FOREIGN TRADE AND TARIFF PROPOSALS

HEARINGS

BEFORE THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

ON

TARIFF AND TRADE PROPOSALS

JUNE 4, 5, 10, 11, 12, 13, 14, 17, 18, 19, 21, 24, 25, 26, 27, 28;
JULY 1 AND 2, 1968

PART 5

Contains June 18, 1968

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE
95-159 O WASHINGTON : 1968

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 – Price $1.75

COMMITTEE ON WAYS AND MEANS

WILBUR D. MILLS, Arkansas, *Chairman*

CECIL R. KING, California
HALE BOGGS, Louisiana
FRANK M. KARSTEN, Missouri
A. S. HERLONG, JR., Florida
JOHN C. WATTS, Kentucky
AL ULLMAN, Oregon
JAMES A. BURKE, Massachusetts
MARTHA W. GRIFFITHS, Michigan
GEORGE M. RHODES, Pennsylvania
DAN ROSTENKOWSKI, Illinois
PHIL M. LANDRUM, Georgia
CHARLES A. VANIK, Ohio
RICHARD H. FULTON, Tennessee
JACOB H. GILBERT, New York

JOHN W. BYRNES, Wisconsin
THOMAS B. CURTIS, Missouri
JAMES B. UTT, California
JACKSON E. BETTS, Ohio
HERMAN T. SCHNEEBELI, Pennsylvania
HAROLD R. COLLIER, Illinois
JOEL T. BROYHILL, Virginia
JAMES F. BATTIN, Montana
BARBER B. CONABLE, JR., New York
GEORGE BUSH, Texas

WILLIAM H. QUEALY,
Minority Counsel

JOHN M. MARTIN, Jr., *Chief Counsel*
J. P. BAKER, *Assistant Chief Counsel*

CONTENTS

SUBJECT HEADINGS

WRITTEN COMMUNICATION SUBMITTED BY GOVERNMENT OFFICIAL

ORAL STATEMENTS BY GOVERNMENT OFFICIALS

STATEMENTS OF PUBLIC WITNESSES

MATERIAL SUBMITTED FOR THE RECORD

GOVERNMENT OFFICIALS

95-159 O - 68 - pt. 5 - 3

FOREIGN TRADE AND TARIFF PROPOSALS

TUESDAY, JUNE 18, 1968

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in the committee room, Longworth House Office Building, Hon. Wilbur D. Mills (chairman of the committee) presiding.

The CHAIRMAN. The committee will please be in order.

Our first scheduled witness this morning is the Honorable Vance Hartke, our colleague from the Senate.

Senator HARTKE. Mr. Chairman, I would like to yield my time at this moment and testify after the presentation by the industry and by the union.

The CHAIRMAN. Our colleague from Pennsylvania, the Honorable G. Robert Watkins.

STATEMENT OF HON. G. ROBERT WATKINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. WATKINS. As a representative of the steel-producing Commonwealth of Pennsylvania, I share with many of our citizens a growing concern in regard to foreign steel imports.

The fact that last year 1 out of every 8 tons of all steel mill products used in this country came from a foreign source, gives me sufficient reason for concern. The imports of finished steel products into the United States in 1967 rose to 11.5 million tons and represented in excess of 12 percent of the apparent consumption of these products.

And, look at what has been taking place thus far in 1968. The Department of Commerce reports that during the first quarter steel mill product imports amounted to 3.4 million tons—already up 1 million tons over the similar period in 1967.

There is much evidence of the drastic effect steel imports have on our Nation's balance of trade deficit. There also is increasing concern for the serious threat to national security that foreign steel imports could have should they continue to take an ever growing proportion of domestic consumption. It is apparent that in such a case the domestic steel industry may not be able to supply requirements in this country in a time of war.

Yet another aspect of this problem deserves your consideration. I would like to discuss briefly the impact on the economy of the country and of Pennsylvania resulting from domestic production lost to foreign steel imports, using 1967 as an example.

The American steel industry last year lost almost $2 billion in sales to foreign producers of steel mill products. That is the approximate amount that would have been paid to domestic steel producers had the 11.5 million tons of finished steel products imported into this country been produced here. Assuming that Pennsylvania's steel producers would have earned the same proportionate share of that production as they do of U.S. domestic production, this would have meant $412 million more in Pennsylvania sales.

It is at this point that the impact spreads with a rippling effect felt beyond the confines of the steel industry itself. For instance, lost sales on the magnitude of $2 billion in the steel industry translate into lost sales of $781 million for the suppliers of materials and services. Something on the order of $183 million were lost to these suppliers as a result of the tonnages taken from Pennsylvania steel mills by imports.

The impact of the steel industry's sales losses due to imports was felt in government circles too * * * quite substantially, I might add. It is estimated that 1967 steel imports cost Government more than $122 million in corporate and personal income taxes, of which $29 million were the result of the effect of imports on steel sales in Pennsylvania alone. These are taxes that were not paid by the steel industry and the employees of that industry which would have been due had 11.5 million more tons of steel mill products been ordered from American steel mills, thus providing additional job opportunities for steel workers. The figures are most conservative, for they do not take into account taxes that would have been paid by suppliers of goods and services, dividend recipients and others who would have derived income as the dollars multiplied through the economy.

It appears proper at this point to discuss in more detail the jobs that were not available to American steel workers because of the inroads being made by foreign steel producers into domestic markets. The human aspects of this problem are obvious but the economics involved are of some interest, too.

The employment opportunities lost to foreign steel imports in 1967 would have provided wages and salaries well in excess of $607 million to American workers. That total is exclusive of any moneys paid for benefits, such as vacations, pensions, insurance, et cetera.

Now we need only turn to reports of the Department of Commerce and the Bureau of Labor Statistics to see how widespread can be repercussions from steel imports. For instance, had $607 million been paid to steel workers last year, we can estimate that they would have put more than $37 million into savings institutions. The butcher, baker, milkman, grocer and whoever else supplies these families with food would have shared $110 million.

Another $163 million would have been spent with businesses involved in housing and $52 million would have gone to the various suppliers of clothing. Transportation is a big item in most family budgets, too. The $607 million in wages and salaries would have resulted in an additional expenditure of $68 million for transportation services. It

would also have meant additional spending of $69 million for personal items, recreation and other miscellaneous uses.

Our share of those local business losses in Pennsylvania were sizable. First, it has been calculated that the direct wages and salaries lost to steel workers due to imports amounted to approximately $142 million in our State. Because that $142 million was not available, this is what was lost to the various business categories:

—Savings institutions, almost $9 million;
—Food suppliers, $26 million;
—Housing, $38 million;
—Transportation services, $16 million;
—Clothing suppliers, $12 million; and
—Personal supplies, recreation and miscellaneous, $16 million.

These are illustrative economic effects of rising imports of steel mill products using the year 1967 as an example. Should such imports take an ever-increasing share of the domestic market, as their continuing rate of rise would indicate, they will have a still greater impact upon the economy of our Nation and that of our Commonwealth of Pennsylvania.

I contend, gentlemen, that we are not dealing with a steel industry problem. It is a problem that has far-reaching impact on our total economy; one that touches the lives of thousands, perhaps millions, of people who are not directly involved in the making or selling of steel. Foreign steel imports have become a national problem. One, however, for which there is a just solution. It is found in legislation already drafted and before this committee for consideration.

The CHAIRMAN. The material appended to your statement will appear at this point in the record.

(The material referred to follows:)

CALCULATED LOSSES DUE TO 1967 STEEL IMPORTS

[Dollar amounts in millions]

	United States	Pennsylvania
Raw steel (million tons)	16.4	3.85
Finished steel (million tons)	11.5	2.69
Steel employment lost to imports (workers)	73,600	17,200
Total direct wages and salaries [1]	$607.6	$142.0
Less personal income taxes	−$80.0	−$18.5
Income after taxes	$527.6	$123.5
Less savings	−$37.5	−$8.8
Total personal outlays	$490.1	$114.7
Transportation	$68.0	$15.9
Apparel	$52.1	$12.2
Personal, recreation, and miscellaneous	$69.3	$16.2
Food	$109.9	$25.7
Medical	$27.9	$6.5
Housing	$162.9	$38.1
Steel industry sales	$1,759.5	$411.9
Steel industry profits (before taxes)	$129.0	$30.2
Steel industry profits (after taxes)	$86.4	$20.2
Federal income taxes	$42.6	$10.0

[1] Excludes other employment cost as vacations, pensions, insurance, et cetera.

FACT SHEET, 1967

Item	Amount	Source
U.S. raw steel production—tons	126,920,069	AISI.
Pennsylvania raw steel production—do	29,882,000	Do.
Total U.S. imports—million tons	11.5	Department of Commerce.
Pennsylvania percent of imports	23.5	Lukens.
Pennsylvania share of imports, raw steel—million tons	3.85	Do.
Pennsylvania share of imports, finished steel—tons	2,691,808	Do.
U.S. steel industry employees	555,000	AISI.
Pennsylvania steel industry employees	218,000	Do.
U.S. raw steel per worker—tons	228.7	Lukens.
Pennnsylvania raw steel per worker—do	137.1	Do.
Pennsylvania steelworkers displaced	17,200	Do.
Pennsylvania annual salary and wages	$8,256.88	AISI and Lukens.
Steel industry composite price—ton	$153	Steel magazine.
Personal income tax rate—percent	13	Department of Commerce.
Savings rate—do	7.1	Do.
Personal outlays breakdown		Bureau of Labor Statistics, Consumer Price Index.
Steel industry profits, percent of sales (AT)	4.91	Steel magazine.
Steel industry profits, percent of sales (BT)	7.33	Do.
Materials, supplies, freight, and other services (1966) percent of sales.	44.4	AISI.

The CHAIRMAN. Thank you, Congressman Watkins, for the benefit of your fine words. The committee will certainly take them into consideration.

Are there any questions? If not, then thanks again.

Mr. WATKINS. Thank you, Mr. Chairman; it has been a pleasure to appear before this committee.

The CHAIRMAN. Our next witness is from Maryland, the Honorable George H. Fallon. We appreciate your being with us this morning and you are recognized, sir.

STATEMENT OF HON. GEORGE H. FALLON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. FALLON. Mr. Chairman and distinguished members of the committee, I appreciate this opportunity to appear before you today to express my concern over the growing imports of steel into our country, and in support of legislation that would limit the quota.

Steel imports this year are again running at new records. Between 15 and 17 million tons are expected to be shipped into the United States. This level of imported steel would represent about 15 percent of the U.S. production.

If the estimate of 15 million tons proves correct, this will be an increase of more than 30 percent from 1967, and if 17 million tons are imported, this will be a 48-percent increase from last year.

Also, during 1967, the steel import balance—imports minus exports—reached 9.8 million tons, the largest to date and the ninth straight year of an unfavorable trade balance in steel.

These are just a few sobering statistics that indicate that Congress must start giving some relief to the steel industry which has suffered long enough from excessive import competition. We must begin by enacting legislation to limit the amount of steel imports to the United States. I have introduced H.R. 17265 to provide for orderly trade in iron and steel products and to prevent harm to our domestic economy from such imports. It is essential to pass legislation like this for a healthy economy and strong national security.

Additional facts underscore the immediate need for legislation to protect our steel industry from excessive imports.

In the short time since the end of World War II the U.S. share of world steel production has plunged from 61 percent to 26 percent, while Japan's has increased tenfold, Italy's has tripled and the Soviet Union's has doubled. This drastic shift in world steel production is partly due to two basic positions of U.S. foreign policy. First, shortly after World War II the United States began to pour money and "know-how" into the shattered war nations and this enabled many of them to build modern steel plants. Today those plants—operated by workers who only earn a small percentage of the wages paid to American steelworkers—are rapidly taking over the U.S. market. Secondly, the U.S. foreign trade policy has operated on the naive assumption of fair competition among all nations. In reality, we have anything but fair competition today. Most foreign steel producers receive assistance from their governments in numerous ways to compete against U.S. steel producers. For example, in most important steel producing countries of Western Europe, the domestic tax system provides incentives for exporting steel at low prices and offers stiff penalties for American steel imports.

The greatest threat of these excessive imports is to our own working people. It is well to remember that as we import steel we may also be importing unemployment and sacrificing jobs at home.

One of the most serious results of cheap steel imports is the shrinking employment opportunity in the steel industry. About 6,400 people are now employed in our steel plants for every million tons of finished products shipped in a year. An additional 1,300 persons are involved in coal and ore mining and transportation. Therefore, 7,700 American men and women are employed for every million tons of domestic steel mill products shipped. In simple language, the 11.5 million tons of steel imports sold in this country in 1967 represents the export of over 84,000 jobs that have gone abroad.

The employment situation may become even more critical when peace comes to Vietnam and the boys in uniform come home and begin to look for jobs. The steel companies may not be able to help absorb the returning servicemen unless action is taken to stem this high tide of steel imports. This possibility is even more shocking when you consider that most of those imports which are hurting U.S. companies are produced in countries that have done absolutely nothing to help us in the Vietnam war.

On the other side of the coin, this import deluge threatens the wage standards of thousands of steelworkers. U.S. wages in steel in 1967 averaged about $3.50 per hour more than in Japan and $2.75 above West Germany. This wage gap is larger than it was in 1952. The labor costs per ton of steel are about $59. This compares very unfavorably to that of Western Europe, $29 per ton; and Japan, $18 per ton. It is easy to see why foreign steel prices beat American prices by as much as $40 per ton or 25 percent. Partly because of these cheap production costs abroad, American steel companies and labor are forced into a wage-price confrontation spiral. Steel officials state they cannot match the low price of cheap imports and still pay the high wage levels our steelworkers currently enjoy.

During this difficult situation, imports this year are increasing sharply because steel users are stockpiling metal against the possibility of a steel strike this summer. Thus, while our workers and

businessmen engage in the cherished right of collective bargaining, foreign producers take advantage of us.

Despite much bravado everyone knows the dollar is in trouble. The U.S. balance-of-payments problem is getting worse. It is necessary to simply point out that the entire deficit in our balance of payments, amounting to about $1.4 billion, represents little more than the amount of the trade deficit with respect to steel, which in 1966 was almost $1 billion.

Finally, it is important to recall that we are all aware of the advantages that will accrue from the final achievement of free world trade. But it is unwise to ignore free-trade barriers. Almost all nations recognize the importance of steel production to their economies and national security, and every country has import problems. Congress must now grapple with a steel import policy, keeping in mind our own national interest. Our current policy is a failure. Congress must act now to insure a viable and expanding steel industry for our nation until other governments of the major steel producing countries are willing to discuss common interests for all nations engaged in steel production.

The CHAIRMAN. Thank you, Mr. Fallon. Any questions?

The next witness is our colleague from Ohio, the Honorable William E. Minshall. Mr. Minshall, we appreciate having you with us and you are recognized.

STATEMENT OF HON. WILLIAM E. MINSHALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. MINSHALL. Mr. Chairman, distinguished members of the committee, I join in strong support of a limitation on the import of iron ore, pig iron, and steel mill products.

As cosponsor of H.R. 14120, which would provide for orderly trade in these products, I already have registered my grave and growing concern about the impact of imports on our domestic steel economy. My great state of Ohio ranks second among the Nation's steel producers and second among steel consumers. Our Ohio steel industry produces more tonnage than France and nearly as much as Great Britain. Some 90,000 Ohioans are employed in the industry, with many thousands more involved in the economic well-being of the industry.

The damage being wreaked by increased steel imports is more than a matter of State concern, of course, since it threatens the entire economy of our Nation. You have heard ample testimony from the experts as to the increasingly large share of the United States market being taken over by foreign steel imports. I would like to make part of the printed record of these hearings excerpts from the many hundreds of letters I am receiving from concerned individuals in the 23d District of Ohio, which I represent. They come from men and women in all walks of life—from management to labor, stockholder to concerned taxpayer. They speak eloquently of the many reasons for this committee to promptly and positively report effective quota legislation to the House floor.

"The importing of steel into Ohio at the present rate is a frightening and threatening thrust at our future. For this country to endorse 'free trade' at a risk to our economy and without regard for our industry is deplorable."

* * *

"If you do not take action to stem the tide of steel imports, there will be a growing reliance on foreign sources of steel which will harm our national security and further contribute to the deterioration of this country's balance of payments."

* * *

"It is my understanding that President Johnson has asked Congress for $350 million to subsidize the extra cost of training the first 100,000 hard core unemployed. He also announced that some 60 executives in manufacturing, banking and other fields have agreed to try to find permanent work for jobless in big city ghettos by 1971. It seems somewhat paradoxical that in the face of this tremendous effort to find jobs and the expenditures of huge sums of money that we are abdicating employment possibilities to workers in foreign countries. I am referring to the jobs that are being lost in this country as the result of the tremendous influx of foreign steel * * *"

* * *

"Is it necessary for foreign producers to take 15 percent of our domestic market? I am sure the many thousands of persons employed at good American wages by the steel industry want to keep it a competitive industry—as all American industry should be."

* * *

"It is fantastic to learn that $1,300,000 worth of steel was imported into the United States in 1967 and that the steel trade deficit in 1967 amounted to the staggering sum of $1,100,000,000. And further, these steel imports in 1967 reached the all time high of 12.3 percent of the domestic market for steel mill products. Steel imports in the past 6 years have skyrocketed from 3.5 million tons to 11.5 million tons. No industry and the companies it represents can possibly cope with increases of this magnitude. Action must be taken before it is too late—before the backbone of the health of the steel industry is very seriously damaged to the extent that it never can recover."

* * *

"Owning steel stock which has been on the decline in value for some time I am concerned about the unfair situation the steel companies are in due to imports. I hope you will support a bill favorable to these companies."

* * *

"It is very discouraging to see foreign steel being unloaded in the Cleveland Port when so many tons of steel are produced here in Cleveland."

* * *

"I hope you will support the proposed Iron and Steel Orderly Trade Act of 1967. I am sure that you appreciate the importance of such legislation. This measure is not only humane in that it provides healthful living conditions for the steelworkers of the country, but it is also good business because it will monetarily assist the steelworkers and the country as a whole, as well as the manufacturers and suppliers. But perhaps the greatest benefit of all will be the security that will be assured the steel workers. I am 57 years old and would find it impossible to find other employment."

* * *

"Steel is my livelihood and I am concerned with the rising steel imports as actually evidenced by me through visual observation of the Port of Cleveland. Today, the Norwegian freighter, *Rolwi* is unloading 21,000 tons of coil steel which would cover 2 months booking for all of our J. & L. cold rolled sheet customers in this area * * *. Our office is experiencing every day the loss of steel orders at lower prices due to labor cost advantages and tax rebates and subsidies."

* * *

"The main business of our company is supplying the steel industry with iron ore and coal and the vessel transportation thereof as well as certain facilities widely used in the pouring of steel ingots. Obviously our company goes up and down with the steel industry and it is becoming critically important that this industry shares in the growth of the economy."

* * *

"As a taxpayer I am concerned about the continued increase in the tonnage of steel imported into the United States to the detriment of our domestic industry. American steelworkers are deprived of jobs (and taxable income) and U.S. steel companies' tax contributions are lowered by the substantial unbalance existing in favor of steel imports."

* * *

"Many of us who work in the steel business have been concerned with the threat to our industry and to our individual job security posed by these ever-increasing steel imports."

The CHAIRMAN. Thank you, Mr. Minshall, for bringing to us your thoughts. Are there any questions? Our colleague from Illinois, Mr. Derwinski, is our next witness.

We appreciate having you with us this morning, and you are recognized.

STATEMENT OF HON. EDWARD J. DERWINSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. DERWINSKI. Mr. Chairman, it is my strong opinion that the results of the Kennedy round negotiations were detrimental to our balance of trade and to American exporters and their employees.

May I also emphasize that the present situation creates obvious problems for the domestic steel industry, which very properly deserves the attention of this committee.

I include as part of my testimony a statement I inserted in the Congressional Record on June 24, on the subject of steel imports.

We must develop an effective national policy, properly administered by the executive branch, which would work to remove artificial barriers against U.S. exports as well as providing for the competitive complications facing U.S. industry from foreign competitors who receive support or subsidies from their governments.

(The statement referred to follows:)

IMPORTS AND OUR STEEL INDUSTRY BY HON. EDWARD J. DERWINSKI OF ILLINOIS, IN THE HOUSE OF REPRESENTATIVES, MONDAY, JUNE 24, 1968

Mr. DERWINSKI. Mr. Speaker, the U.S. Government negotiators did not adequately serve the United States in the years of negotiations which have produced tariff adjustments. As a result, there are clearly visible adverse impacts on the American economy. One major industry which faces complications from foreign sources and which was unfortunately ignored by our governmental tariff negotiators is the steel industry.

In the fifties, steel imports from foreign nations ranged in the 1- to 2-million-ton level annually. The trend changed in 1959 and the steady increase started. Students of international trade were shocked in 1965 when, for the first time in our history, imports for a single year exceeded 10 million tons.

But, as events subsequently proved, even this high figure was not to be the ceiling. In 1966, imports increased again, this time to nearly 11 million tons. In 1967, they rose to 11½ million tons.

Where are they now? Figures that once we thought of only as an annual volume are now used to describe monthly inflow. An all-time monthly record of 1⅓ million tons of foreign steel came into this country last November. December, January, February, and March each had more than 1 million tons of steel imports. These are the cold weather months when the Great Lakes freeze over; the St. Lawrence Seaway shuts down, and imports are supposed to fall. But now the pipelines of steel from abroad are so swollen that they continued to flood our shores in the winter months.

The latest blow may be found in Commerce's April figures—a new, all-time record of 1,480,000 tons. Do we realize how much steel this is? In the decade prior to 1959 when the current trend started, the imports for only three full years exceeded the total that came into this country in April alone.

In the first 4 months of this year, nearly 5 million tons of foreign steel has come into the United States. This is a new record. It represents an increase of 50 percent over imports for the similar period of last year. Trade sources estimate that foreign steel will continue to come in at this rate, at least, through the balance of this year. Consequently, imports for the full year of 1968 should total at least 15 million tons, also a record.

There are those who argue that our Government should not interfere in this trade because any steps to impede the flow of foreign steel into our land is "protectionist" and would only cause retaliation amount foreign countries. I say look at the rules of international trade. Examine the reasons why this foreign steel can so easily compete in our land with our product. Examine the help that foreign steel companies get from their own governments. Examine the openness of foreign markets to our products. Examine the policies of foreign nations in their relationship to acquiring dollars and what they must do to get them.

If the import groups that argue in our land for free trade would first establish free entry into their own lands, if their companies would operate as independently of government help as ours do, if their steel companies would abide by the same minimum wage standards for interstate commerce that our companies do, then we could complete with them.

However, the way the game is now rigged, our international balance of trade in steel costs us a deficit of more than a billion dollars last year. It may cost us a billion and a half this year. This country has too many responsibilities throughout the world as well as at home to tolerate deficits of this nature indefinitely. They threaten our economy; they threaten our national defense; and they threaten the future of many of our citizens.

Mr. Speaker, in lieu of the points I have emphasized, it is obvious that Congress, and more specifically, the Ways and Means Committee, must give priority to the problems affecting the steel industry and other areas. It is obvious that the administrators will do nothing.

