days after the filing of a petition. Determinations within 15 days are required if (1) the raw steel making capacity utilization in the United States equals or ex-

ceeds 90 percent, (2) the Secretary has authorized increased imports of such product because of a short supply situation during each of the two immediately preceding years, or (3) the Secretary finds that the product is not produced in the United States. In making a determination to which the 15-day deadline applies, the Secretary shall apply a rebuttable presumption that the short supply situation alleged in the petition exists.

The bill provides that short supply determinations by the Secretary, and the reasons therefore, will be published in the Federal Register. In the event of an affirmative determination, the bill also requires the Secretary to notify the appropriate foreign government and issue the necessary documentation to the petitioner to permit the additional importation.

The bill requires the Secretary to prescribe regulations to carry out the short supply authority. Interim regulations shall be issued within 30 days of enactment of the bill. The regulations must provide for transparency and fairness in the process of making short supply determinations and be consistent with the President's July 25, 1989 announcement establishing the Steel Trade Liberalization Program.

The purpose of the bill's provisions regarding short supply determinations is to provide for more transparency, fairness, and timeliness in the administration of the short supply program. Steel consumers seeking approval for short supply requests have complained at times during the 1984–1989 period that the process lacked transparency and that delays in decisionmaking have been costly. The bill responds to these complaints by creating a statutory program for making short supply determinations, with rules and procedures aimed at making the process more timely, transparent, and predictable. The provisions are also consistent with the modifications to the short supply program announced by the President as part of the Steel Trade Liberalization Program.

Regulations for denial of entry.—Section 805(c) of the Steel Import Stabilization Act provides that the Secretary of the Treasury may provide by regulation for the terms and conditions under which steel products may be denied entry into the United States. The bill amends section 805(c) to require the Secretary of the Treasury, in consultation with the Secretary of Commerce, to issue such regulations. The purpose of this provision is to assure that the private sector is aware of the circumstances in which steel imports may be denied entry.

Section 5. Definitions

Section 804 of the Steel Import Stabilization Act defines certain terms used in the Act. Section 5 of this bill amends section 804 to add a definition for the term used to refer to the current steel import program. The term "steel trade liberalization program" is defined as the program, announced by the President on July 25, 1989, designed to achieve an orderly transition to open markets, the continued modernization and adjustment of the steel industry, and the negotiation of an international consensus to restore fair and open steel trade.

Section 6. Domestic industry efforts

Definition of "major company".—Section 806(b)(2) of the Steel Import Stabilization Act defines the term "major company" as an enterprise whose raw steel production in the United States during 1983 exceeded 1.5 million net tons. Section 6(a)(1) of the bill amends section 806(b)(2) to define the term "major company" as an enterprise that produces iron and steel and whose raw steel production in the United States during 1988 exceeded two million net tons. Section 6(b) of the bill, however, makes clear that this amendment shall not affect the definition of "qualified corporation" contained in section 212(g)(1)(A) of the Tax Reform Act of 1986.

The purpose of this amendment is to update the definition of "major company" to reflect the current corporate composition of the steel industry in light of corporate reorganizations since 1984. Major companies must meet the Act's provisions requiring reinvestment, competitiveness, and worker retraining expenditures.

ITC information on modernization efforts.—Section 806(b)(3) of the Steel Import Stabilization Act requires the President, in determining whether major U.S. steel companies are meeting the conditions regarding reinvestment, competitiveness, and worker retraining set forth under the Act, to take into account such information relating to the industry's modernization efforts as may be available from the ITC and other appropriate sources. Section 6(a)(2) of the bill amends section 806(b)(3) of the Act to require the ITC to seek to obtain information regarding (1) improvements in domestic quality and service and (2) the general nature of worker retraining efforts by the steel industry and the amount of monies used to retrain displaced former employees as compared with amounts used for on-the-job retraining in the industry. The purpose of this provision is to improve the information available on the industry's efforts to become competitive through advances in quality and service and the nature of its expenditures on worker retraining.