I recognize that this session of Congress is entering its final 5 weeks and if Congress is to provide the necessary legislation, we must move without delay. "Free trade" is a wonderful theory to which I prescribe to in principle. However, we as a Nation should not place our major industries in a position where artificial factors give foreign competition visible advantages. American industrial capacity is a cornerstone of our national greatness. American wage earners, consumers, investors and, in fact, all citizens have a vital stake in maintaining an economic situation within which our major industries such as steel can honestly compete.

The CHAIRMAN. Thank you, Mr. Derwinski. Any questions?

Mr. DERWINSKI. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is the Honorable William H. Harsha, of Ohio. Please come forward, sir, and you are recognized.

STATEMENT OF HON. WILLIAM H. HARSHA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. HARSHA. On October 26, 1967, I introduced H.R. 13715, "The Iron and Steel Orderly Trade Act of 1967," and on November 21, 1967, cosponsored H.R. 14120, which was introduced by Congressmen Charles Vanik and Jackson Betts, of Ohio. Both bills have the same general thrust—the preservation of our American steel industry, which is in imminent danger from an ever-increasing flood of low-priced foreign steel imports. Indicative of the depth of concern felt by both industry and labor is the appearance before this committee of Mr. Tom Patton, chairman of the board of Republic Steel Corp., and Mr. I. W. Abel, president of the United Steelworkers—on the same side of the table.

Presently these and similar bills are being considered by the Ways and Means Committee; and certain recent events have led me to urge the committee to report this legislation promptly and favorably.

Last year foreign steel imports set a new record—11,500,000 tons with a value of $1.3 billion; that was bad enough, but in the first 5 months of this year, imports have reached a new peak and for that period are 56 percent higher than last year's record. Total steel imports for 1968 are expected to be in the neighborhood of 17 million tons.

Not only is this flood endangering the livelihoods of many thousands of steelworkers as well as the financial health of the industry itself, but its harmful impact on our balance of trade and balance of payments can no longer be ignored.

In May the Department of Commerce reports that our imports set a new record for the second month in a row and that we had in fact a negative balance of trade for that month. For the first 5 months of 1968, a paper-thin favorable balance of trade in the order of $972,000 is shown. A major factor in this disturbing trend is the outflow of dollars for foreign steel which through the first 5 months of 1968 has amounted to $735,563,000.

It should also be noted for the record that one of our principal trading partners—France—faced with somewhat the same problems insofar as their balance-of-payments problems are concerned as we are immediately imposed import quotas on a number of items including steel and likewise instituted a new series of export subsidies.

France's action is just most recent evidence that no other nation in the world will permit the strength and viability of its steel industry to be impaired. Can and will we stand idly by and watch this basic and vital industry of ours condemned to a not-so-lingering death?

Again, I urge the committee with all the force and sincerity at my command to report out promptly and favorably the Iron and Steel Orderly Trade Act of 1967.

The CHAIRMAN. Any questions? If not, then, thank you, Mr. Harsha, for sharing your views with us.

Mr. HARSHA. Thank you, Mr. Chairman.

The CHAIRMAN. Our colleague from Alabama, Mr. Bevill, is our next witness. We appreciate having you with us this morning, and you are recognized.

STATEMENT OF HON. TOM BEVILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. BEVILL. Mr. Chairman, distinguished members of the Ways and Means Committee, I want to thank you for giving me the opportunity of appearing before you today to express my concern over the growing imports of foreign steel into this country.

This trend of importing more and more foreign steel into the United States each year disturbs me greatly. It disturbs me particularly because of the effects excessive imports are already having on our major southern steel-producing areas of Birmingham and Gadsden, Ala. I refer to our Southeastern area, but the same effect can be observed in other steel-producing areas of our Nation.

My home State of Alabama will be severely hit if foreign steel imports overpower our steel industry with cheap steel. Alabama is the South's biggest steelmaking State.

In 1968, imports are expected to amount to 15 million tons. This is a total import increase of one-third over last year. It is obvious that this rapidly rising importation of foreign steel is taking jobs away from American steelworkers. It is obvious that a domestic crisis looms as a distinct reality unless something is done in the very near future.

I feel, Mr. Chairman, that we must approach this problem with a sense of urgency. We must stop analyzing the problem; we must stop talking of the dangers involved and get on with some proper action. Legislation is needed to limit the amount of steel which can be imported into the United States.

It is estimated that if the steel that is now being imported from foreign countries were produced in this country, at least 70,000 additional jobs would be available for American steelworkers.

As you well know, we are confronted by cheap foreign labor costs, the increased technology of foreign producers, export incentives and subsidies by most foreign governments and, lastly, by the sheer total of overproduction.

All in all, it seems that overseas production goals apparently are based on visions of unlimited sales to the United States. Much of the intensive competition due to surplus output has prompted foreign mills to sell to us at "bargain basement prices."

Mr. Chairman, I stand for fair competition. Our steel industry consists entirely of private enterprise. But administration policies are affecting the industry adversely. This industry is basic to our national security in war and peace. We must control the excessive imports that are undercutting our steel industry.

I respectfully urge and request that immediate, favorable action be taken on legislation which will establish controls on steel imported into this country.

The CHAIRMAN. Are there any questions? If not, then thank you Mr. Bevill. Our next witness is from California, our colleague, Mr. Pettis. Proceed, please.

STATEMENT OF HON. JERRY L. PETTIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. PETTIS. Please permit me to make the following comments which are directed to the serious problem of foreign steel imports. A prominent integrated steel producer employing 8,500 people is located in my congressional district. I am receiving many communications from these steelworkers and this letter reflects their concern over the continuing increase of steel imports which they feel is becoming a threat to job security.

A fair solution to the steel import problem facing the Nation should comprehend regional quotas based on consumption patterns. I believe this would provide an equitable balance throughout the country. Coastal regions in 1967; namely, the Atlantic (15 percent imports), South Central (18 percent imports), and the west coast (22 percent imports), received disproportionate steel imports in relation to their share of total steel consumption and would very likely continue to be penalized under existing proposed legislation. These figures compare with a national import figure of 12 percent in 1967.

Western steel producers have been plagued with approximately twice the percentage of imports to consumption as compared with the Nation as a whole since steel imports began their phenomenal rise in the late 1950s. In the first quarter of 1968, imports through Western ports accounted for an estimated 28 percent of total steel shipped into the seven Western States from all sources. With a national import figure in excess of 12 percent during calendar year 1967 deemed detrimental, I suggest there is little doubt that the present 28 percent in the West is injurious and presents a national security problem. Without the safeguard of regional quotas, it is difficult to see any relief for coastal regions of the United States. I believe it is in the national interest to maintain a healthy steel industry in each of the four major producing regions of the United States.

Passage of the pending legislation would not correct this regional imbalance. For this reason and for appropriate consideration I am herewith submitting an amendment calling for regional quotas.

A second attachment is a statement concerning the pending iron and steel orderly trade bills and the probable impact of a high rate of imports in the Western region of the United States as compared to the more equitable regional consumption formula provided by the attached amendment.

May I add the above statement and the proposed amendment have been endorsed by a number of steel producers in the Western region of the United States, including Judson Steel Co., Emeryville, Calif.; Allison Steel Manufacturing Co., Phoenix, Ariz.; Oregon Steel Mills, Portland, Oreg.; Pacific States Steel, Niles, Calif.; Kaiser Steel Corp., Fontana, Calif.; and Northwest Steel Rolling Mills, Seattle, Wash.

(The attachments referred to follow:)

PROPOSED AMENDMENTS TO THE "IRON AND STEEL ORDERLY TRADE ACT OF 1967"

I. Paragraph (5) is added to Section 3 to read as follows:
The term "region" means any one of the four regions comprised of the states or territories as shown below:

(a) Pacific Coast and Mountains consisting of: Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, California, Alaska, and Hawaii

(b) South Central consisting of: Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, Texas

(c) North Central consisting of: Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Missouri, N. Dakota, S. Dakota, Nebraska, and Kansas.

(d) Atlantic consisting of: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, West Virginia, N. Carolina, S. Carolina, Georgia, Florida, and the Commonwealth of Puerto Rico.

II. Paragraph (1) and (2) of Section 4 are deleted. Paragraph (3) is renumbered (2).

III. Paragraph (1) of Section 4 shall read as follows:

(1) Total imports of any category into any region for each year shall not exceed an amount determined by applying to the average annual consumption of that category into that region during the first three years of the four years immediately preceding the year in which the limitation is to be effective a percentage equal to the percentage of United States average annual consumption of that category represented by imports during the years 1964 through 1966 inclusive.

IV. Section 5, Lines 1 and 2 of Page 5 is deleted and changed to read: "annual consumption during the first three of the four years immediately preceding the year in which the restriction is to apply."

V. Section 5, Line 19, is deleted and changed to read: "(1) of Section 4, by proclamation restrict annual imports."

VI. Paragraph (2) of Section 9 is deleted and Paragraph (3) is renumbered as Paragraph (2).

The "Iron and Steel Orderly Trade Act of 1967" has been introduced by a number of Members of the House in the 90th Congress.

As these bills now read, we believe the Western Region would continue to receive twenty-five percent or more of its steel consumption from imports. This would compare to the Great Lakes Basin region, the country's largest consuming area, which would receive approximately five percent of their consumption in the form of imports. The basic reason that the Western Region would receive a disproportionate share of imports is that Japan will receive 43% of the allowable import tonnage and the Pacific Coast is their most economic outlet. An example of how we believe this will work is shown in the following set of figures:

Total allowable imports in 1967 as a fixed percentage equal to the ratio of total imports to average consumption during the base period (1964–1966).

95,840,000 net tons × 9.6%, 9,192,000 net tons.

Japan's allowable imports would be 43% based on their share of imports in the base period.

9,192,000 net tons × 43%, 3,947,000 net tons.

In the year 1966 Japan exported through West Coast ports 1,640,000 net tons of steel products. We firmly believe that this amount of tonnage and possibly even more of their allowable allocation would continue to come in. If our assumption is correct, from Japan alone, the West Coast would receive approximately 18% of the nation's imports, while consumption is approximately 9% of the nation's total. The attached table will indicate for selected products our estimate of the consequences of the Act as now proposed vs. the more equitable regional consumption version.

COMPARISON OF NATIONAL AND REGIONAL IMPORT QUOTAS FOR SELECTED PRODUCTS

1964–66 BASE PERIOD, 1966 MODEL YEAR

Product	Current bill			Proposed amended bill	
	National quota	Estimated minimum western region imports	Imports, percent of western consumption	National quota	Western region quota
Plate	729,000	201,000	17.5	729,000	81,900
Reinforcing bar	550,900	67,700	11.8	550,900	80,000
Carbon bars	906,300	87,100	17.3	906,300	56,900
Hot-rolled sheet	1,441,400	276,800	33.3	1,441,400	92,400
Cold-rolled sheet	927,900	223,000	42.8	927,900	26,000
Galvanized sheet	364,100	146,100	26.6	364,100	27,900
All other products	4,272,200	962,000	21.1	4,272,200	446,000
Total products	9,191,800	1,963,700	22.6	9,191,800	811,000

Note: The difference in the western region estimated imports under a national import quota and a regional import buota based on consuming patterns is: 1,963,700 net tons against 811,000 net tons.

The CHAIRMAN. Thank you, Mr. Pettis. Any questions?

Mr. PETTIS. Thank you for your kind attention, Mr. Chairman.

The CHAIRMAN. Our colleague from Michigan, the Honorable Phillip E. Ruppe, is our next witness.

We appreciate having you with us this morning, and you are recognized.

STATEMENT OF HON. PHILLIP E. RUPPE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. RUPPE. Mr. Chairman, it is with great concern that I have noted the fact that imports of steel mill products in 1967 again reached a new record level. The 11,455,000 tons which were imported last year represented an increase of 6.5 percent over last year and amounted to 12.2 percent of steel consumption in our Nation.

One of my principal concerns is for the security of the Nation. In a period of world danger are we well advised to permit any substantial part of our steel supply to be produced abroad?

Our domestic steel industry contends that it has adequate capacity to meet the Nation's maximum needs, but can the industry continue to maintain a reserve of unused steel capacity for long? If not, where will this Nation obtain the steel it needs for its military and civilian requirements if any substantial part of the flow from overseas should be halted?

The congressional district I represent is an excellent example of why we must deal with these growing iron ore and steel imports. The mining of iron ore has been a major industry in this district—probably the largest, in fact—for over 100 years. Michigan's Upper Peninsula has constituted a substantial part of the raw materials for steel plants in and around the Great Lakes area, the largest steel-producing district of our Nation. For a number of years after World War II the demand for Michigan ore declined. High grade natural ore from this area became scarce and steel firms increasingly looked to other areas for the tonnages they formerly obtained in Michigan. But in recent years this situation has turned around. New mining methods and new technological developments in the upgrading of lean ore, has given the iron mining industry of my State a new lease

on life. Furthermore, the new technology for upgrading ore, together with the large tonnages of lean iron-bearing materials which lie beneath the surface of our land, can assure prosperity for the Michigan Upper Peninsula for many years.

No, the question is not: Do we have ore in Michigan of competitive quality and of competitive cost? The question we now must answer is: Will our steel industry, including that segment based in the Great Lakes basin, continue to thrive and consume this ore? A few years ago, any doubts on this score would have been regarded as fantasy. Today, they are disturbingly real.

Let me cite an example why this condition must be regarded with concern. Ten years ago, foreign-made steel entering the United States amounted to 1,707,000 tons. Last year, that much steel and more entered the United States through just one customs district—the district of Detroit! The total foreign-made steel that entered the United States through Great Lakes ports, through a few other inland ports, and across the Canadian border, last year was approximately equal to our Nation's steel imports only 6 years ago.

The opening of the St. Lawrence Seaway in the spring of 1959 made the huge steel markets of the Midwest available to the steel producers abroad for the first time and, as you can see, they have taken full advantage of that fact. Thus, we must note with alarm, that whereas steel imports for the Nation as a whole have increased nearly tenfold in the past decade, imports into the Great Lakes area have increased over sixtyfold in that same period.

The marked resurgence of iron mining in upper Michigan is periled by this situation. If less steel is to be made in the Great Lakes basin, less ore will be needed. Instead of an expanding economy in northern Michigan, ours will again be one of steady contraction.

The solution to this problem, in the short run at least, is the imposition of quotas on steel imports. Recognizing that some foreign nations have geared their economies to steel production for export to the United States, reasonable quota legislation would permit the importation of steel in quantities around the levels of the past several years. The bill I have introduced into Congress recognizes that condition. Furthermore, as American steel consumption grows, the tonnage permitted to enter the United States under this bill would grow with it, thus permitting foreign steel producers to share in our growth, but not at the jeopardy of our domestic steel producers and our domestic iron mining industry. Finally, it would call for a review after 5 years to evaluate the effect on our national security, on employment opportunities and on our balance of payments to determine whether such legislation should be modified, continued, or perhaps repealed. To me, this is eminently fair legislation which could scarcely invite retaliation by our industrial friends in other lands.

Thus, this bill takes into account the need of some of these foreign countries to export to live, and fully recognizes that only in America are there markets for steel tonnages of such size. It permits us to protect the investments of American stockholders and the jobs of tens of thousands of steelworkers and iron ore miners, without seriously disturbing existing trade relationships.

We must be mindful of the rate at which this problem is growing. Each month that we delay coming to grips with this issue, the more

serious it becomes to our domestic economy. At the same time, each month we delay in establishing sensible quotas, the more serious the impact on the economies of other steel-producing countries will be when we come to the establishment of some restraints, as we inevitably must.

There are some who believe that the superior technological know-how of this country can overcome the cost disadvantages under which our domstic steel industry operates due to the high standard of living of our Nation. This is wishful thinking. Most foreign steel plants are as modern as our own and the productivity of their steel workers, which for years has lagged behind ours, is catching up. They have improved the availability of low-cost raw materials so that advantages once enjoyed by the domestic steel industry on that score are now of little consequence. Furthermore, steel technology, like most technology, is international in scope. Improved methods which may yield advantages for one country are soon recognized and adopted by others. These are hard facts to face, but we cannot afford to ignore them.

Some economists have castigated proposed restrictions on imports on the basis of the so-called principle of comparative advantage. This principle holds that a nation which has the most favorable combination of conditions, materials, and labor to produce any given product should be permitted to do so without restraint by artificial factors such as tariffs or quotas. The bright new world in which this principle can be universally embraced is not yet with us. We cannot, in these days, jeopardize our supplies of essential materials such as steel to experiment with the practical application of theoretical principles. Edmund F. Martin, chairman of American Iron & Steel Institute phrased it very well when he said:

> In a permanently peaceful world where all markets are equally open to all comers and sources of supply are never threatened, this might not matter. In today's dangerous and confused world, it matters a great deal.

With this viewpoint I heartily concur and I urge your favorable consideration of the legislation which I have introduced in full support of this position.

The CHAIRMAN. Are there any questions? If not, then thank you Mr. Ruppe, for sharing your views with us.

Mr. RUPPE. Thank you, Mr. Chairman, for listening to me.

The CHAIRMAN. Our next witnesses will be Mr. Patton and Mr. Abel. Will you please come forward? Mr. Patton is with the American Iron & Steel Institute and Mr. I. W. Abel is president of United Steelworkers of America.

Permit the Chair to take occasion to call attention to the high degree of cooperation that the committee has received from representatives of the steel industry, both employees and management, in the coordination of the testimony that they will present to the committee. This is an example that I hope other industry groups will be willing to follow.

It is a real pleasure to have you gentlemen with us this morning and we are pleased to note that there are many things, at least which come to the attention of the Ways and Means Committee, about which you gentlemen are in complete accord.

You are recognized, Mr. Patton.

STATEMENT OF THOMAS F. PATTON, AMERICAN IRON & STEEL INSTITUTE; ACCOMPANIED BY LAURENCE FENNINGER, JR., AND WILLIAM G. STEWART; COORDINATING WITH I. W. ABEL, PRESIDENT, UNITED STEELWORKERS OF AMERICA; ACCOMPANIED BY JACK SHEEHAN, LEGISLATIVE REPRESENTATIVE

Mr. PATTON. Mr. Chairman and gentlemen of the committee, my name is Thomas F. Patton. I am chairman of Republic Steel Corp. I am accompanied by Mr. William G. Stewart, president of Cyclops Corp., a producer of specialty steels, one of the smaller companies in the steel industry, and by Mr. Laurence Fenninger, Jr., assistant vice president of Bethlehem Steel Corp. We are appearing today as representatives of the American Iron & Steel Institute, a nonprofit trade association having 67 member companies in the United States. Those companies, which include mine and those of my colleagues, account for about 95 percent of this country's raw steel production.

Before I proceed with my statement, I should like to express my own and the institute's appreciation for the opportunity to be heard during your review of tariff and trade proposals.

May I point out that we appear today together with Mr. I. W. Abel, president of United Steelworkers of America, and his colleagues from that union, which represents the vast majority of the employees of the institute's member companies.

Whatever our differences may be as to other matters, we and the union are of one mind as to the seriousness of the problem of imports of pig iron and steel mill products into the United States. We and the union are in agreement that there is an immediate need for some reasonable limitation on the importation of those commodities to prevent the present negative balance in steel trade from growing rapidly worse.

Recognizing the importance of conserving the committee's time and the extensive testimony you have already heard on general trade matters, I shall confine my remarks to a summary of the problem of steel imports and the solution which the member companies of the institute endorse.

Documentation for this statement is found in "The Steel Import Problem" published by the institute in October 1967, and recently updated to include those 1967 data currently available, a study of steel imports prepared by the staff of the Committee on Finance of the U.S. Senate, and a paper prepared by the institute on the national security aspects of steel imports. I ask that these documents be entered in the record of these hearings, although I suggest that only the national security paper need be made part of the printed record.

In this statement, I shall use data applying only to trade in steel mill products to avoid confusion. Those data are generally representative of the trade in pig iron, although there are substantial differences as to countries of origin of imports. All data on imports and exports will be expressed in net tons of 2,000 pounds.

DIMENSIONS OF THE CURRENT IRON AND STEEL IMPORT PROBLEM

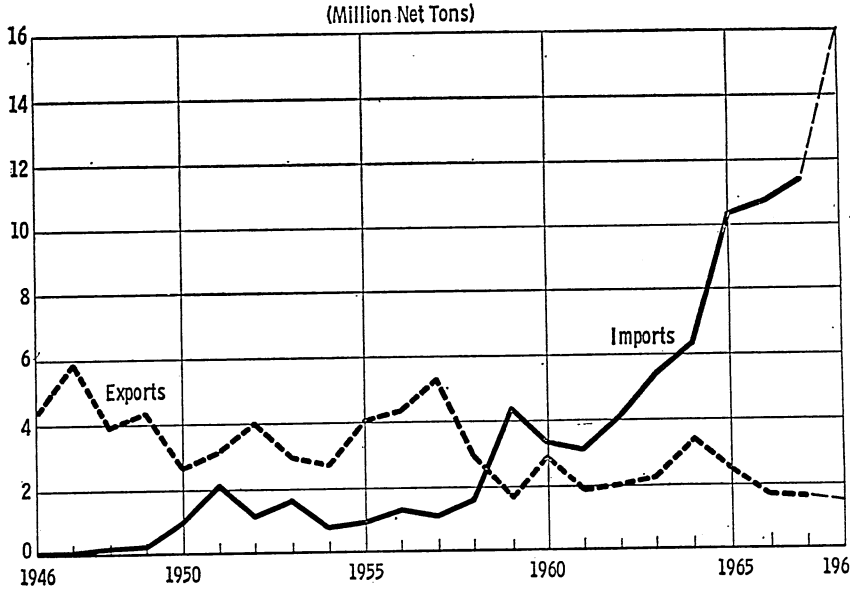
The dimensions of the iron and steel import problem can be described quickly. Until 1959, the United States was a net exporter of

steel. In 1957, for example, we exported 5.3 million tons of steel mill products and imported a nominal 1.2 million tons. In 1967, by contrast, we exported a mere 1.7 million tons, about half of which was financed by the United States under AID programs, and imported 11.5 million tons, 12.2 percent of the total steel supply in the United States.

Thus, in one decade, we experienced an adverse swing in trade of about 14 million tons having a value of about $1½ billion. During the late months of 1967 and the early months of this year, the situation has grown rapidly worse. In fact, steel imports in the first 4 months of 1968 were more than 50 percent above the corresponding period last year, the previous record for those months. (Chart 1.)

CHART 1

U. S. DIRECT INTERNATIONAL STEEL TRADE



Initially, steel imports were concentrated in product categories, such as common wire rods, concrete reinforcing bars, and wire products, the manufacture of which involves relatively simple technology and comparatively broad dimensional and physical tolerances.

As time has gone on, however, there has been a marked shift toward the more sophisticated products, with the greatest gains occurring in flat-rolled items such as hot- and cold-rolled sheets and the specialty products—stainless steels, tool steels, and high alloy steels. In fact, imports of specialty steels now account for a higher proportion of the supply in the United States than do imports of common steel products.

A similar shift has occurred in the distribution of imports by geographical regions. Originally, as might be expected, imported steel was confined largely to coastal areas. With the opening of the St.

Lawrence Seaway, however, all major steel-consuming sections of the United States became markets for steel produced abroad. Last year, for example, the port receiving the largest amounts of imported steel was Detroit, Mich.

As to countries of origin, Western Europe, a traditional steel exporter, supplied about two-thirds of all U.S. steel imports at the beginning of the last decade. The rapid expansion of the Japanese steel industry has changed the picture radically. Presently, the countries of the European Common Market account for about 42 percent of our total imports and Japan accounts for a similar proportion.