Section 7. Caribbean ethyl alcohol and mixtures thereof for fuel use

Under the Caribbean Basin Economic Recovery Act, enacted in 1983, imported articles are entitled to duty-free treatment if they are produced in the Caribbean region and at least 35 percent of their value was added in one or more CBI countries. In the case of fuel ethanol imports, this provision was amended by the Tax Reform Act of 1986 to require increased amounts of indigenous Caribbean feedstock in order to qualify for duty-free treatment. The indigenous feedstock requirement was 30 percent in 1987; 60 percent in 1988; and 75 percent in 1989 and thereafter. Certain companies were "grandfathered" for two years, giving them the benefit of the pre-1986 criteria until 1989.

The Omnibus Trade and Competitiveness Act of 1988 extended the "grandfather" treatment for a number of firms through the end of 1989, but imposed a cap of 20 million gallons per facility on the amount of ethanol that may be imported duty-free. As of the beginning of 1990, all Caribbean imports of ethanol will be required to meet the 75 percent local feedstock requirement. In effect, this requirement would deny the zero-duty Caribbean Basin Initiative (CBI) benefit to all ethanol originating in the region.

Section 7 is identical to section 10426 of H.R. 3299. It creates new, permanent criteria for the duty-free entry of fuel ethanol and mixtures to replace the provisions of current law that are soon to expire. Under this section, ethanol that is merely dehydrated in a CBI-eligible Caribbean country or U.S. insular possession is entitled to duty-free treatment as follows:

(1) No indigenous feedstock requirement is imposed on imports up to a level of 60 million gallons or seven percent of the U.S. ethanol market (as determined by the ITC based on the 12-month period ending on the preceding September 30), whichever is greater.

(2) An indigenous feedstock requirement of 30 percent by volume will apply to the next 35 million gallons of imports above the 60 million gallons or seven percent level described above.

(3) An indigenous feedstock requirement of 50 percent by volume will apply to any additional imports.

All ethanol produced in a full fermentation facility in a CBI-eligible country or a U.S. insular possession would be eligible, as under current law, for duty-free treatment in unlimited quantities without regard to feedstock requirements.

Section 8. Amendment to the Internal Revenue Code of 1986

The Superfund Amendments and Reauthorization Act of 1986 included, among other things, excise taxes on petroleum of 8.2 cents per barrel for domestic crude oil and 11.7 cents per barrel for imported petroleum products, including crude oil. This tax expires on December 31, 1991. Section 8 is identical to section 10331 of H.R. 3299. It amends section 4611(c)(2)(A) of the Internal Revenue Code of 1986 to remove the 3.5 cents per barrel differential in the current tax rates on domestic and imported petroleum by increasing the rate on domestic crude oil to 9.7 cents per barrel (a 1.5 cent increase) and lowering the rate on imported petroleum products to 9.7 cents per barrel (a two cent decrease). The purpose of this provision is to comply with the finding of a panel of experts, adopted by the Contracting Parties of the GATT in June 1987, that the higher internal tax on imported products than on domestic products is inconsistent with the national treatment obligations of the GATT.

Section 9. Effective dates

The Steel Import Stabilization Act was effective on October 1, 1984 and expired on September 30, 1989. Section 9 of this bill provides that the amendments made by sections 1 through 6 of this bill shall take effect on October 1, 1989. Sections 7 and 8 of this bill contain effective dates by their own terms.

III. Vote of the Committee in Reporting the Bill

In compliance with section 133 of the Legislative Reorganization Act of 1946, the Committee states that the bill, as amended, was ordered favorably reported by voice vote.

IV. Budgetary Impact of the Bill

In compliance with the sections 308 and 403 of the Congressional Budget Act of 1974 and paragraph 11(a) of rule XXVI of the Stand-

ing Rules of the Senate, the Committee has requested, but has not yet received, a report of the Congressional Budget Office under section 403 of the Congressional Budget Act regarding this bill, and therefore states that it is impracticable to comply fully with the requirements of rule 11(a). This report will be submitted to the Senate as soon as it is received. However, the Committee believes that the bill has no direct budget effects.