CAUSES OF THE STEEL IMPORT PROBLEM

The basic forces which have changed the United States from a net exporter of steel to the world's greatest importer are four:

First, the availability of a large amount of excess steel-producing capacity outside the United States and the policies of certain foreign countries as to the use of this capacity;

Second, production costs in other countries which are far less than those in the United States;

Third, resulting low prices in world markets, some of which are below the home market prices of many foreign producers; and

Fourth, measures taken by foreign governments to protect and strengthen their own steel industries and to encourage exports.

For some time after World War II, steelmaking facilities abroad were largely occupied with filling their own domestic requirements. Supply and demand were in approximate balance and such steel as was available for export went largely to countries which traditionally had imported all or most of their steel needs.

The demand for steel after World War II was, of course very high. This, together with such factors as the formation of the European Common Market and the anticipated growth of underdeveloped countries, led the planners in Western Europe and other industrialized countries to overestimate the growth of steel consumption.

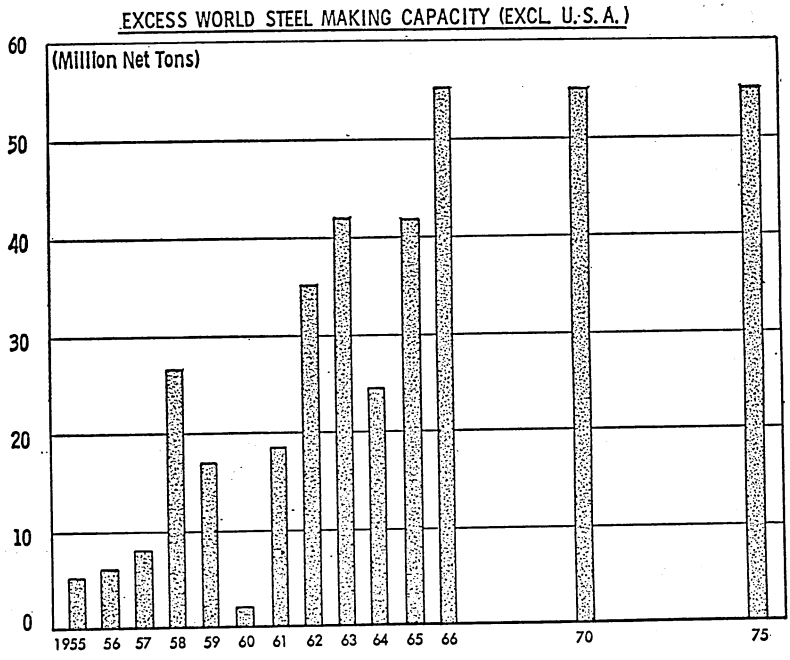
The 1958 economic recession in Europe and Japan revealed for the first time a substantial excess of capacity over demand. It has never disappeared and, in fact, has grown to the point where steelmaking capacity outside the United States now exceeds production by about 55 million tons. (Chart 2.)

The pressure which it exerts on world steel markets results from the determination of other countries to export in an effort to employ their steelmaking facilities as fully as possible. It has been aggravated by the establishment of new steel industries in the less developed countries and the deliberate expansion of exports by Japan.

Exports to the United States have been stimulated by the substantial cost advantages enjoyed by foreign producers. Evidence obtained by the institute and corroborated by the Senate Finance Committee staff study indicates that direct production costs in Japan are about $40 per ton and those in Western Europe are about $25 per ton below those of the United States.

With the opening of large coal and iron ore deposits around the world—principally through the activities of American producers and with American financing—the development of very large bulk cargo

CHART 2



ships, and the construction of steel plants on deep water, foreign producers have been able to reduce their raw materials costs to levels about equal to those of the United States.

Costs of purchased services and supplies are below those in this country, largely because they reflect most lower wage levels. This is also true of construction costs, with the result that higher interest rates abroad have been offset by much lower initial costs.

Japanese hourly employment costs, including all identifiable benefits, are about one-fourth of ours, while those in Europe are one-half to one-third those in this country. This is largely a reflection of differences among national wage levels, since the relationship between steel wages and industrial wages generally is about the same in Europe and Japan as it is in the United States. Such differences obviously cannot be changed significantly by the actions of one industry or one labor union. By way of contrast, output per man-hour in the Japanese industry as a whole is about three-quarters of ours and in the newer plants it appears to equal the current level in this country. Thus, unit labor cost in the Japanese steel industry is only one-third that in the United States. The difference is very large—$35 to $40 per ton of steel mill products. Unit labor costs in Western Europe, where productivity is lower than it is in Japan, are about $25 per ton below ours.

Following World War II, the United States provided both money and know-how for the rebuilding of war-torn steel industries abroad. This, together with the rapid expansion of domestic markets in other countries, led to the adoption of superior technology around the world. That has continued and technological developments in steel are now quickly available to all who have the funds required for their adoption.

Thus, although the steel industry in the United States still leads the rest of the world in efficiency, its advantage is smaller now than it was 10 years ago. Furthermore, even maintaining, let alone expanding, that advantage is becoming more difficult as the steel industries of Western Europe and Japan approach that of the United States in size and continue to obtain, from domestic and other sources, the funds required for expansion and improvement of their plants. In any case, technology now available or in sight could not possibly increase output per man-hour to a level which would make our production costs competitive with those of the European and Japanese steel industries.

Excess capacity and the determination to use it for export purposes have caused the decline of steel prices on the world market. Low export prices depress the prices charged in the domestic markets of the producers toward world levels. This is especially true of Western Europe and the United Kingdom and it has been the source of constant complaint by producers in those countries. Little is known about Japanese domestic prices since most of the steel used in that country is sold to affiliates of the steel producers or through associated trading companies. I might note that this system of distribution also acts as a powerful deterrent to imports.

Indirect evidence derived from the financial reports of Japanese steel producers indicates that domestic prices are somewhat higher than export prices. Such information as we have been able to collect shows that world steel prices are little, if any, above the direct production costs of European producers and roughly equal to the total costs of the Japanese. Delivered prices of foreign steel in the United States average $30 to $40 per ton below the prices of steel produced in this country, while the average profit before taxes of American steel companies in 1967 was about $12.50 per ton. The key to current world market price levls is the cost structure of the Japanese steel industry. Japan is the largest single exporter and all other steel exporters are affected by Japanese prices, especially in the U.S. market.

Foreign governments have generally taken the view that domestic steel industries capable of supplying all or most of the steel required by their economies are necessary for economic strength. They have also supported, with few exceptions, efforts by their steel industries to maintain high production levels and, therefore, high employment, regardless of market demand. In many cases, they have looked on steel exports as an important means of generating foreign exchange. These views have led other governments increasingly to involve themselves in the affairs of their steel industries and to encourage exports. This involvement has taken a variety of forms, including outright ownership, as in the case of Great Britain; majority equity holdings, as in the case of Italy; low-interest bearing loans, as in the case of France; preferential capital allocation, as in the case of Japan; and the encouragement of mergers and the formation of cartels in France and West Germany.

All the steelproducing countries, save the United States, have a variety of effective restrictions on steel imports, some of which are matters of practice and custom rather than of formal laws and regulations. These include, from time to time and in varying combinations, border taxes, all-pervasive domestic preference buying, special ware-

housing charges, customs redtape, and other restrictions tantamount to outright embargoes. Exports are encouraged by protection of domestic markets and by a variety of special devices including tax incentives and rebates, direct and indirect subsidies, favorable credit terms for exports, and credit guarantees.

PROBABLE FUTURE DEVELOPMENTS IN SUPPLY, DEMAND, AND COST FACTORS

The current situation is extremely serious and the prospects for the future are worse. World steel trade has been expanding at an average rate of about 4½ percent a year. The major foreign producers, however, have been expanding their steelproducing facilities at much higher rates, each with the intention of increasing his exports. The most notable example is, again, Japan. Last year, Japan produced 68 million net tons of raw steel, more than any other country except the United States and the Soviet Union. That was double the amount produced as recently as 1963. Capital expenditure plans recently submitted for Government approval call for a steelmaking capacity of 110 million net tons by 1971, 4 years earlier than had been anticipated. While domestic consumption has been growing very rapidly in Japan, it has not equaled that expansion rate over the years. The meaning is clear: vastly increased exports from Japan.

Meanwhile, the European industry is continuing to expand faster than domestic consumption in spite of financial difficulties and a substantial current excess of capacity.

(Charts 3 and 4.)

CHART 3

STEEL CAPACITY, PRODUCTION & CONSUMPTION IN JAPAN

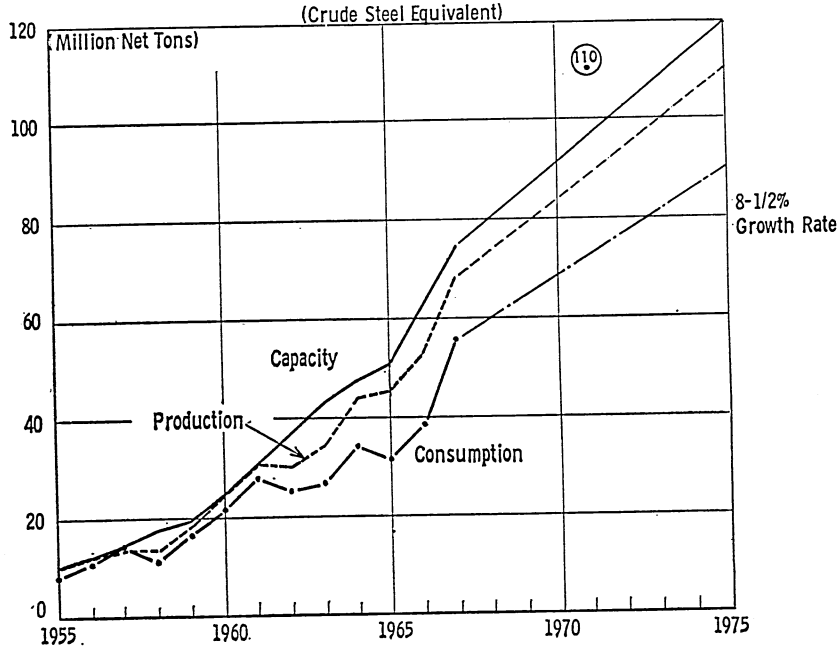
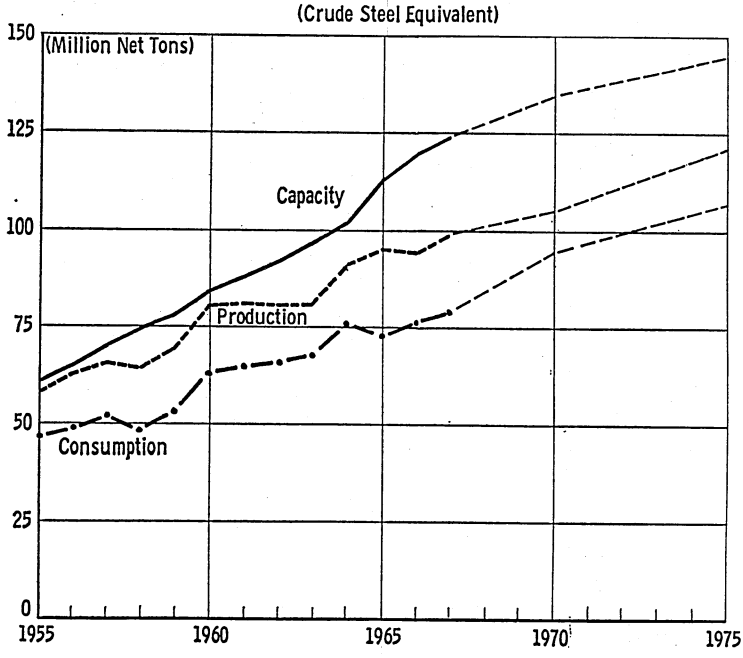


CHART 4

STEEL CAPACITY, PRODUCTION & CONSUMPTION IN ECSC

(Crude Steel Equivalent)



There is little prospect that steel export markets outside the United States will grow rapidly enough during the next 5 years or so to absorb the excess supply. Thus, the principal target for rising exports from Japan and Europe is the U.S. market.

As to costs, the Senate Finance Committee staff study noted that if steel hourly employment costs here and abroad continued to rise at the rates of increase experienced from 1960 to 1964, it would take the French 21 years, the West Germans 25 years, and the Japanese 26 years to catch up with the United States. Since world supplies of iron ore and coal are expanding rapidly, foreign producers may enjoy even lower prices for these raw materials in the future. Thus, American producers are likely to continue to be at a serious cost disadvantage. This, together with the growing supply of steel available for export from other countries, makes the continued rapid growth of steel imports into the United States a certainty unless steps are taken by the Government to prevent it.

IMPLICATIONS OF A CONTINUED RAPID RISE IN IRON AND STEEL IMPORTS

The growth of imports into the United States during the last 10 years has taken a substantial portion of the secular growth in steel consumption in this country during that period. The disparity in growth rates has been extremely large; imports have grown about 10 times as fast as consumption over the last decade. The implications are very serious. If these trends continue, they mean an inevitable decline in steel producing facilities in the United States in both relative and

absolute terms. The steel companies obviously cannot justify economically the continued expenditure of their owners' money for steelmaking facilities under these conditions.

During the course of our industrial history, many industries have waxed and waned in response to changes in demand and other market conditions. There are, however, two factors which make the prospective decline in the domestic steel industry as a consequence of rising imports a real problem for the United States. The first is its effect on the security of the United States. The role of steel in national defense is twofold. It is an important component of the great variety of materials and equipment used in military operations of every kind. At present, direct military requirements account for more than 4½ million tons of steel mill products, many of them highly specialized. Even more important in terms of the volume required, steel is an essential ingredient in the facilities and equipment used in the manufacture and transportation of war materials, whether or not they are made of steel. The executive branch agencies concerned with national security have estimated that a conventional, non-nuclear war of 3 years' duration occurring in the early 1970's when gross national product had reached $1 trillion would result in direct military steel requirements more than double those of today and an increase in steel demand for both military and civilian purposes of about 20 percent, to a total of 140 million tons of steel mill products. The assumption is that sources of steel, other than Canada and Mexico, would not be available in case of such a war and that civilian requirements would not be curtailed.

Normal requirements are expected to increase to 115 million tons of steel mill products by 1975. If imports rise at only half the rate experienced during the last 10 years, they will amount to 30 million tons, or 26 percent of requirements, by that year. Under those conditions, the domestic industry may well be smaller then than it is now. If, at that time, a war emergency of the type envisioned by the executive branch occurred and steel imports largely disappeared, total domestic supply could not be expanded to 140 million tons of steel mill products. It takes three to 5 years to plan, construct and bring into operation a major steelmaking facility. The result, obviously, would be severe steel shortages.

Plans now being made determine the facilities available in the early 1970's. As matters now stand, those plans must assume a static or declining market for domestic steel, unless action is taken promptly to prevent imports from taking all or most of the growth in the demand for steel.

The second source of danger from a decline of the domestic steel industry is the effect of such a decline on our balance of trade. As early as January, 1966, the chairman of the Council of Economic Advisers pointed out that the adverse swing in steel trade between the average for 1955–57 and 1965 had reached the huge amount of $1.3 billion. It has grown since then as exports have continued their decline and imports have continued their rapid increase. In 1967, our steel trade deficit, excluding freight charges, was $877 million and, if the trends reflected in the first 4 months of this year are indicative of the rest of the year, our 1968 adverse balance will be on the order of $1.4 billion. Compared with the average surplus enjoyed in 1955–57, this will

mean a deterioration in our foreign trade of more than $2 billion a year on the steel account alone. If steel imports were to increase at only half the rate experienced during the last 10 years, the annual steel trade deficit would reach $3 billion by 1975 for a cumulative dollar drain over the 7-year period of more than $15 billion.

INADEQUATE REMEDIES SUGGESTED BY OTHERS

The suggestion has been made that steel imports could be discouraged by vigorous price competition. Let us see where that would lead the domestic producers. As I have noted earlier, the average disparity between domestic prices and the delivered prices of imported steel is on the order of $35 per ton, or approximately 20 percent. In 1967, the domestic steel companies earned just over seven percent, or $12.50 per ton, before Federal income tax on the sale of their products. It is obvious, therefore, that widespread price reductions sufficiently large to affect the volume of imports would put the domestic companies in serious financial difficulty. Critics of the industry have argued that price reductions could be selective, but they overlook the fact that imports have penetrated all major regional markets and all important product lines. They also ignore the point that many of steel's customers have operations in a number of regions and purchase a variety of steel products.

The experience of the steel industries within the European Common Market is instructive in this regard. In recent years, there has been an increasing flow of steel from one member country to another at prices approaching or equaling world export prices. Producers in one country, faced with exports from a neighbor at prices below those established for the domestic market, have tried to solve the problem by aligning on the low prices of imports. The result has been a decline in the general price level and financial distress among European steel producers. Alinement on import prices by steel producers in the United States would lead inevitably to the same unfortunate consequences.

It has also been suggested that vigorous efforts to export at prices prevailing in the world market would discourage or help offset imports into this country. Selling abroad at prices below prevailing domestic prices would be extremely costly. Domestic customers could not be expected to subsidize exports at prevailing world prices and, in fact, could be expected to demand those prices themselves. This would be ruinous for the domestic steel companies. Moreover, if such actions succeeded in taking business away from foreign producers in their own or third country markets, that would simply make more foreign steel available for the U.S. market. Thus, this so-called remedy would aggravate the present situation.

Another remedy prescribed for solving the import problem is the installation of large steelmaking facilities by American producers in low-wage countries, even though there is already a worldwide excess of steel supply. This is, of course, impossible on any substantial scale under existing restrictions on capital investment abroad. Even if it were not, large-scale shipments of steel from such facilities to the United States would add to the amounts of steel imported into the United States and, therefore, to our balance of payments and national security problems. They would also create domestic political problems

as plants in the United States curtailed operations in favor of shipments from overseas plants. Furthermore, a modern, large-scale steel plant in a less-developed country would be a considerable economic hostage.

The most frequently heard suggestion for solving the steel import problem is that the industry in the United States should regain its former commanding lead in steel technology. This stems in part from the mistaken belief that the industry has been slow to adopt new technological developments. That criticism is usually based on a superficial analysis of the development and adoption of the basic oxygen steelmaking process which has had wide circulation. It has been thoroughly discredited by Prof. Alan K. McAdams of Cornell University in an article entitled "Big Steel, Invention, and Innovation, Reconsidered." I shall not attempt to summarize this article but ask that it be included in the record of these hearings for later study by members of this committee. I would note, however, that more steel is produced by this process in the United States than anywhere else in the world and our basic oxygen furnaces are the most advanced.

The fact is that the American steel industry is still the most technically efficient in the world. Our technology, particularly as to upgrading of raw materials and the processing of steel beyond the crude ingot stage, is superior to that of any other country. Our research facilities and efforts far exceed those of any other nation and the fruits of our research are widely and quickly adopted by the industries of other nations. This is why foreign producers continue to buy American-made equipment and seek licenses to use American-developed processes and make American-developed steel products. Furthermore, the steel companies in the United States are investing in improved steelmaking and processing facilities at a record rate and engaging in vigorous campaigns to expand the uses of steel products.

The difficulties involved in increasing our technical superiority enough to overcome our cost disadvantages are twofold.

First, steel technology is almost completely international. An innovation by one company soon finds it way into the operations of others, both here and abroad. No one country has a monopoly on brains, curiosity, and imagination. And, as the domestic markets of major steel producers abroad have grown, their former prejudices against innovation have tended to disappear.

The second difficulty arises from the cost of adopting innovations. One hears stories about the savings to be achieved through the adoption of new processes and techniques. The amounts of those alleged savings are frequently exaggerated. Comprehensive studies of the production costs which could be expected from wholly new plants embodying the latest in technology indicate that they would be substantially above those in modern plants abroad if proper account is taken of capital costs. In short, nothing now available or in the process of development can be expected to lower domestic steel production costs to the extent of overcoming the production-cost advantages now enjoyed by foreign producers.

Another suggested solution for the steel import problem is the removal by international agreement of existing non-tariff barriers to trade. There is no need to dwell here on the great difficulties involved in identifying those barriers, obtaining agreement on their removal,

and enforcing such an agreement in the face of nationalistic considerations. It is sufficient to point out that cost disparities between steel producers in the United States and those in other countries are so large that elimination of those barriers is not likely to change the competitive situation significantly.

Moreover, the removal of those barriers would not reduce the optimistic expansion plans of foreign producers and, therefore, the excess steel supply in world markets. Finally, the process of removing those barriers would consume so much time that the domestic steel industry might have suffered irreparable injury long before they disappeared.

All these suggestions for meeting the threat posed by growing imports presuppose the existence of conditions essential to the operation of a free market. They also assume no need to maintain a strong, domestic steel industry for national security. These conditions do not exist today. Differentials in basic cost factors persist among steel-producing countries. Wide differences prevail among nations as to what constitute proper rules of international trade. Thus, remedies which depend on free market conditions cannot be effective in the real world of today.

To sum up, the remedies suggested by many simply do not fit the case.

OUR PROPOSED SOLUTION

We believe that an equitable solution to the problem of rising imports into this country is a system of quotas based on recent market shares of the countries which export steel to the United States. Action to establish such a system must be taken to prevent serious damage to the domestic steel industry. This is the system embodied in the orderly trade bills now before this committee.

The industry recognizes that, troublesome as steel imports have become, foreign producers rely on the U.S. market for an important part of their sales. Any control device, therefore, which greatly reduced imports would have a seriously adverse effect on the economies of other countries. An embargo or sharply increased tariffs would have such an effect. Quotas based on recent import shares of the market would not. The bills before you not only embody such quotas but also provide review every 5 years to examine the system in light of then-existing conditions.

We recognize also that the capital spending programs of steel industries in certain countries, notably Japan, are presently based in part on expectations of a continuing expansion of exports to the United States. Limiting those exports to fixed, absolute quantities might be disruptive to those industries. Flexible quotas expressed in terms of historical market shares would permit the volume of steel imports to grow as the U.S. market for steel expands. Thus, they would minimize the adverse effects on the steel industries of other countries and encourage their orderly development in the future.

ANSWERS TO CRITICISMS OF QUOTAS

The assertion is frequently made that the institution of quotas on steel imports would lead to instant retaliation by the countries affected against other commodities exported from the United States. This is by no means a foregone conclusion. Other nations purchase goods and

services from this country because they want and need them, not because of altruistic feelings.

Curtailment of those purchases would hurt not only the United States but also the country taking such action. Retaliation could be expected, therefore, only if the country involved believed that its own national interest would be served by that course.

A flexible quota system which preserved recent shares of the U.S. markets and permitted imports to grow with those markets would not provide much to retaliate against. We are not advocating sharp reductions in imports. In essence, we are talking about maintaining market shares as they exist under normal conditions.

Under GATT, signatory nations are allowed to limit imports for national security reasons without fear of retaliation by other countries. As I have noted earlier, our national security is threatened by rising imports of steel mill products. No other important nation has net imports of such products much in excess of 5 percent of its total requirements. Ours are now at nearly three times that level.

Another criticism of flexible quotas is that they would destroy competition among steel companies in the United States. The assumption here is that the only form of competition faced by steel companies is that from foreign steel producers. This is far from the case. Every one of you has seen evidence of the competition we face from a host of other materials—in construction, packaging, and the manufacture of a wide variety of articles. Limiting the flow of imported steel to recent levels is not going to reduce that competition at all.