V. Regulatory Impact of the Bill

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill will not regulate any individuals or businesses, will not impact on the personal privacy of individuals, and will result in no additional paperwork.

VI. Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Steel Import Stabilization Act

(Title VIII of Public Law 98-573)

* * * * * * *

[SEC. 802. FINDING AND PURPOSES.

[(a) The Congress finds that—

[(1) the United States steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization;

[(2) the ability of the domestic steel industry to be internationally competitive is, and has been, impeded by the effects of the enormous Federal budget deficit, an overvalued dollar, and increasing trade deficits, as well as serious injury due to imports of, and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding steel products;

[(3) the extensiveness of the unfair trade practices engaged in the international market regarding such products imposes unusually harsh burdens on the United States steel industry in combating those practices through the trade remedy laws;

[(4) expeditious and effective action under the President's national policy for the steel industry, including more vigorous efforts by the Executive Branch to self-initiate and pursue remedies against those practices, is needed to eliminate the adverse effects of those unfair trade practices;

[(5) import relief will be ineffective and will not serve the national economic interest unless the industry during the period of relief engages in serious efforts substantially to modernize and to improve its international competitiveness; and

[(6) full and effective implementation of the national policy for the steel industry will substantially improve the economy

and employment in both the steel and iron ore-producing sectors.

[(b) The purposes of this title are—

[(1) to supplement the authority of the President to achieve the goals of the national policy for the steel industry by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy; and

[(2) to make the continuation of those powers subject to the condition that the steel industry undertaken a comprehensive modernization of its plants and equipment.

[SEC. 803. SENSE OF CONGRESS REGARDING THE NATIONAL POLICY FOR THE STEEL INDUSTRY.

[It is the sense of the Congress that—

[(1) the President should, in conjunction with the authority granted under this title, implement the national poicy for the steel industry in a manner to ensure that the foreign share of the United States market for steel products is commensurate with a level which would obtain under conditions of fair, unsubsidized competition; and it is further the sense of Congress that when this policy is fully implemented, it will result in a foreign share of the domestic market of 17.0 to 20.2 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require;

[(2) the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws; and

[(3) if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products.]

SEC. 802. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) since 1984, the United States steel industry has made significant progress toward adjustment, through modernization of production facilities, elimination of excess capacity, reduction of production costs, and improvement of productivity;

(2) and extension of impor relief, through transitional bilateral arrangements, for a period of two and one-half years will facilitate the steel industry's continued modernization and worker retraining;

(3) liberalization of market access during the period of transitional bilateral arrangements, with preferential treatment for countries who support fair and open trade, will help ensure an orderly return to an open market;

(4) the negotiation of an international consensus through the Uruguay Round of trade negotiations and through bilateral agreements to address subsidies and tariff and nontariff barriers will strengthen the international trade system and conditions of global steel trade; and

(5) the termination of transitional bilateral arrangements by March 31, 1992, and the full and forceful application of the

United States unfair trade laws, will protect the United States national interest in preserving conditions of fair and open trade in the United States market.

(b) The purposes of this title are—

(1) to endorse the principles and goals of the steel trade liberalization program as announced by the President on July 25, 1989, and provide for its implementation;

(2) to grant specific enforcement powers to the President to carry out the terms and conditions of bilateral arrangements entered into for purposes of implementing that program; and

(3) to make the continuation of those powers subject to the conditions that the steel industry continue to modernize its plant and equipment and provide for appropriate worker retraining.

SEC. 803 SENSE OF CONGRESS REGARDING THE STEEL TRADE LIBERALIZATION PROGRAM.

(a) The Congress supports the full and effective implementation of the steel trade liberalization program.

(b) It is the sense of the Congress that the steel trade liberalization program should be implemented in a manner which provides for liberalized market access for steel products during the period in which bilateral arrangements remain authorized in order to prepare for the eventual termination of such arrangements in 1992 and reliance thereafter on market forces and the full enforcement of United States trade laws. In particular, liberalized market access should be provided to those foreign countries that work with the United States to achieve the goals referred to in subsection (c).