Furthermore, I can assure you from my own long experience that domestic steel companies compete vigorously with each other. Generally speaking, we do not sell a consumer product and our competition is not, therefore, as evident as that of the makers of automobiles, appliances, cosmetics, or foods. But it is there, nevertheless. Finally, recent levels of imports represent a large piece of the U.S. market and one worth going after. Only two steel companies in this country produce more than the amount which would be coming in from abroad under the proposed quota system.

One other criticism of quotas should be mentioned. It is that their establishment would harm our friendly relationships with other nations. Our view is that far greater damage to those relationships will result from letting steel imports continue to rise to the point where even the most ardent advocates of free trade recognize that our national security is in danger. A policy of drift would encourage other nations, particularly Japan, to continue to expand their steel industries more rapidly than would be warranted by domestic and normal export requirements, only to tell them later that they must curtail sharply their sales to this country. The longer remedial action is put off, the more disruptive will be the effects on the economies of our own and other countries.

CONCLUSION

The American steel industry provides a material essential to the economy and the security of the United States. Our national well-being depends on having an assured supply of this material in all the many grades and forms needed by a complex, industrial society. Rapidly rising imports are eroding the ability of the domestic industry to perform this essential function and increasing dependence on

imports is endangering our national security. No one questions the need for steel in our economy and few doubt that there is a point beyond which it is unsafe to rely on supplies from abroad. We believe that point was passed in 1967 and that, in our national interest and the interests of the countries now exporting steel to the United States, the rate of growth of steel imports above recent historical levels should be limited to the rate of growth of steel requirements in our economy.

Accordingly, we respectfully request your favorable action, during this session of Congress, on the bills before you which would limit steel imports in that fashion.

Thank you.

Mr. HERLONG (presiding). Thank you, Mr. Patton. The material you requested to be placed in the record will appear here.

(The material referred to follows:)

STEEL AND THE NATIONAL SECURITY, APRIL 1968

I. SUMMARY

A. Steel and the industry which provides it are critically important to the security of the United States of America—both for the nation's military defense in time of war and for its economic strength as a world power. Almost every item of military equipment contains steel components for which no acceptable substitutes are known. The civilian economy's ability to equip and move military forces and to maintain a high level of civilian activities is equally dependent upon steel in myriad forms. What the President's Materials Policy Commission said in 1952 remains equally true today:

"The Nation must maintain a strong and expanding economy with a large and diversified materials base that can be tapped for war production, with special attention to providing prime essentials such as steel, electricity, petroleum, and aluminum whose expansion takes considerable time and whose production sets the pace not only for economic growth, but also for production in wartime."

B. Since 1957, imports of steel have been rising at an annual growth rate of 26 percent and have taken the lion's share of the growth of the domestic market. Over the past decade, imports of steel into the United States have increased to the point where, in 1967, they exceeded 12 percent of total consumption. A projection at only half of the historical rate of increase puts imports at 17 million tons per year by 1970. On the same basis, by 1975 imports, if unimpeded, would reach 30 million tons per year, which—in view of reasonable expectations about steel consumption—implies that normal levels of steel shipments by *domestic producers* in 1975 would be lower than actual shipments in either 1965 or 1966. If these conditions should come to pass, the resulting stagnation of the domestic steel industry would have weakened its ability to serve the nation in times of crisis.

The importance of a strong domestic steel industry to national security is recognized by all first-class military and economic powers throughout the world. Except for the United States, there is no major country or economic unit (including the USSR, Japan, the European Common Market, and the United Kingdom) which today imports from other areas much more than 5 percent of its total steel supply. Through 1958, this statement was equally true for the United States.

C. The Office of Emergency Planning has calculated that in event of a conventional non-nuclear war in the next decade, some 9 million tons of finished steel product annually would be required for direct defense. At the same time, we would lose the ability to import steel from countries other than Canada and Mexico—a loss which, as projected, might amount to 16 million net tons in 1970 and 29 million net tons in 1975.

A normal level of steel consumption in a year around 1975 is expected to be 115 million product tons. During a general non-nuclear war, current Office of Emergency Planning studies indicate that direct and indirect military needs would raise steel requirements by at least 20 percent above a normal peacetime level. Thus, during an emergency period in the mid-1970's, domestic steel consumption would be about 140 million tons. This level of requirement would be roughly 30 million tons higher than the domestic industry's current all-out pro-

ductive capability of about 110 million tons. Even assuming that facilities projects already committed and under way may add another 5–10 million tons by the early 1970's, a continued rapid rise in imports would pose the question of whether even that increase could be justified economically.

Under the war conditions assumed by the Office of Emergency Planning, noncontiguous imports of about 30 million tons would not be available to the United States. Thus, if these conditions arose in the mid-1970's, there would be a short fall of some 20 million tons.

In the early 1970's steel consumption during an emergency would be only 5-10 million tons lower than that expected in 1975. Thus, only a few years in the future, the demand for steel under conditions of an anticipated national emergency could exceed the domestic industry's capacity at that time, including expansion now under way, by some 10-15 million tons. The domestic steel industry cannot financially justify the investment of the billions of dollars necessary to build facilities for the replacement of imports in an emergency, over and above the requirements for direct defense, if these facilities are to stand idle except under emergency conditions. Therefore, unless the mounting invasion of steel imports is brought under control, it is quite likely that neither the domestic steel facilities nor the qualified personnel to operate them will be available in an emergency in the mid-1970's to make good the loss of the 30 million tons of domestic steel requirements that would, by then, be dependent upon imports.

D. Since it takes from three to five years to plan, construct, and bring onstream a major steelmaking facility, it is evident that the planning must begin immediately for the facilities that will be required in the crucial mid-1970's. To proceed with the planning, steel companies must have a reasonable expectation that at the time a plant is completed and ready to operate, there will be a market for its products under peacetime conditions. If the domestic steel companies cannot be sure that producing steel in this country will be profitable in terms of the necessary investment, they will either have to invest in foreign plants or reduce future investment in steel facilities and seek alternate uses of their funds. Either alternative could reduce employment and production in the U.S., have a depressing effect on the balance of payments, and threaten our national security.

E. The balance of payments in steel trade, excluding transportation costs, has moved from an annual *surplus* of $645 million in 1955–57 to a *deficit* of $877 million in 1967. The deterioration in the balance of payments attributable to steel trade over this period was $1.5 billion. Furthermore, if import trends continue as projected, the cumulative dollar outflow in direct steel trade from 1968 through 1975 would total $15.5 billion.

II. THE GROWTH OF STEEL IMPORTS—PAST, PRESENT, AND FUTURE

The flow of imported steel mill products into the United States market is a phenomenon of relatively recent origins. In 1950, the United States produced 47 percent of the world's raw steel and, as the world's largest producer, was a substantial net exporter of steel. U.S. production increased by 31 percent between 1950 and 1967. However, foreign steel output rose so dramatically during that period that the U.S. share of world steel production dropped to 23 percent. By comparison, Japan's share of world steel output over the same 17 years grew from 2½ percent to 13 percent.

Since the late 1950's, the tonnage growth of imported steel mill products into this country has sharply increased. In 1957, approximately 1.2 million tons reached our shores; by 1963, the figure had risen to 5.4 million; and in the next three years, it doubled again to 10.8 million. In 1967, imports of steel mill products rose to nearly 11.5 million tons. Between 1957 and 1967 imports have grown at a compound annual rate of 26 percent.

	Net tons (in millions)		*Net tons (in millions)*
1957	1.15	1963	5.45
1958	1.71	1964	6.44
1959	4.40	1965	10.38
1960	3.36	1966	10.75
1961	3.16	1967	11.45
1962	4.10		

While the import penetration of the United States market varies by product and by region, there is no important product line or market area which is now immune from imports. They enter through virtually every major port—Great

Lakes, Gulf Coast, Pacific Coast, and Atlantic Coast. Accordingly, imported steel is reaching all regional markets in substantial quantities, as Table A clearly indicates.

While the growth of imports has affected all product groups, the impact has been far from uniform. When imports first began to enter, they were concentrated in those products which had a high labor content, or which could be produced with comparatively old equipment and simple technology. Reinforcing bars and common grades of wire rod, wire products, and pipe were the first big invaders. During the 1960's, however, steel mill expansion abroad was concentrated on facilities for the manufacture of products—such as sheets—which require large and complex processing equipment and advanced technology. As a result, the relative importance of these products among steel imports has grown rapidly. For example, in 1961, imports of sheet and strip came to only 171,000 tons but by 1967 were 4,281,000 tons; imports of shapes, plates, and piling were 330,000 tons in 1961 versus 2,089,000 tons in 1967.

Much the same pattern has occurred with respect to imports of specialty steels (whose contribution to our national security is discussed later). Production of these steels, among the most sophisticated, was once the exclusive province of a few highly industrialized nations. In recent years, foreign-produced specialty steels have been entering our country at an even higher rate of growth than that of total steel mill product imports. Whereas in 1959, imported stainless steel represented only 1 percent of our domestic consumption, by 1967 this figure reached 17.5 percent. Imported stainless cold rolled sheet increased its U.S. market penetration from 6 percent to 24 percent during the 1962–67 period alone.

Table B summarizes the market penetration which has occurred in each major steel product group, from 1957 to 1967, expressing these inroads in tons and as a percentage of the total domestic market for each product. Both the extent of this penetration which ranges up to 50 percent of the domestic market for some products, and its rapidity—sometimes tripling in one year—are well illustrated by the table.

The reasons for this recent heavy growth of imported steel products in the U.S. have been described in detail in The Steel Import Problem.[1] In December, 1967, the Senate Committee on Finance published a Staff Study on the steel import situation which largely supports the conclusions of the AISI papers.[2]

A. World Surplus Capacity

The Steel Import Problem shows that in 1966 there were 55 million annual tons of unused steelmaking capacity in the free world outside the U.S. This surplus is a relatively new condition. As recently as 1960, production and capacity outside the United States were about the same.

There are several reasons why the unbalanced condition has occurred. Industrial and state planners in major foreign steel-producing nations have consistently overestimated their own domestic steel requirements, as well as the potential demand for exports, thus causing the creation of greatly over-expanded steel industries. Moreover, in some developing nations, the ability to produce steel constitutes a symbol of industrial progress and has been fostered without close regard to economic need. Some such nations have themselves become exporters of steel. Thus, the development of steelmaking industries in these countries not only adds to total free world capacity, but also pre-empts some traditional export markets—thus increasing the competition while reducing the size of the total market for exports.

These problems of capacity will not be mitigated by any foreseeable increase in world steel consumption.

1. *Japan*

The "Economic-Social Development Program" announced by the Japanese Government in March 1967, includes projections of increases in iron and steel production for the period 1965–71.[3] These range from 9.1 percent to 9.9 percent per year. Japanese-planned additions to plant and equipment will increase that country's steelmaking capacity from 57 million net tons of raw steelmaking capacity in 1966 to 82 million net tons by 1970. Japanese consumption of steel has also been growing rapidly—at a rate of about 11 percent per year. That rate cannot con-

[1] "The Steel Import Problem," American Iron & Steel Institute, New York, October 1967, Ch. III. ("The Steel Import Problem" is appended to this report.)
[2] "Steel Imports—A Staff Study of the Committee on Finance, U.S. Senate," Russell B. Long, chairman, Washington, D.C., Dec. 19, 1967. (Hereinafter referred to as "Staff Study.")
[3] The Oriental Economist, May 1967, pp. 300–304.

tinue indefinitely—but even assuming it will, by 1970 home demand will take about 55 million net tons of raw steel equivalent.[4] That could leave unused capacity for 27 million tons of raw steel equivalent available for export in 1970, compared with 18 million tons in 1966. During the period 1957–66, Japan increased her total exports of iron and steel, to all countries combined, from about 1,165,000 to about 10,885,000 net product tons, a more than nine-fold increase. Even this phenomenal growth rate is but a fraction of the growth rate of Japan's exports to the U.S. In 1957, these exports were only 84,000 net product tons; in 1966, they totaled 5,166,000 net product tons—more than 60 times as much as in the earlier period.

In four of the first ten months of 1967, the United States was the country of destination for 50 percent or more of Japanese exports of iron and steel. No other nation took as much as 10 percent of Japanese steel exports.[5]

Indications are that by 1970 Japan will have more than 5 million additional net product tons of steel available for export. Since we can expect little significant growth in export markets in non-industrialized countries, much of the tonnage appears inevitably destined for the United States. The most recent previous increase of approximately 5 million net product tons of exports came in the short period of 1963–66, when nearly 70 percent of the increase went to the United States. It seems reasonable to expect that these trends will continue in the future.

No other country in the world has permitted as steady and rapid an increase of steel imports from Japan as has the United States. It is doubtful whether any other industrialized country in the world would tolerate steel imports in sufficient volume to justify Japan's indicated planned additions to capacity in excess of her domestic requirements. But the United States, which took only 7 percent of Japan's iron and steel exports in 1957, received 24 percent in 1961 and 47 percent in 1966; and only the United States has a market capable of absorbing the further planned additions of the Japanese steel industry.

2. *Western Europe*

The most recent projection by the High Authority of the European Coal and Steel Community is for an ECSC capacity of 130 million net tons of raw steel by 1970.[6] This may prove to be a conservative estimate, since it assumes that some obsolete capacity will be shut down over the next few years. A more realistic estimate of capacity by 1970 may be nearer to 135 million tons, an increase of 15 million net tons over 1966 capacity.

By 1970, the High Authority envisions raw steel requirements within the Community of 93 to 96 million net tons. It seems very likely, however, that actual 1970 domestic requirements will reach only 90 million net tons of raw steel. This estimate is based on the *actual* growth of apparent consumption between 1960 and 1965—which the High Authority had consistently overestimated.

Even if steel consumption in the European Community equals or exceeds the High Authority's projections, there would be ample capacity to raise exports above present levels without exceeding the rates of operation of about 90 percent which have been achieved in half of the past ten years—specifically, 1957, 1959, 1960, 1961, and 1964. Indeed, a desire for high utilization of capacity and full employment would strongly encourage efforts to increase exports up to the limits of the United States market acceptance for ECSC steel products.

B. Forecast of future import levels

In short, at the present time the flow of imported steel into the United States from foreign sources is rapidly increasing, with no sign that the increase will be stabilized at any tolerable level. There is no short-range way for United States producers to respond to the overwhelming price advantage offered by foreign producers for steels of comparable quality and availability. The present price gap (averaging approximately $30 to $40 per ton) substantially exceeds the U.S. steel industry's total profit per ton of $17 in 1966 before taxes.

If no steps are taken to prevent the rapidly increasing flow of imports, it is difficult to predict with any degree of confidence a limit to the increased amount of the domestic market they may capture. If the annual growth rate of 26 percent for the last ten years is projected, it indicates an import growth to more

[4] Yawata News, July 1967. Consumption data for 1971 in metric tons of shipments converted to equivalent net tons of raw steel and reduced by 11.4 percent, the estimated annual growth rate of domestic consumption.

[5] "Monthly Report of the Iron and Steel Statistics," the Japan Iron and Steel Federation, Tokyo, December 1967, vol. 10, No. 12, pp. 12, 13.

[6] Objectifs Généraux Acier—1970, Bulletin No. 65, Tableau 22, p. 44, ECSC.

than 23 million net tons in 1970, and to more than 73 million tons by 1975. (This past year, imports managed to grow 6.5 percent over 1966 even though the domestic market dropped by more than 5.4 percent.)

However, if it were assumed arbitrarily that the rate of growth would be a more conservative 13 percent—half the recent annual rate—then a projection to 1970 would indicate an import level of about 17 million tons—and about 30 million tons by 1975.

A recent domestic steel market forecast predicted that a total of 115 million product tons would be required by American manufacturers in a normal year around 1975.[7]

Consumption of 115 million tons, including 30 million tons of imports, implies domestic shipments of 85 million tons to the home market. Thus, shipments by the domestic industry in 1975 would total 87 million tons (including an estimated 2 million tons of exports, which is about the current level). This 87-million-ton total is less than was actually shipped in either 1965 or 1966. Total 1975 consumption (shipments plus imports less exports) of 115 million tons would represent a growth of 17 million tons from the 1965–67 level. Imports would, therefore, be accounting for more than the total growth of the domestic market.

As the preceding discussion of free world Surplus Capacity has shown, imports of 30 million tons by the mid-seventies appear well within the export capabilities of foreign producers, if the recent rates of capacity additions abroad continue. Most public announcements of plans indicate that they will.

III. THREAT OF STEEL IMPORTS TO THE NATIONAL SECURITY

A. Defense requirements

Military security depends heavily on a vigorous and expanding economy to produce the overwhelming quantities of equipment, machinery, and supplies necessary to support modern military strength. On the other hand, healthy economic growth depends importantly on military security to maintain that climate of confidence in the future in which private enterprise flourishes. Neither military nor economic strength can be raised to its highest potential without an abundant and varied flow of critical materials. (President's Materials Policy Commission—Section I–1, June, 1952)

The issue of war and peace looms today as the most important factor in the shaping of our national policy. The world situation demands unprecedented efforts to insure our national security.

Our continuing commitments in Vietnam and elsewhere exemplify the rapidly escalating demands that can tax industrial America, Supporting this view, President Johnson on April 8, 1967, proclaimed that "steel is the core of industrial America . . . and this vital product is basic to our economy and essential to our security."

During the 1950's, with the advent of advanced nuclear weapons and intercontinental ballistic missiles, it was widely claimed that the ability of a country to wage modern warfare was dependent upon atomic missiles and electronic equipment. However, Vietnam has dispelled this image and has demonstrated that the ability to wage war today is still primarily dependent on the availability and mobility of men and material—guns, ammunition, trucks, airfields, and ships. Thus, in times of national emergency, steel is indispensable to national defense, and national defense rests on steel.

The role of steel in national defense is two-fold. First, steel is an important component of materials and equipment used in military operations. A representative list of direct steel-using defense items is as follows:

Armored combat vehicles
Tactical vehicles
Amphibious vehicles
Naval vessels
Assault boats
Military aircraft engines and landing gear
Military trailers
Bombs
Projectiles
Grenades
Warheads
Mines
Cartridge cases
Mortars
Small arms
Gun tubes
Bomb racks
Missile motor cases
Missile ground handling equipment

[7] "The Steel Import Problem," p. 9.

Tank fuel cells
Revetments
Landing mats
Parachute hardware
Helmets
Mess kits
Canteens
Stainless steel inner soles for combat boots
Lightweight armor for helicopter seats and tactical vehicles
Barracks
Base housing
Prefabricated buildings
CONEX containers
Fence posts
Concertina barbed wire

Second, and more important in terms of the volume of steel necessary to satisfy defense requirements, steel is an essential in the facilities and equipment used in the manufacture and transportation of all vital war materials, including those not made of steel. These indirect defense requirements—without which effective defense of the nation would not be possible—include:

Industrial Plant and Equipment:
- Metalworking Machinery
- Machine Tools
- Textile Machinery
- Electrical Generating Equipment

Domestic Transportation Systems:
- Trucks
- Railroad Equipment

Interstate National Defense Highway System
Merchant Marine Vessels
Communications Equipment
Construction Equipment
General Support Items:
- Filing Cabinets
- Desks

1. Direct defense steel requirements

Current Department of Defense forecasts of direct steel requirements are for about 4.6 million tons in 1968, so that the defense share of estimated total domestic steel consumption will approximate 4½ percent. However, these aggregate figures do not portray the full impact of the present defense requirements for some steel products. As Assistant Secretary of Commerce Ray stated in 1959:

"Aside from the broader impact on our national health and safety, the defense requirements, although limited in volume, are precise, particular, complicated, and ever-changing and cannot be met by a stockpile of new or preselected items of steel. In other words, the need is not merely for a given amount of steel in being, but for a continuous flow of specially tailored items capable of meeting developing defense requirements. Only continued production of steel in all its phases can supply the real needs of defense."

The aggregate requirement consists of many products, some of which are affected tremendously by military buildup, some hardly at all.

The thrust of rapidly escalating defense steel demand can be appreciated by examining its effect on certain key products (Tables C, D, E, F). Between 1965 and 1966, ammunition steel requirements increased seven-fold—from 150,000 tons to over one million tons—and then increased again by more than one-half million tons in 1967. About 2.4 million tons of steel will go into ammunition in 1968. As a consequence, direct defense demand in 1968 for such a category as semifinished products is expected to amount to 28 percent of total shipments of these products to *all* industries (Table G). Bar, semifinished, and tubular products represent most of the ammunition requirements; and more than two million tons of these products were imported in 1967. In 1968, as a result of sharply increased demand for shells, industry facilities for some types of these steel products are even more heavily taxed.

Between 1965 and 1966, military demands for regular and concertina barbed wire increased almost 100,000 tons, and reached 186,000 tons in 1967 as it suddenly became necessary to fortify the demilitarized zone (DMZ) between North and South Vietnam. But it is in the general category of wire products that foreign imports have taken over the greatest share of the domestic market. In 1967, imported wire rods represented 46.1 percent of total domestic consumption, barbed wire 40.6 percent, and wire nails 39.8 percent. It is difficult to maintain a viable wire products industry with such levels of imports.

The military helicopter and aircraft programs are vital to our effort in Vietnam, and critical importance of alloy and stainless specialty steel products has required extensive production scheduling and expediting by the Department of Defense.

Hence, while the absolute level of total defense steel consumption does not present supply difficulties at the current degree of involvement in Vietnam, requirements in some key product areas are already high (Table G) and would escalate rapidly in event of a broad-scale military action.

In order to identify potential shortages of critical resources, the Office of Emergency Planning has prepared a detailed forecast of steel product requirements. Explicit in their projections are the following assumptions:

(*a*) A conventional, non-nuclear war of three years' duration occurring in 1969 through 1971.

(*b*) GNP growing to 1 trillion current dollars by 1971 and civilian steel requirements being met throughout the period.

(*c*) Contiguous sources of steel imports (Canada and Mexico) continuing to be available, but non-contiguous sources cut off.

(*d*) Growth in the labor force and employment sufficient to maintain forecast productivity levels and also to meet armed services manpower requirements.

Under these assumptions, the OEP estimates that total civilian and defense steel requirements would reach 127 million product tons in 1969 and 143 million product tons in 1971 (Table H). Included in these totals are direct defense steel requirements exceeding 9 million tons per year during the period of the war (Table I).

Redistributing these projections into product requirements (Table G) indicates *22 percent of all carbon semifinished* sold would be required for direct defense alone, in the event of a future limited war. Similarly, *17 percent of all alloy products and almost 20 percent of all cold finished carbon bars would be consumed for direct defense uses.* Certainly, steel product requirements of this magnitude make our dependence on imported steel products difficult to justify in terms of our national security.