(c) It is further the sense of the Congress that the United States Trade Representative should promptly conduct negotiations, through the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade and through complementary bilateral arrangements, to seek an international consensus regarding steel trade that provides for—

(1) strong disciplines over trade-distorting government subsidies;

(2) the lowering of trade barriers so as to ensure market access; and

(3) enforcement measures to deal with violations of consensus obligations.

(d) The President shall provide to the Congress an annual assessment of the progress of the negotiations referred to in subsection (c). The President may include the assessment in the annual report required under section 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) regarding the trade agreements program.

SEC. 804 DEFINITIONS.

As used in this title—

(1) The term "bilateral arrangements" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations, restrictions, or other terms relating to the importation into, or expor-

tation to, the United States of categories of steel products as may be necessary to implement the national policy for the steel industry or the steel trade liberalization program.

* * * * * * *

(4) The term "steel trade liberalization program" means the program, announced by the President on July 25, 1989, designed to achieve an orderly transition to open markets, the continued modernization and adjustment of the steel industry, and the negotiations of an international consensus to restore fair and open steel trade.

SEC. 805. ENFORCEMENT AUTHORITY.

(a) Subject to section 806, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations restrictions, and other terms agreed to between the United States and steel-exporting nations as contained in bilateral arrangements. Such actions may include, but are not limited to requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of steel products. *The President is further authorized to carry out, between October 1, 1989, and the date of the concluding of any bilateral arrangement, such actions as may be necessary or appropriate to ensure an orderly transition to that arrangement.*

[(b)(1) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982, between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension, or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to paragraph (2) of this subsection whenever he determines that—

[(A) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average share of annual United States apparent consumption specified in the Arrangement, or

[(B) distortion is occurring in the pattern of United States European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by the Secretary of Commerce.

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under paragraph (2) is requested.

[(2) At the request of the Secretary of Commerce pursuant to paragraph (1), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request

that are entered into the United States are in accordance with the terms of the Arrangement.

[(3) Nothing in this subsection may be construed as prohibiting the Secretary of Commerce from permitting the importation of additional quantities of specific products in cases where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist; except that a short supply or emergency economic situation shall not be considered to exist solely because domestic producers are unwilling to supply products at prices below their costs of production (as determined by the Secretary of Commerce).]

(b)(1) If—

(A) a bilateral arrangement includes a provision relating to short supply situations; and

(B) the Secretary of Commerce (hereinafter in this subsection referred to as the "Secretary") determines, in accordance with this subsection, that a short supply situation exists in the United States with respect to a steel product that is subject to a quantitative limitation under such arrangement;

the Secretary shall authorize the importation of additional quantities of that product without regard to any aggregate quantitative import limitation in effect under such arrangement.

(2) In determining under this subsection whether a short supply situation exists in the United States with respect to a steel product, the Secretary shall take into account all relevant factors, including—

(A) (to the extent information is available) the recent level of capacity utilization for domestic facilities producing the product;

(B) the quantity of the steel product requested in a short supply petition and the ability of domestic producers to supply the product in such quantity;

(C) the willingness of a domestic producer to supply the steel product at a price which is not an aberration from prevailing domestic market prices;

(D) reasonable specifications requested by the purchaser or any end user; and

(E) delivery times to the purchaser and any end user of the steel product.

(3)(A) A petition requesting a determination under this subsection may be filed with the Secretary. The petition must be in such form and contain such relevant information as the Secretary requires.

(B) If the Secretary considers that a petition filed under subparagraph (A) is adequate, the Secretary shall promptly cause to be published in the Federal Register a notice that a determination under this subsection with respect to the steel product concerned is under consideration.

(C) The Secretary shall provide opportunity for comment by interested persons regarding the issues raised in a petition.

(D)(i) The petitioner shall certify that the factual information contained in the petition and any additional submission is accurate and complete to the best of the petitioner's knowledge.

(ii) An interested person shall certify that the factual information submitted by that person to the Secretary is accurate and complete to the best of the person's knowledge.