2. Indirect defense steel requirements

Indirect defense steel requirements far exceed direct requirements. Military prepardness in our nation cannot exist without the entire industrial complex required to produce the weapons and systems which utilize varying amounts of steel as ingredients. The industrial complex cannot grow to satisfy defense requirements without steel. Nor can the necessary ingredients of defense programs be assembled and moved to their ultimate destinations without a vast, efficient transportation system, which is equally dependent upon steel for its existence. The Department of Defense estimated the total steel requirement of the industrial complex which provides defense material at 57 million tons in 1964—65 percent of apparent consumption in that year. And OEP forecasts that this requirement will grow to 88 million tons in 1969 and 98 million tons in 1971, never less than two-thirds of the total national OEP steel consumption forecast. As can be seen from Table J, the indirect defense requirement in time of war represents about 90 percent of total defense steel tonnage. *The strength of the whole industrial complex is necessary to military strength, and the steel required to maintain the entire economy is therefore the measure of its importance to national security.*

Our mobilization base before World War II was totally inadequate to meet critical defense needs and essential civilian requirements. Our inability to produce munitions as well as automobiles, trucks, and railroad cars, resulted in severe dislocations throughout the economy until finally rationing became the only effective means of allocating scarce resources.

3. Steel industry's research contributions to national defense

(Steel industry) research continues to uncover new uses for this durable and versatile product to satisfy exacting military and civilian requirements. (President Johnson's Proclamation 3778—April 8, 1967)

National defense has always acted as a stimulus to the creation of new and superior steel products. In World War II, welded tank armor, helmet steels, and steel spring technology all resulted from the privately-financed research of the U.S. Steel industry.

In the last several years, a number of new products have been introduced to meet the ever-increasing demands of the military. Maraging steels for high strength aircraft and missile requirements; dual hardness armors for helicopters, river patrol boats, and armored vehicles; high tensile strength plate for submarine hulls, and mortar-proof revetments for aircraft shelters are just a few of the examples of steel products designed to meet the specific requirements of the military market.

National defense requirements have created the initial need, and now represent almost the entire market, for vacuum melted steels. Other specialty steels have particular importance to the security of the United States, because of their unique capabilities and qualities. Specialty steels, with their varied high alloy

content and unique properties, have myriad important applications. Some can remain stable at high temperatures; some have extraordinary toughness, particularly at low temperatures. Such qualities have made specialty steels an integral part of the defense program of the United States.

A list of strategic products dependent upon specialty steels includes: missile and rocket frames and parts, airplane structures, atomic reactors, jet engines, turbine blades, ball bearings, oil refining equipment, and cutting tools and dies. Not only is the Apollo spacecraft fashioned from stainless steel, but so is the anti-spike innersole in the combat boot now being worn in Vietnam. Both are the products of constant research and development, often extending over a period of years from first identification of need to final practical application.

The markets for these specialty and tool steels have suffered severe inroads from foreign steel products. The importation of strategically important stainless steels has increased approximately 15 times since 1959. Foreign countries without a vested interest in American national security must not be relied upon to support American military steel technology, especially in time of war; yet if the increase in imports continues, the American steel industry will have neither the incentive nor the ability to go on spending hundreds of millions in research and development, let alone increase these expenditures.

The incentive to expand crucial defense research in the face of rising imports is furthermore affected by the fact that the domestic steel industry does not today enjoy any lasting technological advantage over foreign producers. The advantage which domestic producers formerly possessed due to their large research and development programs has been reduced. This is not because domestic research and development has been lagging; indeed, the opposite is true. However, advances in steelmaking technology, by their nature, are quickly adopted by all major world steel producers. As Mr. Yushihiro Inayama, President, Yawata Iron and Steel Co., Ltd., said in a presentation at the International Iron and Steel Institute in Brussels, November, 1967:

"It is my firm conviction that, however, hard we may have tried, such phenomenal development as Japan's steel industry enjoys today could never have been achieved without the invaluable assistance and cooperation extended to us by the steel companies represented by many of you present at this meeting. In this sense we may say without exaggeration that you are the real magicians who accomplished our 'economic miracle'."

The American steel industry is uniquely capable of meeting increased military needs today, and this capability must not be impaired by any further denial of a share of market growth upon which future investment so heavily depends.

4. Steelmaking facilities requirements for national security

Aside from periods of sharply increased defense steel requirements, the demand for steel in the United States is subject to a substantial degree of fluctuation. There are a number of reasons for these fluctuations. Among the most important of these are: fluctuations in the overall economy (especially in the level of capital spending), changes in the mix of the economy, consumers' building or liquidation of steel inventories, and seasonal factors. The domestic steel industry has provided in the past, and can be expected to provide in the future, productive flexibility sufficient to adjust to normal changes in the level of steel demand resulting from these factors.

Government defense planning requires that the domestic steel industry be capable of providing steel in an emergency sufficient to meet direct defense requirements, substantially higher indirect defense steel needs, and all essential civilian needs, *in the absence of imports of steel except those from Canada or Mexico.*

The domestic steel industry was able to ship steel at an annual rate of 103 million tons during the peak demand period in the six months prior to the settlement of the 1965 labor negotiations, but part of this tonnage was available only through the reduction of mill stocks. The industry has added capacity since 1965; and in 1968, under similar strike threat conditions, domestic shipments during the six-month period ending in July could be at an annual rate of 108–110 million product tons. Currently, as in 1965, part of the tonnage being shipped is available only through a liquidation of steel inventories held at the mills. It is probable that both in 1965 and presently the additional tonnage shipped out of mill stocks would offset any capacity not completely utilized during these periods because of lack of demand in particular products or areas. Therefore, the actual shipping levels are probably a good gauge of the domestic steel industry's ability to produce and ship for a sustained period.

As stated earlier, a normal level of steel consumption in a year around 1975 is expected to be 115 million product tons. During a general non-nuclear war, current Office of Emergency Planning studies indicate that direct and indirect military needs would raise steel requirements by at least 20 percent above a normal peacetime level. Thus, during an emergency period in the mid-1970's, domestic steel consumption would be about 140 million tons. This level of requirement would be roughly 30 million tons higher than the domestic industry's current all-out productive capability of about 110 million tons. Even assuming that facilities projects already committed and under way may add another 5–10 million tons by the early 1970's, there is a question of how much further than that steel companies can proceed.

The Office of Emergency Planning further assumes that, under these war conditions, non-contiguous imports of perhaps about 30 million tons would not be available to fill any short fall. Thus, under these conditions, a short fall of some 20 million tons seems likely by the mid-1970's, unless the industry can find valid reasons to continue its building program.

In the early 1970's steel consumption during an emergency would be only 5–10 million tons lower than that expected in 1975. Thus, only a few years in the future, the demand for steel under conditions of an anticipated national emergency could exceed the domestic industry's capacity at that time by some 10–15 million tons.

Since it takes at least 3 to 5 years to plan, construct, and bring onstream a major steelmaking facility, it is evident that steel companies must now be planning for the facilities that will be required in the crucial early and mid-1970's.

In 1967, with imports already supplying 12 percent of the total domestic steel market, there has been some curtailment of operations of facilities which produce products whose markets are now most heavily eroded by imports. Such curtailments usually result also in the loss of the skilled crews who operated these facilities. In a national emergency, with most imports shut off and the American steel industry's productive capacity having been atrophied from inactivity, there would not be time to create all the required facilities and hire and train employees for rapidly expanding direct and indirect defense steel requirements. Thus, imports must be held at a reasonable share of the market if domestic steel companies are to have the incentive to continue to expand capacity so that we will be able to supply the entire steel needs of our country in times of emergency in the future.

B. Economic strength and national security

There is a close relationship between the nation's economic strength and the nation's security. This point was emphasized by Raymond J. Saulnier, Chairman of the Council of Economic Advisors, in 1959:

"In today's international context, the nation's safety depends heavily on the vigor and efficiency of the economy . . .

"A sound and vigorous United States economy is essential not only to maintain the confidence of friendly and uncommitted nations; it is essential also to the deterrence of potential aggressors."

Thus, a country with weakened basic industries or with reduced job opportunities has uncertain national security; and so also does a nation whose currency is undermined by a chronic deficit in its balance of payments. The effects of steel imports will be evaluated, first, on the future welfare and growth of the domestic steel industry; and second, on the nation itself.

1. The steel industry

The domestic steel industry faces the prospect of losing to foreign producers apart, all, or more than all of the growth in the domestic market for steel. This fact has two major implications for capital investments by the steel industry.

First, investments of steel projects will become much less attractive if the growth of imports continues unchecked. Investments in steel facilities depend on reasonable assurance that the markets for products will grow in proportion to increases in productive capacity. Otherwise, capital would be tied up in idle facilities which add to costs but not to revenues. If imports continue to increase their share of the domestic market at a rate equal to *only half* that of the last decade, the desirability of investments in steel facilities would be gravely threat-

ened. It would become extremely difficult to show the wisdom of continuing the high level of capital investment necessary to keep the domestic steel industry's capability abreast of even normal growth in civilian demand and defense requirements.

The steel industry's capital investment program depends, of course, on availability of capital. Availability of capital depends on the prospect of profitability. Capital investment in steel is not a matter of a single decision on which the die has been cast. The program consists of hundreds, if not thousands, of decisions involving a wide range of projects with varying investment requirements. Some of these decisions have been made, but many are still to come.

Investment decision making is a continuous process based on the market and profit prospects of many alternative opportunities, including overseas steelmaking facilities.

While some past decisions cannot be reversed, a change in market and profit prospects can often bring about a change in the scope of a project, or even its complete abandonment. The investment program may be more drastically curtailed by the deferment or rejection of new investment opportunities because of adverse changes in market and profit prospects.

In reaching a decision, *market and profit prospects must be considered together*. Because of the high levels of fixed charges in steel, a given increase in volume results in a substantially greater increase in profit; conversely, a given reduction in volume results in a substantially greater reduction in profit, or possibly in a loss. As a result of this relationship, a rising level of imports produces a substantially greater effect on the profit prospects of the domestic industry than on its shipments.

A second major effect of imports may be on the nature of the steel industry's capital investments. Steel companies may well decide to devote large portions of their new investment to projects which do not involve steel. In many recent instances, steel producing companies have entered other fields. The determining factor, of course, is the prospective profitability of various investment opportunities available. If opportunities are more attractive in other fields, the steel industry cannot be expected to confine itself to less attractive steel projects.

The continuing erosion of the domestic industry's existing market and growth prospects, therefore, calls in question the likelihood of maintaining a healthy and viable steel industry, capable of serving the nation's needs in times of emergency.

2. Balance of payments

The growing dollar deficit in the balance of trade in steel products has already had an adverse effect on the total balanec of trade. It has contributed increasingly to the persistent deficit in our balance of payments.

The Chairman of the President's Council of Economic Advisers put the problem in historical context January 3, 1966:

"Overall steel imports in the first 11 months of 1965 were up to 9.7 million tons, worth $1,096 million. The value of steel exports was down to $460 million, producing an 11-month steel deficit of $636 million, perhaps $700 million for the full year. In 1955–57 we had an average steel export surplus of $645 million. Thus, the deterioration of our balance of payments due to steel over the last decade is $1.3 billion, probably as large as our entire balance of payments deficit in 1965."

The Chairman's statement, brought up to date, would read:

"Overall steel imports in 1967 were up to 11.5 million tons, worth $1,292 million. The value of steel exports was down to $415 million, producing a 1967 deficit of $877 million. In 1955–57, we had an average steel export surplus of $645 million. Thus, the deterioration of our balance of payments due to steel over this period is $1.5 billion, more than one third of our entire balance of payments deficit in 1967."

If steel import levels continue to rise, without offsetting exports, the trade deficit may become truly alarming. Assuming that in 1970, 17 million net tons of imports valued at an average of $113 per ton are purchased by American customers; and that steel exports continue at the current $400 million level; the steel trade deficit would then amount to $1.5 billion for that year. If, as is entirely possible, steel imports reach 30 million tons in 1975, the steel trade deficit that year—at today's prices—would reach a total of $3.0 billion. The cumulative loss from 1968 through 1975 would amount to a staggering $15.5 billion. None of these figures reflect the additional dollar outflow for shipping charges and insurance but which are equally deleterious to our balance of payments problem.

Year	Imports[1] (millions of tons)	Imports[2] (billions)	Exports[3] (billions)	Annual trade deficit (billions)
1968	13	$1.5	$0.4	$1.1
1969	15	1.7	.4	1.3
1970	17	1.9	.4	1.5
1971	19	2.1	.4	1.7
1972	21	2.4	.4	2.0
1973	24	2.7	.4	2.3
1974	27	3.1	.4	2.7
1975	30	3.4	.4	3.0
Cumulative trade deficit to 1975:				15.6

[1] Annual increase in imports estimated conservatively at ½ the annual growth rate for last 10 years.
[2] Calculated at average of $113 per ton f.o.b. foreign port (approximate 1967 average value).
[3] Estimated to continue at current levels.

These grim predictions have sound factual basis. As has been demonstrated herein, foreign steel producers have the capacity to verify the predictions, and previous trade patterns offer further proof. When growth in demand slackens abroad, many foreign firms find themselves with excess capacity. To a far greater extent than American firms, the European and Japanese manufacturers turn to foreign markets to hold up output.

IV. CONCLUSION

The body of this statement has shown the impact which rising levels of steel imports will have on the domestic steel industry and on the nation. The national security depends on the maintenance of a growing steel industry that will have the ability to supply a complete range of quality steel products for specific defense needs, and to guarantee the viability of other crucial industries which require steel.

But unless relief in some form is forthcoming, it is clear that the nation will have to rely upon foreign steels to meet defense needs—foreign steels that sound defense planning must consider unavailable in the time of crisis. This conclusion was expressed in the Senate Staff Study, in the following terms:

"If the United States would rely more and more on importing steel, it would gamble with the national welfare and the national security by assuming that these imports would always be availbale in the future. We probably can afford to take this risk on Scotch whisky, French cognac, German beer, and Japanese motorcycles, but we cannot allow a basic industry like the steel industry to decay." [8]

Unless steps are taken immediately which will stop enlargement of the present gap which impairs our national security, we "gamble with the national welfare and the national security."

[8] Senate Staff Study, p. 246.

TABLE A.—IMPORTS OF STEEL MILL PRODUCTS BY REGION OF ENTRY, 1957–67

[Thousands of net tons and percentages of total imports]

	North Atlantic		South Atlantic		Gulf		Great Lakes		Pacific		Offshore		Total Tons
	Tons	Percent	Tons	Percent	Tons	Percent	Tons	Percent	Tons	Percent	Tons	Percent	
1967	1,786	15.6	1,330	11.6	2,308	20.2	3,897	34.0	1,823	15.9	310	2.7	11,455
1966	1,574	14.8	1,281	12.0	2,145	19.4	3,563	33.3	1,890	17.6	300	2.9	10,753
1965	1,708	16.4	1,307	12.6	2,109	20.3	3,307	31.9	1,704	16.4	248	2.4	10,383
1964	981	15.2	828	12.9	1,374	21.3	1,655	25.7	1,324	20.6	278	4.3	6,440
1963	916	16.8	760	14.0	1,255	23.0	1,170	21.5	1,145	21.1	200	3.6	5,446
1962	760	18.5	586	14.3	935	22.8	745	18.2	935	22.8	139	3.4	4,100
1961	523	16.5	543	17.1	808	25.6	560	17.7	576	18.2	153	4.9	3,163
1960	658	19.6	583	17.3	901	26.9	460	13.7	594	17.7	163	4.8	3,359
1959	748	17.0	742	16.9	1,212	27.6	824	18.8	749	17.0	121	2.7	4,396
1958	324	19.0	370	21.7	489	28.7	128	7.5	320	18.7	76	4.4	1,707
1957	218	18.9	297	25.7	324	28.1	73	6.3	199	17.2	44	3.8	1,155

Source: U.S. Department of Commerce.

TABLE B.—IMPORTS OF STEEL MILL PRODUCTS, BY PRODUCT GROUPS, 1957–67

THOUSANDS OF NET TONS

	Ingots blooms, billets, slabs, etc.	Wire rods	Shapes, plates, and piling	Rails and accessories	Reinforcing bars	Other bars and tool steel	Pipe and tubing	Wire and wire products				Tin mill products	Sheets and strip	Total
								Barbed wire	Drawn wire	Woven wire fence	Wire nails			
1967	220	1,076	2,089	36	567	1,161	1,060	69	456	56	216	166	4,281	11,455
1966	224	1,150	1,898	26	673	1,045	1,058	77	458	53	275	134	3,682	10,753
1965	282	1,284	1,703	24	568	1,074	930	75	437	41	313	145	3,507	10,383
1964	345	953	1,100	14	412	762	790	72	397	43	297	88	1,167	6,440
1963	265	801	833	12	545	535	778	90	317	51	298	94	827	5,446
1962	174	645	525	12	607	388	655	67	275	42	271	56	383	4,100
1961	179	451	330	23	583	324	521	82	203	32	245	19	171	3,163
1960	68,	408	529	10	516	325	480	53	235	28	232	39	436	3,359
1959	92	448	798	9	852	487	553	78	276	45	305	67	386	4,396
1958	18	182	171	5	473	176	200	59	153	23	197	----------	50	1,707
1957	8	54	291	6	160	103	191	63	85	18	135	----------	41	1,155
PERCENT OF MARKET PARTICIPATION [1]														
1967	8.1	46.1	13.1	2.6	14.9	10.7	10.8	40.6	15.5	23.1	39.8	2.6	11.8	12.2
1966	9.6	45.9	10.8	1.5	17.1	8.6	10.6	31.4	13.9	29.8	45.8	2.4	9.5	10.9
1965	10.1	49.3	9.5	1.6	15.4	8.7	9.9	41.6	13.0	27.4	50.0	2.2	8.9	10.3
1964	13.8	45.1	7.2	1.0	11.5	7.2	9.1	47.9	13.5	27.9	48.8	1.5	3.4	7.3
1963	13.2	42.7	6.4	1.1	17.1	5.7	10.3	50.7	11.1	30.1	48.9	1.7	2.7	6.9
1962	10.5	39.2	4.7	1.3	20.4	4.4	8.7	47.7	9.7	26.9	46.1	1.0	1.4	5.6
1961	11.1	32.7	3.1	3.0	19.4	4.1	7.1	53.0	7.5	20.5	42.8	.3	.7	4.7
1960	3.7	31.0	4.6	.9	19.0	3.8	6.5	62.8	6.9	33.6	42.3	.7	1.5	4.7
1959	4.7	31.5	7.3	.9	28.3	5.5	6.4	61.9	6.8	36.1	44.0	1.2	1.2	6.1
1958	1.3	17.1	1.8	.6	19.0	2.6	3.2	51.9	4.2	20.5	32.3	----------	.1	2.9
1957	.4	5.4	1.8	.3	6.8	1.2	1.9	52.2	2.3	13.1	23.4	----------	.1	1.5

[1] Based on imports of particular product group to total of domestic shipments plus imports.

Source: U.S. Department of Commerce.

TABLE C.—DEPARTMENT OF DEFENSE ESTIMATES OF STEEL CONSUMPTION BY PRODUCT, BY PROGRAM, 1965

[In tons]

	Aircraft	Missiles	Ship-building	Tank, automotive	Weapons	Ammunition	Electronics	Military building supplies	Construction	Miscellaneous	Total all programs	Product distribution (percent)
Carbon:												
Ingots, billets	1,604	1,815	3,554	1,001	93	3,647	30	55	812	560	13,171	1.0
Billets, shells		665				47,329				403	48,397	3.8
Bars, C.F	4,625	3,021	2,461	16,222	161	12,541	758	31	1,027	1,758	42,605	3.4
Bars, H.R	489	1,166	8,156	22,036	147	8,191	429	751	27,709	10,205	79,279	6.1
Bars, reinforced	201	460	9,001	7		26			140,781	5,976	156,452	12.1
Bars, shells		129				647			13	341	1,130	.1
Structural shapes	1,145	2,282	23,872	2,191	15	269	41	4,302	119,590	5,153	158,860	12.3
Piling		2	25						2,447	23	2,497	.2
Pipe and tubing	636	1,273	15,443	5,643	82	18,902	361	123	43,939	7,723	94,125	7.2
Plates	572	5,580	100,811	27,643	201	18,295	326	3,262	43,876	4,006	204,572	15.9
Sheet and strip	3,252	4,561	14,585	72,600	955	26,087	2,739	658	14,061	9,084	148,582	11.5
Sheet, galvanized	52	615	7,170	223		47	192	9	11,533	4,633	24,474	1.9
Tin, terne, and black	22	202	352	1,082		168			24	54	1,904	.2
Rails and accessories	10			4					8,283	5,948	14,245	1.1
Wheels and axles		1	8	3				32	47	12	103	
Wire products	1,414	443	19,625	1,808	15	884	1,857	452	19,772	5,863	52,133	4.0
Total carbon	14,022	22,215	205,063	150,463	1,669	137,033	6,733	9,675	433,914	61,742	1,042,529	80.9
Alloy:												
Ingots, billets	19,966	10,595	4,066	8,504	12,017	416		37	124	129	55,854	4.3
Bars, C.F	370	1,551	954	7,797	87	3,299	46	2	876	718	15,700	1.2
Bars, H. R	8,380	3,380	4,068	28,432	221	2,578	125	10	1,248	1,556	49,998	3.9
Struc. shapes	398	165	3,242	123	1	9	16	192	2,519	394	7,059	.6
Pipe and tubing	1,909	707	615	1,811	119	2,106	41		2,240	473	10,021	.8
Plates	440	2,387	20,357	6,535	12	358	20	84	1,662	790	32,645	2.5
Street and strip	1,032	1,916	772	3,523	31	635	123		2,477	1,336	11,845	.9
Plates, armor	38	226	19,161	1,199	2	281		12		171	21,090	1.6
Track accessories		3	4	13							20	
Wheels and axles				4					6	8	18	
Wire products	113	282	113	484	4	15	7	6	51	101	1,176	.1
Total alloy	32,646	21,212	53,352	58,425	12,494	9,697	378	343	11,203	5,676	205,426	15.9
Stainless:												
Non nickel stainless	8,319	898	142		63	708	90	3	896	1,181	12,300	1.0
Nickel stainless	14,892	4,319	3,691	444	145	1,317	511	30	2,313	707	28,369	2.2
Total all products	69,879	48,644	262,248	209,332	14,371	148,755	7,712	10,051	448,326	69,306	1,288,624	100.0

Source: Department of Defense.

TABLE D.—DEPARTMENT OF DEFENSE FORECAST OF STEEL CONSUMPTION BY PRODUCT, BY PROGRAM, 1966

[In tons]

	Aircraft	Missiles	Ship-building	Tank, automotive	Weapons	Ammunition	Electronics	Military building supplies	Construction	Miscellaneous	Total all programs	Product distribution (percent)
Carbon:												
Ingots, billets	2,223	1,284	5,943	1,867	274	82,944	38	431	621	597	96,222	2.9
Billets, shells	59	41				218,101				400	218,601	6.7
Bars, C. F	5,837	2,476	8,173	25,817	481	85,773	625	1,277	1,523	2,361	134,343	4.1
Bars, H.R	859	808	18,670	35,240	357	103,046	486	23,440	28,347	11,690	222,943	6.8
Bars, reinforced	14	210	9,000	6	6			31,050	112,917	7,118	160,321	4.9
Bars, shells	10	5	1,101	5		7,266			9	342	8,738	.3
Structural shapes	1,072	1,232	61,379	4,729	146	1,435	31	11,794	103,744	5,915	191,477	5.8
Piling		216	3,500	6			2		5,044	35	8,803	.3
Pipe and tubing	691	1,195	128,766	8,705	113	280,555	242	529	44,130	11,602	476,528	14.5
Plates	736	4,685	176,177	47,769	989	89,427	550	18,153	43,492	4,111	386,089	11.7
Sheet and strip	4,399	3,856	28,728	114,216	4,819	142,296	2,622	361,675	15,242	105,190	782,773	23.8
Sheet, galvanized	36	327	17,247	792	7	21	274	23,971	9,156	5,504	57,335	1.7
Tin, terne and black	15	127	425	1,687		870			21	84	3,229	.1
Rails and accessories		24		3					10,904	7,590	18,521	.6
Wheels and axles			8	4					90	4	106	
Wire products	1,833	348	22,214	2,872	28	7,203	2,507	108,109	21,695	7,113	173,922	5.3
Total carbon	17,784	16,564	481,331	243,718	7,220	1,018,937	7,377	580,429	396,935	169,656	2,939,951	89.5
Alloy:												
Ingots, billets	28,808	10,799	4,190	9,792	21,575	1,887	10	84	6	249	77,400	2.4
Bars, C.F	620	1,004	1,567	12,336	1,100	21,267	32	27	884	862	39,699	1.2
Bars, H.R	11,490	3,200	4,699	45,289	695	4,323	76	21	1,459	1,858	73,110	2.2
Structural shapes	1,825	111	6,364	219	2	8	17	57	1,929	548	11,080	.3
Pipe and tubing	1,900	554	692	2,171	281	4,212	20	19	2,117	536	12,502	.4
Plates	1,125	1,302	27,259	8,322	65	450	14	256	1,370	828	40,991	1.3
Sheet and strip	1,493	1,576	1,065	5,518	57	1,684	96	26	2,073	772	14,360	.4
Plates, armor	228	35	4,974	933	19	268				112	6,569	.2
Track accessories			275	57						76	408	
Wheels and axles		1		14					3	56	74	
Wire products	194	202	416	745	5	20	11	34	206	108	1,941	.1
Total alloy	47,683	18,784	51,501	85,396	23,799	34,119	276	524	10,047	6,005	278,134	8.5
Stainless:												
Nonnickel stainless	14,407	406	364	11	145	6,182	227	9	728	2,658	25,137	.7
Nickel stainless	25,942	3,832	7,055	838	190	2,449	452	7	1,364	729	42,858	1.3
Total, all products	105,816	39,586	540,251	329,963	31,354	1,061,687	8,332	580,969	409,074	179,048	3,286,080	100.0

Source: Department of Defense.

TABLE E.—DEPARTMENT OF DEFENSE FORECAST OF STEEL CONSUMPTION, BY PRODUCT, BY PROGRAM, 1967

[In tons]

	Aircraft	Missiles	Ship-building	Tank, automotive	Weapons	Ammunition	Electronics	Military building supplies	Construction	Miscellaneous	Total all programs	Product distribution (percent)
Carbon:												
Ingots, billets	2,879	1,646	11,517	2,798	173	53,253	56		841	407	73,570	1.8
Billets, shells	58					562,956				400	563,414	13.6
Bars, C.F	8,632	2,194	11,868	27,649	1,120	86,333	1,377	179	2,180	2,539	144,071	3.5
Bars, H.R	1,325	661	23,515	48,233	458	138,099	587	95,315	34,041	13,585	355,819	8.6
Bars, reinforced	19	296	1	5	16	2		51,086	106,938	7,087	165,450	4.0
Bars, shells		2	1,501	2		2,419	44		2	472	4,442	.1
Structural shapes	1,140	1,003	91,293	10,481	301	7,585	47	3,410	100,744	5,417	221,421	5.3
Piling		32	3,500			14	24		8,457	2,569	14,596	.4
Pipe and tubing	777	1,458	158,012	12,108	173	384,507	265	30,386	55,413	14,219	657,318	15.8
Plates	1,043	4,418	315,525	59,911	1,578	100,441	799	2,960	43,310	9,795	549,780	13.3
Sheet and strip	6,828	4,162	45,137	148,298	7,428	178,911	2,667	129,301	19,758	19,014	561,504	13.5
Sheet, galvanized	45	115	65,279	2,193		99	278	50,114	8,568	4,420	131,111	3.2
Tin, Terne, and black	20	51	464	1,837		2,370			21	127	4,890	.1
Rails, and accessories				4					15,816	6,704	22,524	.5
Wheels and axles				4	1				166	561	732	
Wire products	2,659	313	47,479	4,689	37	9,300	2,928	85,295	25,381	7,455	185,536	4.5
Total, carbon	25,425	16,351	775,091	318,212	11,285	1,536,289	9,072	448,046	421,636	94,771	3,656,178	88.2
Alloy:												
Ingots, billets	40,675	6,117	6,548	13,150	56,437	15,505	1	35	1	103	138,572	3.3
Bars, C.F	961	1,103	4,316	13,852	2,289	31,662	100	62	811	1,176	56,332	1.4
Bars, H.R	15,653	2,533	6,314	60,224	2,413	9,809	75	10	967	1,789	99,787	2.4
Structural shapes	1,797	114	4,701	229	27	5	26	46	1,637	295	8,877	.2
Pipe and tubing	2,670	399	1,101	2,836	516	6,400	16	34	1,391	532	15,895	.4
Plates	1,627	1,174	30,748	12,033	117	327	11	265	1,130	611	48,043	1.2
Sheet and strip	2,682	1,849	1,170	5,128	73	7,419	178	40	1,586	1,149	21,274	.5
Plates, armor	261	26	6,040	1,346	48	3,154		3		445	11,323	.3
Track accessories			5	109							114	
Wheels and axles		6		8		1				4	19	
Wire products	287	156	36	797	5	282	7	46	126	166	1,908	
Total, alloy	66,613	13,477	60,979	109,712	61,925	74,564	414	541	7,649	6,270	402,144	9.7
Stainless:												
Non-nickel stainless	24,213	382	670	26	254	8,575	318	29	590	3,304	38,361	.9
Nickel stainless	30,664	3,867	9,006	676	480	2,475	535	20	1,067	1,471	50,261	1.2
Total, all products	146,915	34,077	845,746	428,626	73,944	1,621,903	10,339	448,636	430,942	105,816	4,146,944	100.0

Source: Department of Defense.

TABLE F.—DEPARTMENT OF DEFENSE FORECAST OF STEEL CONSUMPTION BY PRODUCT, BY PROGRAM, 1968 [1] (PROJECTED)

[In tons and percent]

	Aircraft	Missiles	Ship-building	Tank, automotive	Weapons	Ammunition	Electronics	Military building supplies	Construc-tion	Miscella-neous	Total all programs	Product distribution (percent)
Carbon:												
Ingots, billets	3,000	1,000	12,000	3,000	500	60,000	100		400	250	80,250	1.7
Billets, shells	50					895,000				400	895,450	19.4
Bars, C.F.	7,000	2,100	6,000	35,000	3,000	130,000	1,000	200	800	3,000	188,100	4.1
Bars, H.R.	1,000	700	18,500	60,000	500	266,000	500	54,000	15,000	25,000	441,200	9.5
Bars, reinforced		200						22,000	65,500	7,000	94,700	2.0
Bars, shells						20,000				300	20,300	.4
Struc. shapes	900	900	82,500	9,700	400	8,000	150	5,800	48,400	5,000	161,750	3.5
Piling		50	2,000						2,100	50	4,200	.1
Pipe and tubing	600	1,300	51,400	13,000	400	511,000	400	400	22,600	32,000	633,100	13.7
Plates	700	5,000	211,600	70,000	2,500	150,000	550	3,400	19,400	6,000	469,150	10.2
Sheet and strip	6,000	5,000	42,400	240,000	8,000	218,000	2,700	275,000	6,600	27,000	830,700	18.0
Sheet, galvanized	50	100	71,100	2,000		200	250	4,000	4,900	7,000	89,600	1.9
Tin, terne, and black		50	400	2,000		8,000				150	10,600	.2
Rails and accessories			25						6,150	6,000	12,175	.3
Wheels and axles			25						50			
Wire products	2,000	250	34,400	5,000		15,000	2,400	45,000	8,600	10,000	75	
Total carbon	21,300	16,650	532,350	439,700	15,300	2,281,200	8,050	409,800	200,500	129,150	4,054,000	87.7
Alloy:												
Ingots, billets	45,000	5,000	4,000	13,000	75,000	25,000	50			300	167,350	3.7
Bars, C.F.	500	1,000	4,000	20,000	4,000	13,000	100	50	350	2,000	45,000	1.0
Bars, H.R.	18,000	4,000	5,000	75,000	3,000	35,000	100	200	600	2,000	142,900	3.1
Struc. shapes	200	150	4,000	50			25	100	600	300	5,425	.1
Pipe and tubing	3,000	350	1,500	3,000	1,000	7,000	50		900	600	17,400	.4
Plates	5,000	1,100	29,400	10,000	500	250		200	700	1,100	48,250	1.0
Sheet and strip	3,000	3,000	1,500	2,200	50	11,000	100		650	1,050	22,550	.5
Plates, armor	500	50	18,500	1,000	50	3,000		100		100	23,300	.5
Track accessories				100							100	
Wheels and axles												
Wire products	200	200		1,000		600	50	50	150	150	2,400	
Total alloy	75,400	14,850	67,900	125,350	83,600	94,850	475	700	3,950	7,600	474,675	10.3
Stainless:												
Nonnickel stainless	28,000	500	1,000	50	400	11,000	250	25	350	2,300	43,875	.9
Nickel stainless	28,000	3,000	8,900	1,000	600	5,000	500	25	800	1,100	48,925	1.1
Total all products	152,700	35,000	610,150	566,100	99,900	2,392,050	9,275	410,550	205,600	140,150	4,621,475	100.0

[1] Revised, April 1968.

Source: Department of Defense.

TABLE G.—DEPARTMENT OF DEFENSE AND OFFICE OF EMERGENCY PLANNING FORECAST OF STEEL REQUIREMENTS BY STEEL PRODUCT AND CURRENT SHARE OF ALL STEEL INDUSTRY SHIPMENT

	1960 [1] (tons)	1965 [1] (tons)	1966 [1] (tons)	1967 [1] (tons)	1968 [1] * (tons)	O.E.P.[2] projection (tons)	Defense share of estimated total steel industry shipments				
							1965	1966	1967	1968*	O.E.P. projection
Carbon:											
Semifinished	43,000	61,000	315,000	637,000	976,000	943,000	1.6	11.3	21.9	28.2	22.0
Bars, cold-finished	35,000	43,000	134,000	144,000	188,000	442,000	2.8	8.3	10.3	11.8	19.2
Bars, hot-rolled	214,000	237,000	393,000	526,000	556,000	1,007,000	2.2	3.5	5.2	4.8	6.6
Shapes and piling	171,000	162,000	200,000	236,000	166,000	420,000	2.4	3.0	3.9	2.4	4.6
Pipe and tubing	81,000	94,000	477,000	657,000	633,000	1,263,000	1.2	5.6	7.9	7.1	10.7
Plates	171,000	205,000	386,000	550,000	469,000	1,030,000	2.1	4.2	6.8	5.0	8.2
Sheet and strip	170,000	149,000	783,000	561,000	831,000	2,101,000	.5	2.6	2.0	2.6	4.9
Sheet, galvanized	29,000	24,000	57,000	131,000	89,000	120,000	.5	1.2	2.9	1.7	1.7
Tin, terne and black plate	1,000	2,000	3,000	5,000	11,000	13,000	-------	.1	.1	.1	.2
Wheels, axles, and track	24,000	14,000	19,000	24,000	12,000	36,000	.9	1.1	1.7	.8	1.8
Wire rods and wire products	49,000	52,000	174,000	185,000	123,000	376,000	1.1	3.5	4.0	2.4	5.4
Other	5,000	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------
Carbon steel, total	993,000	1,043,000	2,940,000	3,656,000	4,054,000	7,751,000	1.2	3.6	4.8	4.6	6.6
Alloy steel, total	174,000	206,000	278,000	402,000	474,000	1,331,000	3.9	5.3	8.8	8.8	17.1
Stainless steel, total	57,000	40,000	68,000	89,000	93,000	140,000	4.5	7.3	10.6	9.5	10.4
Total all products, all grades	1,224,000	1,289,000	3,286,000	4,147,000	4,621,000	9,222,000	1.4	3.7	4.9	4.9	7.3

*Revised: April 1968.

[1] Source: Department of Defense.
[2] Source: Product mix estimated from Office of Emergency Planning's projection of total defense steel requirements during conventional nonnuclear war in 1969.

TABLE H.—CIVILIAN AND DEFENSE STEEL REQUIREMENTS, MILLIONS OF PRODUCT TONS, 1969–71

	1969	1970	1971
Carbon	118	125.9	133.0
Alloy	8	8.6	9.1
Stainless	1	1.1	1.1
Total, all grades	127	135.6	143.2

Source: Office of Emergency Planning.

TABLE I.—DIRECT DEFENSE STEEL REQUIREMENTS, MILLIONS OF PRODUCT TONS, 1969–71

	1969	1970	1971
Carbon	8.00	8.00	8.00
Alloy	1.10	1.30	1.30
Stainless	.13	.15	.15
Total, all grades	9.23	9.45	9.45

Source: Office of Emergency Planning.

TABLE J.—DIRECT AND INDIRECT DEFENSE STEEL REQUIREMENTS

[Millions of product tons, 1964 and 1969–71]

	Direct, "A" products	Indirect, "B" products	Total defense	Total national	Defense percent of national
1964	1.4	55.6	57.0	87.9	64.8
1969	9.2	78.8	88.0	127.0	69.3
1970	9.4	83.7	93.1	135.6	68.7
1971	9.4	88.3	97.7	143.2	68.2

Source: Office of Emergency Planning.

BIG STEEL, INVENTION, AND INNOVATION, RECONSIDERED

Alan K. McAdams

BIG STEEL, INVENTION, AND INNOVATION, RECONSIDERED *

ALAN K. MCADAMS

In their article "Big Steel, Invention, and Innovation" in the May 1966 issue of this *Journal* Walter Adams and Joel Dirlam state their thesis clearly and forthrightly:

For testing the "Schumpeterian" hypothesis (that large firms with substantial market power have both greater incentives and more ample resources for research and innovation) we have selected the oxygen steelmaking process — the circumstances surrounding its invention, its delayed adoption by the dominant firms in the United States steel industry, and the cost of this delay in terms of the industry's social performance.[1]

Their conclusion was that the hypothesis was not supported by the data presented. In this article the same case and essentially the same sources have been examined, but quite different, and in some instances exactly opposite, conclusions have been reached.

I. THE BASIC ISSUE

The key to the analysis presented by Adams and Dirlam is the comparative delay of United States firms in introducing the LD process.[2] To establish the fact of this delay they present a table of data (reproduced on page 460) and state,

Reviewing the history of innovation with respect to oxygen steelmaking, the following conclusions are inescapable. *First*, as Table II indicates, United

* I wish to express appreciation to M. G. Clark, M. G. De Chazeau, A. E. Kahn and P. B. Burleson for comments on drafts of this article; to The Ford Foundation, Cornell University, and IESE of the University of Navarra, Spain, for Research grants and administrative support; and P. J. Schwarz for research assistance. Errors which remain are my responsibility.

1. Walter Adams and Joel Dirlam "Big Steel, Invention, and Innovation," this *Journal*, LXXX (May 1966), 169; hereafter referred to as "Big Steel."

2. In this article the several oxygen converter processes are collectively designated "OC" processes while the Linz-Donawitz, one particular process, is referred to as "LD."

States steelmakers lagged behind the rest of the world in adopting the LD process. By September 1963 the United States had some 10,040,000 tons of LD capacity in place — compared with 46,210,000 tons for the world as a whole.[3]

They also suggest that the United States industry installed 40 million tons of "the wrong capacity during the 1950's"[4] and then state:

Until the steel industry restates its accounts to reflect the efficiencies that have been possible for at least the past fifteen years [i.e., since 1950] little credence should be given to its plaintive pleas for higher prices or profits.[5]

Their own illustrative restatement of the possible profit picture of the steel industry of the United States showed the impact of 87 million tons of oxygen converter capacity (and output) or 88 per cent of total United States output in 1960, being added "by 1961," i.e., by the end of 1960.[6]

II. Status of the United States Industry Compared with the World Industry as a Whole

The data in Table I show world converter steel *capacity* (not output) with world *production* of steel. This comparison thus gives the most generous picture possible for the progress of oxygen steelmaking.[7]

World output of crude steel increased by approximately 122,000,000 tons in the period 1953–60 while world capacity to produce OC steel increased by roughly 15,000,000 tons. Over the full period 1950–60 world output increased by approximately 148,000,000 tons.[8] Thus by 1960 about 10 per cent of the *increment* to world production after 1950, or 4 per cent of *total* world production could have been produced in oxygen furnaces. World capacity for the new process was negligible until 1957. Though it has been rapidly recognized worldwide, the OC process has not been adopted wholesale overnight. It has followed a cycle of development over an extended period of time.

3. "Big Steel," p. 182.
4. *Ibid.*, p. 185.
5. *Ibid.*, p. 189.
6. *Ibid.*, p. 187.
7. Year to year changes in percentage result from changes in both factors, OC capacity and actual output, however, and thus should be interpreted with care. Output of steel by the OC process was, of necessity, less than capacity, since during this period growth was rapid and the capacity of a plant was included in the data for a given year no matter when during the year a plant may have been completed.
8. See Table II.

TABLE I

COMPARISON OF WORLD OXYGEN CONVERTER CAPACITY WITH WORLD CRUDE STEEL PRODUCTION FROM ITS INCEPTION THROUGH 1965

(FIGURES IN MILLIONS OF NET TONS AND PER CENT AT YEAR END)

Year	World Converter Steel Capacity	World Crude Steel Production	Converter Capacity as a % of World Production
1953	0.5	257.9	0.2
1954	1.0	246.2	0.4
1955	1.0	297.5	0.6
1956	2.0	311.5	0.6
1957	7.0	322.0	2.2
1958	10.0	298.9	3.4
1959	14.0	335.8	4.2
1960	15.5	379.7	4.1
1961	23.0	390.1	5.9
1962	31.9	394.1	8.1
1963	52.0 E	422.7	12.3
1964	77.0 E	479.0	15.7
1965	110.0	501.4	21.9

Source: (a) American Iron and Steel Institute, *Annual Statistical Report*.
(b) *The Iron and Steel Engineer*, "Developments in the Iron and Steel Industry during [the previous year]," January of each year, prepared by I. E. Madsen (The Society of American Iron and Steel Engineers), Pittsburgh.
E — Estimate by author by interpolation.

The record showing both crude steel production and OC capacity [9] for the world, the United States, and the United States as compared with the world is presented in Table II. The United States proportion of world OC capacity has roughly kept pace with United States crude steel output as a proportion of world crude steel output. After 1958, United States crude steel production has roughly stabilized at about 26 per cent of the total, while United States OC steel capacity has (with the exception of 1958, a year in which the United States percentage was relatively high and 1961 when it was relatively low) fluctuated between 24 per cent and 29 per cent of world capacity.

Adams and Dirlam's Table II is reproduced on page 460, but calculations of relative positions have been tabulated in columns 4 and 5 as well.

Adams and Dirlam's Table II confirms that at least from 1958 on, rather than significantly lagging in oxygen steelmaking, the

9. The capacity figures are used for OC steel because reliable estimates of actual world production could not be found.

TABLE II

SELECTED DATA FOR UNITED STATES AND WORLD STEEL INDUSTRIES, 1951–1965
(FIGURES IN MILLIONS OF NET TONS OR IN PER CENT AT YEAR END)

	'51	'52	'53	'54	'55	'56	'57	'58	'59	'60	'61	'62	'63	'64	'65
TOTAL CRUDE STEEL [a]															
World Production	231.8	232.6	257.9	246.2	297.5	311.5	322.0	298.9	335.8	379.7	390.1	394.1	422.2	279.0	501.4
U.S. Production	105.2	93.2	111.6	88.3	117.0	115.2	112.7	85.3	93.4	99.3	98.0	98.3	109.3	127.1	131.5
U.S. as % of															
World Production	45.6	40.0	43.2	35.9	39.4	37.1	35.2	28.8	27.9	26.1	25.1	25.0	25.9	26.5	26.2
Index of															
U.S. Production (1957–59 = 100)	108.3	95.4	114.9	90.9	120.5	118.3	116.0	87.8	96.2	101.9	100.9	101.2	112.5	130.5	135.3
OXYGEN-CONVERTER STEEL [b]															
World Capacity				1.0	1.9[e]	2.0[e]	7.0	10.0	14.0	15.5	23.0	31.9[e]	52.0[d]	77[d]	110
U.S. Capacity			Began	Dec. '54	.56	.56	2.0	4.0	4.2	4.7	4.7+	7.5[e]	13.0	22	31.1
U.S. as % of															
World Capacity					28	27	28	40	30	31	20	24	25	29	28
ACTUAL U.S. PRODUCTION [a] (tons)					.3	.5	.6	1.3	1.9	3.4	4.0	5.5	8.5	15.4	22.9

a. American Iron and Steel Institute, *Annual Statistical Report.*
b. *The Iron and Steel Engineer*, "Developments in the Iron and Steel Industry during [the previous Year]," January of each year, prepared by I. E. Madsen (The Society of American Iron and Steel Engineers), Pittsburgh. Capacity figures as of December 31.
c. LD only.
d. Estimate by author as linear interpolation from figures reported at other than year end dates.
e. Estimate as of mid-year for both figures.

ADAMS AND DIRLAM'S TABLE II EXTENDED
ANNUAL LD STEELMAKING CAPACITY
(MILLIONS OF TONS)

	Adams and Dirlam's Table II		Relative Data for United States and World	
Year	United States [a]	World [a]	U.S. LD capacity as % of World LD capacity [b]	U.S. Crude Steel Production as % of World Crude Steel Production [c]
1953	—	0.5		
1954	—	0.9		
1955	0.54	1.9	28	39
1956	0.54	2.0	27	37
1957	0.54	2.7	26	35
1958	1.35	5.2	26	29
1959	3.58	9.5	38	28
1960	4.16	11.5	36	26
1961	4.65	17.2	27	25
1962	7.50	24.7	30	25

a. Trial Brief for Plaintiffs, *Kaiser* v. *McLouth* Civil Action No. 16,900, U.S. District Court (E.D. Mich.), p. 67. As shown in "Big Steel," p. 182.
b. Calculation from columns 2 and 3.
c. Table II, p. 460.

United States has roughly kept pace with the world development of oxygen steelmaking capacity.

The data for 1963 (quoted above) in the body of the Adams and Dirlam paper represents a low point in their tabulation of the relative position of the United States industry (22 per cent of world capacity), but between September and December of 1963, United States producers added 3,000,000 tons of OC capacity, a 30 per cent increase in those months alone. (Though Adams and Dirlam's source [1] and my sources agree on this fact, the data presented in these tables should be interpreted as roughly indicative, rather than precise, since it is extremely difficult to find agreement in source materials either on the capacity of given furnaces, or of total capacity in a given country or countries as of a given date. For some of the reasons see the footnotes on page 466 and page 471.)