(4)(A) If an adequate petition is filed under paragraph (3)(A), the Secretary shall determine, not later than the day specified in subparagraph (B)—

(i) Whether a short supply situation exists in the United States with respect to the steel product; and

(ii) if the determination under clause (i) is a affirmative, the quantity of the steel product that the Secretary will authorize for importation.

(B) The Secretary must make a determination with respect to a petition not later than—

(i) the 15th day after the day on which the petition is filed if—

(I) the raw steel making capacity utilization in the United States equals or exceeds 90 percent.

(II) the importation of additional quantities of the steel product was authorized by the Secretary during each of the 2 immediately preceding years, or

(III) the Secretary finds, on the basis of available information (and whether or not in the context of a determination under this subsection), that the steel product is not produced in the United States; or

(ii) the 30th day after the day on which the petition was filed if neither subclause (I), (II), or (III) of clause (i) applies.

(C) In making a determination with respect to which subparagraph (B)(i) applies, the Secretary shall apply a rebuttable presumption that the short supply situation alleged in the petition exists.

(D) The Secretary shall cause to be published in the Federal Register notice of each determination made under this subsection setting forth the reasons for the determination.

(5) If under this subsection the Secretary authorizes the importation of a specified quantity of a steel product, the Secretary shall notify a representative of the appropriate foreign government and issue to the petitioner the necessary documentation to permit the importation of that quantity.

(6) The Secretary shall prescribe regulations to carry out this subsection. The interim text of such regulations shall be issued on or before the 30th day after the date of the enactment of the Steel Trade Liberalization Program Implementation Act. The regulations shall provide for transparency and fairness in the process of making short supply determinations, and shall be consistent with the President's announcement on July 25, 1989, establishing the steel trade liberalization program.

(c) For purposes of carrying out this title, the Secretary of the Treasury [may provide], *in consultation with the Secretary of Commerce, shall provide* by regulation for the terms and conditions under which steel products may be denied entry into the United States.

(d)(1) * * *

* * * * * * *

(3) The United States Trade Representative may, in a manner consistent with the purpose of any so-called "third country equity provision" of an arrangement entered into under the [President's Steel Policy,] *steel trade liberalization program* take such actions as he deems necessary with respect to steel imports of any other country or countries so as to ensure the effectiveness of any portion of such arrangement.

SEC. 806. EFFECTIVE PERIOD OF TITLE.

(a) IN GENERAL.—Section 805 shall terminate—

(1) at the close of [the fifth anniversary of the effective date of this title;] *March 31, 1992;* or

(2) at the close of the first, second, third, [or fourth] *fourth, fifth, sixth, or seventh* anniversary of the effective date of this title, unless the President, before each such anniversary, submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefor) an affirmative annual determination described in subsection (b).

(b)(1) * * *

(2) For purposes of this subsection—

[(A) the term "major company" means an enterprise whose raw steel production in the United States during 1983 exceeded 1,500,000 net tons.]

(A) The term "major company" means an enterprise that produces iron and steel and whose raw steel production in the United States during 1988 exceeded 2,000,000 net tons.

* * * * * * *

(3) For the purposes of carrying out this subsection, the President shall take into account such information as may be available from the United States International Trade Commission and other appropriate sources relating to the modernization efforts of the steel industry. *For the purposes this paragraph, the United States International Trade Commission shall seek to—*

(A) obtain information from purchasers of domestic steel products, as well as from domestic producers of steel products, regarding recent improvements in domestic quality and service, including those that result from industry modernization; and

(B) obtain information on—

(i) the general nature of the worker retaining efforts undertaken by the steel industry, and

(ii) with respect to the moneys referred to in paragraph (1)(B), the amounts used to retrain displaced former employees as compared with the amounts used for on-the-job retraining within the industry.

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TAX REFORM ACT OF 1986

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TITLE IV—AGRICULTURE, ENERGY, AND NATURAL RESOURCES

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Subtitle C—Other Provisions

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SEC. 423. ETHYL ALCOHOL AND MIXTURES THEREOF FOR FUEL USE.