III. THE UNITED STATES AND EUROPEAN INDUSTRIES COMPARED

Adams and Dirlam have frequently repeated the *Business Week*

1. Adams and Dirlam's source, the Kaiser Engineers L-D Process Newsletter No. 21, September 1963, estimates the expected growth of U.S. capacity to 13 million tons in its first paragraph. It also states in the last sentence on p. 1 that "the U.S. portion of world output will climb from 25% to 32% in the next few years."

statement that during the 1950's the United States industry bought "40 million tons of the wrong kind of capacity" (the open hearth furnace). In an earlier article they noted that in contrast "the Europeans and Japanese were installing the cheaper and more progressive oxygen converters at a breakneck pace." They also stated:

> Despite these apparent advantages of the oxygen technique, and despite its widespread use in Europe *more than ten years ago* [i.e., about 1954], the U.S. steel industry was slow to adopt it.[2]

Especially as compared with Europe, the United States is stated to have been backward.

At the end of 1954 there was a total of four firms throughout the world using oxygen converters for steel production; one in Canada (two 40-ton converters), one in the United States (three 35-ton converters), and the two in Austria where the process was developed: Linz (three 30-ton converters) and Donowitz (two 30-ton converters). The first European plant outside Austria was set up in France (two 15-ton converters) in September of 1956.[3] We have already seen from Table I that as of December 1954, world capacity for steel production by the OC process was approximately 0.4 per cent of the 253 million tons that were produced.

The data for the United States in comparison with the countries of the European Coal and Steel Community (ECSC) plus Austria and Russia after 1954 is presented in Table III. Adams and Dirlam implicitly recognize their earlier misstatement of the rapid rate of European introduction of OC steelmaking:

> The lag of the United States behind other major steel producers is all the more remarkable, because the LD process developed by the Austrians was immediately applicable to conversion of our low-phosphorus ores. Major European steelmakers by contrast, had to wait until 1957 before the LD process was modified sufficiently (by the addition of lime powders in the LD-AC, OLP, and LD-Pompey processes) to be suitable for processing high phosphorous ores constituting their primary supply. Once this adaptation was made, these countries moved to install the latest technology. So did Japan.[4]

However, this explanation *cannot* be applied for Russia, Great Britain, Italy, the Netherlands, or Japan, all of which use low-phosphorous ores for the bulk of their production. Today even

2. Walter Adams and Joel B. Dirlam, "Steel Imports and Vertical Oligopoly Power," *American Economic Review*, LIV (Sept. 1964), 627, 647. Emphasis added.

3. J. K. Stone "Worldwide Distribution of Oxygen Steelmaking Plants," *Iron and Steel Engineer*, Nov. 1966, pp. 93–97.

4. "Big Steel", fn. p. 182.

TABLE III

ANNUAL PRODUCTION OF CRUDE STEEL
BY OXYGEN PROCESS, UNITED STATES, ECSC, USSR AND AUSTRIA
(THOUSANDS OF NET TONS)

Year	United States [a]	ECSC [b]	USSR [c]	Austria [c]
1955	307	—	—	742
1956	506	—	—	935
1957	612	—	—	1,325
1958	1,323	684	1,300	1,282
1959	1,864	1,089	2,080	1,424
1960	3,346	1,757	2,745	1,955
1961	3,967	2,615	2,863	2,000
1962	5,553	3,840	2,920	2,020
1963	8,544	6,030	3,000	2,036
1964	15,442	11,470	3,580	2,160
1965	22,879	18,150	NA	NA

Note: The first LD converter in the United Kingdom went into production in 1960. See c below.

a. *Annual Statistical Report, 1960, 1965*, American Iron and Steel Institute (New York).

b. *Iron and Steel: Statistical Yearbook*, Statistical Office of the European Communities, 1961 — Brussels.

c. *Statistical Handbook* 1964, British Iron and Steel Federation (London).

France, Germany and Belgium are using low-phosphorous ores in new LD plants.

The data presented thus far suggest that the United States was among the early experimenters with the oxygen process (Canada was also early). As of 1958, the United States was the largest producer of oxygen steel in the world.[5] This position was achieved despite difficulties faced by United States producers during the 1950's. For example, from 1950 to 1953 the United States industry was faced with public pressure to expand its capacity immediately to meet the needs of the Korean war. It could not have been expected to begin large-scale experimentation with OC steel — which had not yet been produced on a commercial scale — at that time. In the period following the wartime build up of capacity, 1953–60, United States output of steel *decreased* 12,300,000 tons.[6] This is an indication of the decreased demand for steel in the United States market, since United States producers have been successful in adjusting steel supply to demand.

5. It held the lead in 1958 and 1960. From 1961 until 1965 the lead was held by Japan, as we will see in a moment.

6. Slesinger pointed out that only 5.6 million tons of *new* open hearth capacity was constructed in the United States after 1953. R. E. Slesinger "Steel Imports and Vertical Oligopoly Power: Comment," *American Economic Review*, LVI (Mar. 1966), 152–55.

The performance of the United States industry is even more significant in light of differences in the structure of the costs it faces. This was forcefully pointed out by Francis A. Muller, Economic Affairs Officer of the United Nations Economic Commission for Europe, in a letter to this author. He states:

The economic structure of the steel industry in the United States and the rest of the world is significantly different:

	United States %	ECSC %
Employment costs	40	20
Energy, materials, supplies	45	75
Investment and interest	10	5
Miscellaneous	5	5

It is quite natural that in the United States the main innovation effort is made toward improving labor productivity, and in the rest of the world toward improving raw material and energy savings. A recent survey of labor productivity comparisons in the iron and steel industry (U.N. Report Steel/304) has shown that labor productivity in the United States is more than twice as high as in European countries. This is explained mainly by *innovation* in operative efficiency of the steel industry as a whole.

A rough comparison of energy and labor input for one ton of cold rolled sheet at the various stages of production is shown in the following table:

	Energy %	Manpower %
Blast furnace	20	15
Steelmaking	45	20
Hot rolling	15	45
Cold rolling	20	20

It is quite natural from the economic point of view that more research and development effort is spent in the United States on the labor-intensive rolling stages, and more research effort is spent in other countries on the energy-intensive iron and steelmaking improvements.

From the point of view of quality of the steel products, it is also well known, that it is in the rolling area where the bulk of the problems arise and have to be tackled. (It is worthwhile pointing out that a great many technical terms describing rolling practices and steel quality defects exist only as English expressions and are used as such in other languages, awaiting adequate translations.) It is especially in this area where big savings and profits can be made, provided the proper installations and the proper operative techniques have been developed.

General conclusion: It is incorrect for the evaluation of the research and development effort of "Big Steel" to pick out one single process development and to analyze the comparative results. The steel industry is a complex industry with a very broad field for research and development.[7]

7. Letter dated January 16, 1967, pp. 2 and 3.

IV. Technological and Economic Complications in the Decision Process

It appears that Adams and Dirlam have understated the complexity of the technology of oxygen steelmaking, and their presentation definitely oversimplifies the decision problem faced by United States steelmakers. The understatement of the technological complexity of OC steelmaking is especially surprising in light of the exhaustive detail the authors have provided for the earliest stages of its development: the process was proved technologically in 1948 at which time VOEST, the innovating Austrian firm, began considering its use; Robert Durrer began testing with a 2.5-ton converter in 1949; VOEST proved the process practically in 1950 with 15-ton converters; put a plant in operation in December of 1952 with 30-ton (equals 35 net ton) converters and reached a commercial output scale in 1953.[8] At each stage during the five years between conception and commercial implementation difficult problems had to be overcome.

The implication of the article is that because one firm was operating commercially under its given conditions in 1953, all technological problems had been solved for all scales of operation — except for the problem of high-phosphorous ores, a problem not "solved" until 1957.[9]

Yet other problems with the use of converters remained.[1] For example: the quality range of their output, their maximum feasible scrap rate, their maximum batch size.

Quality range. Unless the new process could produce a firm's full range of steel qualities consistently, introduction of the process could not be accompanied by the closing of old facilities (or it would require installation of two processes to operate together).[2]

8. They also note that the first LD license in the United States was taken out in 1953 by Kaiser Steel, but that the plant did not go into operation until 1958. When it did, it utilized 110-ton converters, not the 30-40 tonners of Linz and Donawitz.

9. Even today some steel qualities cannot be produced by the LDAC process and the investment and operating costs remain higher than for the LD process.

1. The discussion in this section is based on the annual articles by I. E. Madsen, "Developments in the Iron and Steel Industry during [the previous year]," *The Iron and Steel Engineer*, January Editions, hereafter referred to as "Madsen." This was also one of Adams and Dirlam's major sources.

2. This *was* the strategy used by McLouth when it built its OC plant in 1953. It also ordered the largest electric furnaces then available in the world (Madsen, January 1954). The oxygen furnace was intended only to refine the metal partially, with the process completed in the electric furnaces. The *Prospectus* for McLouth common shares dated May 10, 1955, provides further perspective on p. 3. ". . . although certain operating problems remain to be solved, the corporation believes that its costs of production in

Scrap Rate. Today the maximum scrap rate commercially possible with LD converters is about 30 per cent; general practice is to use no more than 25 per cent scrap in the converter charge. Initially very little scrap could be used.[3] By comparison OH furnaces are usually charged with 50 per cent scrap in United States practice and 65 per cent scrap in European practice. The Thomas process, widely used with high-phosphorous iron for some lower quality steels in Europe, has a scrap rate of roughly 10 per cent. The United States is a surplus producer of low cost scrap while Europe, outside West Germany, has been a scrap deficit area.

Smaller scrap using capacity implies a higher hot metal charge to the steel furnace (a situation faced if U.S. or European producers shift from the open hearth to the LD). For a balanced, integrated plant a rise in hot metal requirements implies a need for additional blast furnace capacity for the same final product output. A relatively larger scrap using capacity (Europeans shifting from Thomas steel to the LD) implies the ability to expand steel output without new blast furnace capacity — but, of course, requiring proportionately more steel rolling and finishing capacity.

Maximum Batch Size. The LD converter has experienced a rapid scaling-up over its lifetime in the first five years (see page 465). The first Jones & Laughlin converters in 1957 represented a significant innovation and were the largest in the world in batch size and annual output.[4] Kaiser's 110-ton converters took both honors when they were put into production in 1958.

Though even the 35-ton converters had large *annual* capacity (both they and Thomas converters have tap-to-tap times of less than one hour), the batch size itself is a crucial factor in an integrated plant. Ladles, cranes, transportation and handling equipment, etc., all must be in harmony for such installations. It is very inefficient to place 30 tons of steel in a ladle designed for 175 tons and transport it by cranes capable of 200 tons, for example. Euro-

using the process *will be* as low or lower than those of conventional steel making methods." Emphasis added.

3. The early LD's were not capable of utilizing even the amount of scrap generated *within* the plant, so called "home scrap." The Kaldo Process was (and is) capable of utilizing a higher proportion of scrap, but is a more complicated process. The economic analysis of its differences from other OC processes is important, difficult, and continues today.

4. The announced batch size for these converters was first 55 tons, then 65. When put in operation, they produced about 82 tons per heat. The rerating from 55 to 65 tons proportionally raised the stated annual capacity of these converters; however, the increase in heat size from 65 to 80-plus tons involved no change in annual capacity; the larger heat merely took proportionally longer to blow; 55 vs. 39 minutes per heat. (Madsen, January 1959, p. 23.)

pean plants generally are characterized by 10- to 40-ton Thomas converters or relatively small open hearth furnaces. United States plants generally do not use Thomas converters and have tended toward larger and larger batch size open hearths (though their much longer tap-to-tap time has meant comparatively low annual capacity). Changeover to OC converters in the United States would often require complete plant revision while in many European firms converters alone can be added to, or substituted for, Thomas furnaces.[5] Batch size is also interrelated with ingot size. Flat rolled products can be produced more efficiently from large ingots which are most economically produced from large batches while long products do not require such large ingots. A greater proportion of United States production is in flat products than is true of other parts of the world.

Adams and Dirlam oversimplify the investment decision on at least two counts: first, they focus on a single step in the integrated production chain, steel furnaces alone. In so doing they assume away many of the problems of technological interrelatedness suggested above. Second, they fail to note that the manager may be faced with a series of mutually exclusive opportunities for improving his plant, all of which provide his firm with positive present value.

The decision which Adams and Dirlam consider is that between a new OH plant and a new OC plant at a single point in time and *in vacuo*. Even firms which are expanding their output can do so by modifying an existing plant or by building a completely new facility. Only in the latter case can the potential of a new process be utilized most fully through production line balancing. Actually managers in this industry face a matrix of decision possibilities when they introduce new technology. Each of them must be analyzed.

Adams and Dirlam's analysis applies most closely to the simplest case, the I-E decision. While the comparison of the costs of the OC and OH plants in the I-E decision involves the comparison of annualized investment *plus* operating costs for both processes, the R-R

5. It is possible to find in Europe today plants originally constructed in the 1800's with Thomas and OC converters operating side by side, still utilizing original auxiliary equipment. One example is that of Dillinger Huttenwerke, Dillingen, Germany which has one melt shop of Thomas and LDAC converters utilizing the same auxiliary equipment. It also continues to operate its 80-ton open hearth furnaces because of their great flexibility in charge and output range. Even when its new OC plant is built in the immediate future, the open hearths will be retained, in part to assure processing of home scrap.

TABLE IV

VARIOUS CONDITIONS FOR THE INTRODUCTION OF NEW TECHNOLOGY

	Replacement	Expansion
Revision of Existing Plant	R—R	R—E
Building New Integrated Plant	I—R	I—E

decision requires the comparison of the total of investment plus operating costs of the OC plant against operating costs *alone* for the OH plant. (Its investment costs are sunk.) Then, to the extent that further investment is required to balance the production line, or possible operating savings are lost through interference at other stages of production, the possibility of a desirable result is lessened. A positive result in the former case in no way guarantees such a result in the latter.

The replacement of existing facilities by a new integrated plant, the I-R decision, could be folly if the only benefit was the savings at the converter stage. These cost savings would have to balance at present value the investment cost of a fully integrated plant (less any, presumably small, incidental savings from newer facilities at other stages). If, however, the whole existing plant were physically aged and thus in need of early replacement, the relevant incremental costs of the decision approximate those of the I-E alternative. (In each case the sunk costs and book values would be relevant only in their impact on the taxes the firm would have to pay.)

A decision to replace existing steel melting capacity in an existing plant or to expand existing capacity by modifying an existing plant, may run into all the possible complications from the interrelatedness of the process with other stages in the chain. Thus it can be extremely complex and can involve wide ranges of relevant incremental investment and operating costs.[6]

We cannot dismiss out of hand (as Adams and Dirlam have done) the possibility that if a firm could increase its output of steel from its existing open hearths by the relatively negligible cost of

6. Obviously, this can work both ways. In the case of Dillingen, conversion was less costly than building a new OC shop, but it might also be sound economics for a firm to achieve a small increment to capacity by adding a new open hearth to an existing OH shop rather than to scrap the whole shop in favor of an oxygen converter installation of desired total capacity, especially if investment funds are limited. In making these statements we disassociate ourselves from any implication that the sunk costs of an earlier investment themselves are relevant for decisionmaking except for their impact on the tax position of the firm.

oxygen lances without interrupting its revenue stream, without changing its auxiliary equipment, and without the use of an entirely new process, it may well be wise for it to do so, even though a new process does exist, and, in certain cases, even if the new process is proven economically superior for a new installation.

Even if all four decision situations in the above matrix were to show a positive net present value for a given firm at a given date, conversion of the plant might not be the best alternative. A manager must also decide the best *time* to convert his plant. He must take into account the lead time for a new plant — another factor Adams and Dirlam seem almost to disregard. In deciding this he must weigh the benefits — expressed in reduced uncertainty about the new process and improved performance from it — against pressures from competitors and lost experience with, and savings from early implementation of the process. Steel plants are long-term investments. If firms were to jump precipitously, they might find that they acted before significant improvements were introduced. (Witness the technological evolution of computers and on a more personal level, commercial television, first black and white, then color.)

This actually did happen to several steel firms as stressed in Mr. Muller's letter:

> In England, for instance, two Kaldo vessels have been installed, along with two LD vessels, in a steel works and operated during two years; under the given local conditions it turned out that the LD vessels did produce most kinds of steels more economically and the Kaldo process was therefore discontinued. In Western Germany a steel works did install a full-scale Rotor installation, which also did not prove economical; in South Africa the Rotor process had also been adopted in a steel works but has since been replaced by what is called the tandem process. All these wrong investments have only been mistakes under the given circumstances, whereas for a company's venture into larger size installations, as needed in the United States, they could eventually have meant ruin for the company.

Had American firms been able to act as suggested by Adams and Dirlam and convert their plants to LD by 1961, today they would find themselves on the verge of technological obsolescence. Two or three of today's 330-ton converters are capable of the same output as 8, 10, or 12 smaller ones — with great savings in investment costs, labor costs, and other operating costs.

The economic life of early OC equipment, has proven to be relatively short,[7] and this is a crucial element in present value

7. An investment with a short useful life and low initial outlay may still be higher in total cost of operation over its lifetime than another investment with higher initial outlay and longer useful life. The choice, of course,

evaluations. A process which appears desirable when evaluated over an economic life assumed to be long may prove undesirable if its life turns out to be much shorter than expected.

Let us now turn to the comparison of the United States with Japan which is enlightening on several counts.

V. The United States and Japanese Industries Compared

The comparison of U.S. oxygen converter steelmaking with that of Japan is shown in Table V. Although negligible until 1958,

TABLE V

Annual Production of Crude Steel by Oxygen Process in the United States and Japan plus Total Crude Steel Production in Japan, 1955–1965
(Thousands of Net Tons)

	United States	Japan	
Years	OC Steel	OC Steel	Total Crude Steel
1955	307	—	10,400
1956	506	—	12,200
1957	612	62	13,900
1958	1,123	870	13,400
1959	1,864	1,326	18,300
1960	3,346	2,890	24,300
1961	3,967	5,910	31,500
1962	5,553	9,290	30,400
1963	8,544	13,270	34,700
1964	15,442	19,350	43,800
1965	22,879	25,000	45,000

Sources: Table III, (a), (b), (d) plus the Japanese Iron & Steel Federation *Statistics of the Iron & Steel Industry of Japan for 1965.*

Japan's production of OC steel exceeded that of the United States in 1961 when Japan became the world's leading producer of oxygen process steel. More significant is that, as of 1965, Japanese oxygen process steel represented approximately 55 per cent of its total crude steel output, while it was roughly 17 per cent of total output in the United States. Comparable figures for some European countries were: Germany, 19 per cent, France 13 per cent [8] and England 16 per cent.[9]

is greatly influenced by the opportunity costs of capital involved in the decision.

8. *Iron and Steel Statistical Year Book*, 1965 and *Monthly Edition*, 1966, No. 3 Statistical Offices of the European Communities (Brussels).

9. United Nations, Economic Commission for Europe, *Quarterly Bulletin of Steel Statistics for Europe*, 1957, 1960, 1964 and Nos. 1–3, 1965.

The explanation for the phenomenon of Japan is in large part its rapid rise in output, from 5 million tons in 1950 to 10 in 1955, 24 in 1960, and 45 in 1965; a ninefold increase in fifteen years. Japanese producers were able to expand output by building new integrated plants embodying the new technology, the I-E decision. Of the 35 million tons of *new* capacity (and output) achieved between 1955 and 1965, 25 million tons was oxygen steel.

In contrast, we noted from Table II that the United States steel industry achieved peak production in 1955 and did not match this output again until 1964. Thus, steelmakers in the United States faced a much different decision, a strict R-R replacement decision.

It must be noted in addition that Japan added 15 million tons of *new OH* capacity after 1950 and *continued to increase, and to operate that capacity* into 1964.[1] Only after 1960 did Japanese OC steel production outpace that in the United States (see Tables II and V). Despite the rapid expansion of total Japanese output (roughly five-fold from 1950 to 1960 and 2.5 times between 1955 and 1960), a total of only 2 million tons of OC steel was produced in all the 1950's in Japan.

The Japanese performance has been facilitated by two other major developments — the rapid development of new sources of high quality, low cost ores and the precipitous decline in world bulk shipping costs.

It appears that nowhere in the world (with the possible exception of tiny Austria) have firms acted in accord with the pattern suggested for them by Adams and Dirlam — a pattern against which the United States industry has been measured and found wanting. Perhaps the fault lies in the measure.

VI. The Significance of 1962

The decade of the '50's appears to have been the infancy of the

1. Only after 1964 was there a significant reduction in OH capacity. The data as reported by the Japanese Iron and Steel Federation in its *Statistics of the Iron & Steel Industry of Japan for 1965*, published in 1966, show the following: (data are for the beginning of the year)

	Open Hearth Furnaces	
	No. of Furnaces	Thousands of Tons of Annual Capacity
1963	145	14,926
1964	146	17,447
1965	118	16,465
1966	82	11,318

These data reflect the difficulties of interpreting the meaning of capacity figures at a time when oxygen lances were being introduced into open hearths. For example, during 1963 capacity increased by 2.5 million tons with a net increase of one furnace. Similarly, during 1964 a net of 28 furnaces or 19 per cent was retired with a net decrease in capacity of only 5.6 per cent.

OC process. Then, in 1962, a series of apparently interrelated events occurred: [2]

Steelmaking capacity outside the United States exceeded steel demand outside the United States for the first time since the war.

Japanese production of oxygen steel greatly exceeded that of the United States (9.3 vs. 6.5 million tons, respectively).

Apparently as a result of the pressure of imports of steel on the west coast of the United States, Kaiser Steel Company (one of the early United States oxygen steelmakers) cut the price of west coast steel by $12 a ton, removing the traditional west coast differential in steel price.

"Workable" OH plants of 3 million tons capacity, including Bethlehem's San Francisco plant, were shut down in the United States, the first such actions in the postwar period.

Data on the operation of the 200-ton LD converters with which Jones & Laughlin had directly *replaced* 175-ton OH furnaces — the first such action by a United States producer — was just becoming available (the converters had began operation in September 1961).[3]

The federal government passed the amendment to the internal revenue code, "the investment credit" act designed to stimulate investment.

The U.S. Steel Corporation announced plans for the construction of its first basic oxygen steelmaking facility.

The rate of introduction of oxygen capacity in the United States having been comparatively slow in the early 1960's, greatly accelerated.

In 1962 it appeared that the costs to United States producers for *not* innovating were significantly raised by actual and threatened competition from both domestic and foreign oxygen steelmakers. At the same time the cost of making the innovation had been significantly lowered by the perfecting of the process and the scaling-up of feasible converter size, scrap-using capability, range of product output, and by new tax regulations.

These data are consistent with the statement that United States steelmakers were influenced by foreign competition in their decision to introduce new oxygen steel capacity. However, they are also consistent with *rational economic decisionmaking* on the part of United States producers.

Mr. Muller's conclusions reinforce those above:

2. Madsden, Jan. 1963, pp. 138–42.

3. This action is consistent with our suggestions about the significance of batch size for the replacement decision.

> . . . Both Big Steel and Small Steel contributed to the development of the oxygen steelmaking process, each one in its proper role; small works played the role as pilot plants whereas Big Steel contributed effectively to the improvement of the raw material supply . . .[4]

VII. Conclusions

The premise of United States technological backwardness on which Adams and Dirlam's analysis is based, is not supported by the statistical record of this industry. The analysis made by Adams and Dirlam does not take into account technological and economic complications faced by the industry's decisionmakers. Adams and Dirlam's calculation of profit opportunities "lost" by the United States industry is based on unrealistic assumptions. They would require: 88 per cent of United States output in oxygen steel at a time when the whole world had capacity to produce 4 per cent of its output by the process; United States OC output alone in 1960 at a level not reached by the whole world until 1965.