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(c) DEFINITIONS.—For purposes of this section—

(1) The term "ethyl alcohol or a mixture thereof" means (except for purposes of subsection (e)) ethyl alcohol or any mixture thereof described in item 901.50 of the Appendix to the Tariff Schedules of the United States.

[(2) Ethyl alcohol or a mixture thereof may be treated as being an indigenous product of an insular possession or beneficiary country only if the ethyl alcohol or a mixture thereof—

[(A) has been both dehydrated and produced by a process of full-scale fermentation within that insular possession or beneficiary country; or

[(B) has been dehydrated within that insular possession or beneficiary country from hydrous ethyl alcohol that includes hydrous ethyl alcohol which is wholly the product or manufacture of any insular possession or beneficiary country and which has a value not less than—

[(i) 30 percent of the value of the ethyl alcohol or mixture, if entered during calendar year 1987, except that this clause shall not apply to any ethyl alcohol or mixture which has been dehydrated in the United States Virgin Islands by a facility with respect to which—

[(I) the owner has entered into a binding contract for the engineering and design of full-scale fermentation capacity, and

[(II) authorization for operation of a full-scale fermentation facility has been granted by the Island authorities before May 1, 1986,

[(ii) 60 percent of the value of the ethyl alcohol or mixture, if entered during calendar year 1988, and

[(iii) 75 percent of the value of the ethyl alcohol or mixture, if entered after December 31, 1988.]

(2) Ethyl alcohol or a mixture thereof that is produced by a process of full fermentation in an insular possession or beneficiary country shall be treated as being an indigenous product of that possession or country.

(3)(A) Ethyl alcohol and mixtures thereof that are only dehydrated within an insular possession or beneficiary country (hereinafter in this paragraph referred to as "dehydrated alcohol and mixtures") shall be treated as being indigenous products of that possession or country only if the alcohol or mixture, when entered, meets the applicable local feedstock requirement.

(B) The local feedstock requirement with respect to any calendar year is—

(i) 0 percent with respect to the base quantity of dehydrated alcohol and mixtures that is entered;

(ii) 30 percent with respect to the 35,000,000 gallons of dehydrated alcohol and mixtures next entered after the base quantity; and

(iii) 50 percent with respect to all dehydrated alcohol and mixtures entered after the amount specified in clause (ii) is entered.

(C) For purposes of this paragraph:

(i) The term "base quantity" means, with respect to dehydrated alcohol and mixtures entered during any calendar year, the greater of—

(I) 60,000,000 gallons; or

(II) an amount (expressed in gallons) equal to 7 percent of the United States domestic market for ethyl alcohol, as determined by the United States International Trade Commission, during the 12-month period ending on the preceding September 30;

that is first entered during that calendar year.

(ii) The term "local feedstock" means hydrous ethyl alcohol which is wholly produced or manufactured in any insular possession or beneficiary country.

(iii) The term "local feedstock requirement" means the minimum percent, by volume, of local feedstock that must be included in dehydrated alcohol and mixtures.

[(3)] *(4)* The term "beneficiary country" has the meaning given to such term under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

[(4)] *(5)* The term "United States person" has the meaning given to such term by section 7701(a)(3) of the Internal Revenue Code of 1986.

[(5)] *(6)* The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

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INTERNAL REVENUE CODE OF 1986

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CHAPTER 38—ENVIRONMENTAL TAXES

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Subchapter A—Tax on Petroleum

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Sec. 4611. IMPOSITION OF TAX.

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(c) RATE OF TAX.—

(1) IN GENERAL.— The rate of the tax imposed by this section is the sum of—

(A) the Hazardous Substance Superfund financing rate, and

(B) the Oil Spill Liability Trust Fund financing rate.

(2) RATES.— For purposes of paragraph (1)—

[(A) the Hazardous Substance Superfund financing rate is—

[(i) except as provided in clause (ii), 8.2 cents a barrel, and

[(ii) 11.7 cents a barrel in the case of the tax imposed by subsection (a)(2), and]

(A) the Hazardous Substance Superfund financing rate is 9.7 cents a barrel, and

(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel.

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