In light of the information presented in this article, United States producers do not appear "ignorant" nor their actions "ironic." Whoever the innovator's were in the United States, they were of sufficient size and importance to allow the United States industry to keep pace with overall world performance in OC steelmaking, despite some significant disadvantages which the industry faced.

Even if the data had supported Adams and Dirlam's premise, there would be grave question about the conclusions they have drawn with respect to Schumpeter's hypothesis which Adams and Dirlam paraphrase as:

> Large firms with substantial market power have both greater incentives and more ample resources for research and innovation.

We note that the requirements are "large" size and "substantial" market power. Also there is no requirement that the *opportunity* for innovation be *accepted* by all for Schumpeter's hypothesis to be consistent with the data.

Adams and Dirlam appear to force their analysis. The basic innovator, VOEST, is dismissed as "tiny" in absolute terms; yet, it is a virtual monopolist in its home market and has state financial backing. United States firms which are large in absolute size are designated by their *relative* ranking in the United States market (innovating Jones & Laughlin with close to $1 billion sales in 1965, is "only fourth"). Investigation of McLouth, first United States

4. Letter, *op. cit*, p. 5.

OC producer, shows that its market and financial positions were excellent: General Motors, which is hard to dismiss either in absolute *or* relative terms, had given the firm its backing through long-term contracts for steel products and financial support, first through loans, then through stock ownership.[5] Kaiser, as the first integrated steel plant on the west coast and as a member of the Kaiser Industries group possessed both power in its market and significant financial resources. (It was a sufficient force on the west coast to lead the $12 price decline there in 1962.)

Had Schumpeter stated the hypothesis:

> The three largest firms in an oligopoly industry will be the technological innovators in that industry, . . .

this hypothesis would have been refuted by Adams and Dirlam's presentation in the case of the United States. But this was not Schumpeter's statement.

What has been illustrated in this single case is that in the oligopolistic steel industry of the United States — characterized by price stability (and even upward movement) despite slack demand —there appears to be sufficient incentive for firms with "sufficient" resources (several integrated producers appear to have reached this threshold) to innovate. Several firms with similar incentives appear to have awaited further development of OC steelmaking before they have acted, a strategy which cannot be condemned out of hand. Once technological problems were overcome (sufficiently) the United States industry as a whole appears to have moved to implement the OC process.

For 1966 the Kaiser Engineers reported United States LD capacity to be 38,015,000 tons, or 28 per cent of the world's capacity of 136,755,000 tons at year end. During 1966 the increase in United States LD capacity was 47 per cent as compared with 34 per cent for the world as a whole. This year the United States industry regained its lead in installed LD capacity. A total of 24 per cent of ingots produced were of LD steel (this excludes the Kaldo output of Sharon steel) as compared with 17 per cent in 1965.[6]

CORNELL UNIVERSITY

5. *Prospectus, op. cit.*, p. 8. As of 1955 General Motors owned 92.6 per cent of McLouth's cumulative participating (voting) preferred stock and, among other things had the option to purchase up to 92.6 per cent of McLouth's cold rolled carbon sheet.

6. Stone, *op. cit.*, p. 93.

Mr. HERLONG. Before I present Mr. Abel to the committee I just wanted to tell you that the chairman expressed his apologies for leaving when you were testifying. He and Mr. Byrnes have to go to the Rules Committee at this time.

Mr. PATTON. We understand, Mr. Herlong. Thank you very much.

Mr. HERLONG. Mr. Abel. We are happy to have you before the committee, Mr. Abel. We appreciate your coming.

STATEMENT OF I. W. ABEL, PRESIDENT, UNITED STEELWORKERS OF AMERICA, ACCOMPANIED BY JACK SHEEHAN, LEGISLATIVE REPRESENTATIVE

Mr. ABEL. Mr. Chairman, my name is I. W. Abel. I am president of the United Steelworkers of America, a union which represents the workers in the basic iron and steel industry in the United States and Canada. We also represent iron ore miners in both countries.

Accompanying me this morning on my right is Mr. Jack Sheehan, our legislative representative here in the city of Washington.

I am sure that the joint appearance before this committee of the union and the industry, represented by Mr. Tom Patton of Republic Steel and me, will come as a surprise to many, since we are currently engaged in negotiating a labor agreement. Frankly, Mr. Chairman, we hope that our appearance will elicit more than surprise. We hope it will arouse a real concern for and a willingness to investigate the new problems which our domestic economic system faces as a result of our current national trade policy.

EVALUATION OF TRADE POLICY

All of us, of course, are moved by the argument that if a specific policy works, it must be the right one. But the converse is also true. There can be no dogmatic truths in an evolving and changing economic climate. The best argument for pursuing our foreign trade policy, which was initiated over 34 years ago, has been the fact that we have developed and generally maintained a favorable trade balance. This was particularly true in the steel industry until 1959, at which time we began to rapidly plunge into a deficit position. Now the national trade balance is also being jeopardized.

The 1967 trade surplus was only $3.6 billion, and already this year we have experienced trade deficits. Our balance of payments have also succumbed to a long series of large international deficits, beginning in 1958. It is interesting to note that the last time this committee deliberated upon our trade policy we were very much in a surplus condition and our payment deficits were declining. The impact of those deliberations was not to be felt until this year, but the atmosphere in which you conducted them was certainly optimistic—between 1960 and 1965, our trade surplus averaged $5.2 billion and during the same period, our payment deficits dropped from minus $3.9 billion to minus $1.3 billion.

BALANCE OF PAYMENTS AND TRADE

[In billions]

	Balance of payments	Balance of trade
1958	−$3.4	+$3.3
1959	−3.9	+1.0
1960	−3.9	+4.8
1961	−2.4	+5.4
1962	−2.2	+4.4
1963	−2.7	+5.1
1964	−2.8	+6.7
1965	−1.3	+4.8
1966	−1.4	+3.7
1967	−3.6	+3.6

It is no wonder then that we accepted the fact that our national trade policy was correct. It was working. But, gentlemen, the same logic should prevail today and we should acknowledge it. Our trade balances have dipped and not just because of temporary factors. Deep penetrations by foreign producers have been made into domestic industries and apparently there is no leveling off in view. At any rate, the clarity of the logic is being felt in the steel industry and the Steelworkers' Union has responded to it because it may mean the livelihood and jobs of our members.

My comments should be taken within the context of our union's support for an expansionary trade policy. We have traditionally fought for the concept of wider trade relations with other countries because of its political and economic advantages. The international political aspects of freer trade are readily recognized. We have equated our national political interest with the advancing of international cooperation. As Dean Rusk recently indicated:

> The trade policy the United States has pursued for more than three decades contributes to our broad political objectives.

Moreover, we have felt that our foreign economic policy has enhanced our national economic welfare. As a matter of fact, the most persuasive justification of our trade policy was the very evident contribution which it did make to our economic growth. We are, therefore, convinced that an isolationist economic policy is outdated in a world of interdependence. It was probably one of the achievements of the New Deal era that the philosophical position of Fortress America—at least as far as trade is concerned—was demolished. However, current evalution cannot rest upon past performance or past factual situations. International trade has now taken on different dimensions.

I make these comments precisely because the problems of the past and their solutions are not necessarily the problems facing international trade today. Unfortunately, there are too many who would apply, in a doctrinaire manner, the public policy decisions of the past and criticize any contemporary evalution of present-day problems as an attempt to return to the days of the Smoot-Hawley Act.

Our past trade policy grew out of an economic atmosphere of scarcity. At that time, artificial trade barriers, which further restricted each country's limited productive facilities, had condemned the various individual national economies to total dependency upon each country's weaknesses. Within an economy of scarcity, there was little room for improvement.

However, just as today the development of our domestic public policy is being conditioned by the problems arising from an economy of affluence, so also our foreign trade policy must grapple with the same source of international economic concern. Although these complexities arise from an affluent economy, they are no less real or no less critical than those arising from a depressed economy.

We are, therefore, appealing to you to view our trade problems within this context. What I am saying is that we must have a balanced trade relationship within an expansionary trade policy.

As far as the domestic steel industry is concerned, we are experiencing a rapid and accelerated percentage penetration of our market by foreign producers. Within the last 5 years, steel imports have risen from 3 percent of domestic demand to almost 15 percent, if current imports for 1968 are projected on an annual basis.

Furthermore, we have been a deficit Nation in the value of direct steel trade since 1962. The current deficit amounts to about $900 million. But more than that, we are still a deficit Nation even when we take into consideration indirect steel trade—that is, trade in which steel is used in manufactured products. In 1966, our total steel trade balance was in a deficit position by almost $500 million. This, of course, causes a drain on our balance of payments. But it also refutes the contention that American steel which is exported in manufactured items outbalances and compensates for any deficit in direct steel trade.

STEEL IMPORT STUDY—VALUE OF DIRECT AND INDIRECT (END-USE) STEEL IMPORTS AND EXPORTS AND THEIR EFFECT ON U.S. BALANCE OF PAYMENTS

[In millions of dollars]

	Imports [1]			Exports			Trade balance, total exports less imports
	Steel products (direct imports)	End-use items [2] (indirect imports)	Total (direct plus indirect)	Steel products [3] (direct exports)	End-use items [4] (indirect exports)	Total (direct plus indirect)	
1957 [5]	235	109	344	977	510	1,487	+1,143
1958	252	110	362	733	435	1,168	+806
1959	639	171	810	485	450	935	+125
1960	552	145	697	711	480	1,191	+494
1961	462	102	564	503	480	983	+419
1962	586	129	715	443	495	938	+223
1963	752	127	879	448	525	973	+94
1964	897	154	1,051	583	615	1,198	+147
1965	1,395	193	1,588	553	645	1,198	−390
1966	1,444	257	1,701	545	660	1,205	−496

[1] Values increased by 10 percent to adjust from f.o.b. to c.i.f. basis.
[2] Values calculated by multiplying estimated net tons of indirect imports times the average c.i.f. landed value per net ton imported steel mill products plus 10 percent to adjust from f.o.b. to C.i.f. basis.
[3] Values represent steel product exports less AID-financed exports.
[4] Values calculated by multiplying estimated net tons by an average price of $150 for finished carbon steel in the domestic market, which during this period ranged from $149 to $158.
[5] The value of "other steel products" component of the steel product direct imports and exports estimated.

Note.—For comments by AISI on this table see appendix.

Source: AISI, Foreign Trade Trends Quarterly; AIS Imports 1; Exports 1; USDC, Overseas Busines Reports.

We are convinced that the pressure behind these foreign imports is basically one of affluence—in other words, it results from excessive overcapacity. The Senate Finance Committee, last December, released a report indicating that surplus capacity had already reached a level of 50 million tons. Each year, steel capacity grows at a rate of 33

million tons. It is the continued investment in overcapacity facilities which must be moderated in order to bring about a balanced trade relationship.

STEEL AND ORE QUOTAS

Our support of the Vanik bill is predicated, therefore, upon a two-fold objective. First, the bill will determine that, as a matter of public policy, a 10 percent penetration of our steel market is a balanced one. Maybe Congress will suggest another figure. But, set a level, it must, in our judgment. As far as iron ore is concerned, our miners have complained about job losses due to the continued high levels of importation of ore during periods of recession. Their job loss becomes more pronounced than basic steelworkers if there is not a proportionate reduction of iron ore imports comparable to a downturn in steel production. Currently, ore imports are about 36 percent of domestic consumption.

The second objective will be found in the fact that the bill will serve as a guideline for foreign steel industries to moderate their investments in facilities producing steel well beyond their own domestic consumption and a reasonable share of our market.

It would be disasterous for Japan, for instance, to be led to assume it has an unlimited access to the U.S. steel market. Then, at a later date, when its investments are already made and its manpower already committed, if Japan is forced to curtail its access, severe political and economic consequence would undoubtedly ensue. Now is the time to declare whether there is a limit. And, this is a responsibility for Congress.

This, then, is the sole purpose of our support of a flexible quota bill. We have arrived at this position at a time when our own industry is accelerating its investments in new plants and equipment to modernize obsolete facilities. There has been severe criticism levied at the industry for allowing its facilities to become outdated. There may be some justification to the charge. But the industry is now correcting this problem. My concern, however, arises from the fact that if we do not retain a steady share of the increase in domestic demand for steel, there will be a job loss, since the new facilities will be able to produce more steel with less workers. Furthermore, if the increased domestic market is lost to our own producers, I am afraid that the necessary continued investment to modernize will be suspended.

OVERCAPACITY

I cannot over emphasize the coincidence of these two factors: foreign overcapacity and domestic accelerated investment. If the report of the Senate Finance Committee carries any real message, it is the documentation of overcapacity and the concomitant pressure that it puts on the world market. The price structures of the United Kingdom and Europe are under heavy strain because of it. It is our firm contention that the world surplus of steelmaking capacity must be brought into balance with the world demand for steel. Otherwise, these industries, as instruments of their own government's full employment policy, will be compelled to export whatever the cost—or, should I say, loss. And that loss will be at our expense in steel production and steelworkers' jobs.

The compulsion to export is dramatically revealed by a news release in the January 11, 1968, issue of the "Japan Metal Bulletin," which I submit for the record with my statement.

(The information referred to follows:)

OBLIGATORY STEEL EXPORT SYSTEM BEING RECOMMENDED

As the basic measure to improve the foreign exchange balance when tight money policy is being enforced domestic accompanying the pound's devaluation and import control policy in America originated in dollar protection, the iron and steel industry is planning to provide obligatory export quota to steel, the tonnage allocated to be 10% over the actual exports in the current fiscal year, with export target in the next fiscal year raised to over 12 million tons.

Those companies that fail to export the allocated tonnage will get less coking coal than they want to get delivered, or will be penalized by ¥10,000 ($28.00) per ton covering the balance unexported.

In parallel with the enforcement of the foregoing proposition, the Japanese steel industry is to demand guaranty by Ministry of Finance and M.I.T.I. in connection with the restlessness centering around pounds and dollars.

Mr. ABEL. The bulletin declares that—

The iron and steel industry is planning to provide obligatory export quota to steel, the tonnage allocated to be 10 percent over the actual exports in the current fiscal year, with export target in the next fiscal year raised to over 12 million tons.

Those companies that fail to export the allocated tonnage will get less coking coal than they want to get delivered; or will be penalized by $28 per ton covering the balance unexported.

ACCELERATED INVESTMENT

Furthermore, the U.S. steel industry, as indicated by Tom Patton, has embarked upon a program of rapid technological development. I note that our academic community has been critical of the past decisions of the industry. How justified those criticisms are I leave to your judgment. But those are past decisions that have no weight now. Actually, as a union president, I must begin to think about the rapidity of the investment which is at the rate of approximately $2½ billion a year.

(*a*) *Employment impact*

The more recent acceleration of steel imports has come fortunately at a time of an extended boom in the American economy. Steel production in 1967 was 127 million tons. Despite this increase production, however, steel employment has substantially declined.

In 1952, steel production stood at 93 million tons and employment at 545,000 workers. Employment in 1967 was only 424,000 workers, 121,000 less than in 1952, although production had increased by 34 million tons. Of course, this is the result of increased productivity and is an economic factor decreasing the need for manpower in the steel industry regardless of the import situation. However—and this I stress—without the increased demand for steel accompanying our present economic growth, the impact of automation on steel employment would have been intolerable.

According to Professors Adams and Dirlam, longrun decreases in employment are due to increases in productivity and not to increases in imports. But this is true only because the foreign penetration of our growth in steel demand has begun to reach alarming proportions just recently. If, however, foreign producers had penetrated our markets

earlier, the unemployment rates would have been totally unacceptable not only to our union, but, I am sure, to the Nation also. It is precisely because increase in productivity does indicate a downturn in employment that we must retain an appropriate share of increased steel demand. If investments proceed at the present clip and imports expand at the current accelerated rate then we are in for employment trouble. The Wall Street Journal, May 23, 1968, recently noted:

> Consumption (1968) is much higher, but imports are siphoning off most, if not all, the growth.

Moreover, if there is a dip in the economy and the present percentage penetration by foreign producers is retained, the reaction of unemployed steelworkers will be predictable and justifiable.

(*b*) *Conglomeration*

We have become increasingly uneasy over the new tendency for corporations to conglomerate. Its impact upon labor relations could be disastrous. During the recent strike with the copper industry, we were appalled over the contemplated merger between Kennecott Copper and Peabody Coal. Now the steel industry is engaged in this adventure. The list of companies so far include Crucible, Youngstown Sheet & Tube, Alleghany Ludlum, Bethlehem, United States Steel, Jones & Laughlin and Detroit Steel. Inland Steel has created a corporate development staff unit which will be responsible for seeking out and evaluating new diversification opportunities.

I mention this new development here because the pressure to get a higher rate of return upon capital investment may begin to drive steel funds out of the industry into other lucrative endeavors. If the industry is doubtful of its future share of the market, its stockholders will put the doubt to rest.

We are all aware of the fact that the industry must and is investing heavily in new technology. But as the Senate Finance Committee reports:

> Aside from the fact that foreign producers are also modernizing their facilities, often with assistance from their governments, these investments are greatly increasing the fixed charges of the domestic industry. Unless the output of the U.S. steel industry increases by some 2 to 2½ percent a year, such fixed charges can only mean higher rather than reduced costs per ton of output and, therefore, smaller rather than higher profits. This would result in less funds being available from retained earnings and the capital market for investment in research and modern facilities.

A rise in imports may, therefore, not only result in a displacement of workers but also by encouraging conglomeration may put the workers who remain in the industry in an extremely jeopardized position as far as their ability to collectively bargain.

COLLECTIVE BARGAINING

There is yet another major concern which we have over increased imports. It is the short-term adverse impact which these imports exert upon our membership's expectation of normally continuous employment and our union's right to bargain. When the union's contract approaches the termination date, there is a rush to build up inventories as a hedge against strike action. Despite various attempts to keep the purchasing domestic, many steel consumers increase their foreign or-

ders. After the immediate period of negotiations and/or strike is over, there are layoffs in the steel mills as inventories are worked off. Furthermore, long-range commitments are made by the domestic consumers to foreign producers which result in a long-term loss to domestic steel production.

These commitments are being made because the foreign producer takes the advantage of a good opportunity and demands a long-term contract for shipping steel for a period of 2 to 5 years.

In 1965, after the last inventory buildup, some 65,000 steelworkers were laid off, while steel imports were coming in at the rate of about 1 million tons a month.

We very definitely do not think that our foreign trade policy should be taken advantage of to the detriment of the domestic workers who are exercising their prerogatives under the expressed public policy procedure in labor-management relations; namely, to bargain collectively.

The right to bargain is a cherished one, but it is being eroded by the unfair intrusion of foreign trade. The February 8 issue of the Japan Metal Bulletin mentions that the Japanese Government, concerned about its own balance-of-payment deficits, has "asked steel companies for increased exports and decreased imports"—here, I especially call your attention to the comment—"and with the threatened steel strike in America resulting in increased inquiries, the original export target of 10 million tons is likely to be attained."

And I submit the support of that statement with our statement, Mr. Chairman.

(The information referred to follows:)

DEFICITS RECORDED IN FIRST 9 MONTH STEEL TRADE IN CURRENT FISCAL YEAR

Japanese iron and steel trade in the first nine months of the current fiscal year, viz. from April to December, 1967, registered deficits amounting to $391 m. with direct exports of steel products earning $984 million, and imports draining by $1,375 million.

Tabulated in comparison with the corresponding term of the last fiscal year:

[In millions of dollars]

	Fiscal year 1967[1]	Fiscal year 1966[1]
Exports	984	1,004
Imports:		
Iron ore	552	477
Scrap	252	116
Coal	[2]277	[2]211
Pig iron and finished steel	296	113
Balance	391	88

[1] April to December.
[2] Estimated.

Due to brisk domestic demand, during the 1st half of the current fiscal year, steel companies cut exports in a way or other, their exports barely amounting to $984 million in the first 9 months, compared with the corresponding term of the 1966 fiscal year.

And of imports, enlarged production scale naturally resulted in increased imports of iron ore (+$73 million), scrap (+$137 million) and pig iron (+$66 million-estd.).

And at these grim figures, the Government asked steel companies for increased exports and decreased imports, to the compliance of the latter, and with threatened steel strike in America resulting in increased enquiries, the original export target of 10 million tons is likely to be attained.

And of imports of raw materials, staid domestic demand is expected to exercise braking pressure, with improved foreign exchange pictures hopefully expected. But as a matter of fact, many important-contracts had been concluded prior to the Government's recommendation to decrease imports, and the actual effects on a grand scale cannot be expected.

Mr. ABEL. Gentlemen, we should be allowed to bargain a domestic agreement within the framework of a domestic situation.

Frankly, Mr. Chairman, we are becoming very annoyed by the so-called advocates of the free trade market. The labor movement has never accepted the fact that the unhampered decisions of the marketplace will redound to the benefit of the workingman or the consumer for that matter. It was for that reason that unions were organized to protect workers from the callousness and inhuman operations of the free market where labor was considered a commodity and social justice was a trade barrier. As a matter of fact, the trade union movement was considered to be an illegal conspiracy in restraint of trade. The great social laws of the 1930's denounced the notion that a union was an illegal conspiracy, although it does remain as a restraint of trade in the domestic marketplace when it exercises its obligation to prevent labor from being treated as a commodity.

When, then, in the international trade market must labor again be treated as a commodity and a union's right to negotiate a wage benefit be a restraint of international trade? Well, Mr. Chairman, we reject that notion of a foreign trade policy. Our trade policy is not an end in itself in which its primary objective is merely to increase the free flow of goods. A free flow of goods did not automatically insure the interest of workers and consumers domestically, and it will not do so internationally.

A trade policy, like an economic system, must also provide for the raising of the workers' standard of living. At that point, where the trade balance begins to restrain a union from negotiating wage increases consistent with the growth in the domestic economy, then that trade policy like the economic policy of the 1930's, is treating labor as a commodity. This observation is particularly true when imports, presumed to flow because of a competitive advantage, penetrate a market when there is a particular domestic problem unrelated to the cost competitiveness of the domestic industry. I speak about periods of negotiations and strike action. Recently, we witnessed the unwarranted strike-breaking acceleration of copper imports (and, I might say, they are still coming in despite the fact that copper miners are not being recalled to work) and today, we are deluged by steel imports for inventory buildup, despite the fact that the union and the industry has only recently begun formal negotiations. I mentioned earlier that there is always a search for scapegoats to explain a drop in trade. It seems too many are eager to point a finger at the labor movement and the unit labor cost. Yet, the U.S. Treasury Department in its release of January 1968 on Maintaining the Strength of the Dollar stated that:

In the 1960's, U.S. unit labor costs in manufacturing declined slightly while those of our major European competitors rose significantly. If changes in relative costs were the only determinant of export performances, then we should have noticeably increased our relative share of world markets.

It is this dimension of our trade policy which contravenes our public policy on collective bargaining that this committee should also give serious attention. However, let me reiterate that our problem in the steel industry exists whether we are engaged in negotiations or not. The negotiation period is only an occasion in which the increased levels of imports become more noticeable in that they reach these levels more rapidly. It is certainly erroneous to leave the impression, as some earlier testimony did, that the upsurge in steel imports is a result of strike or the negotiation of this union.

Moreover, it is maintained that one of the reasons for a greater flow of trade is to restrain price increase. But, after reading some of the recent extreme statements by import trade associations, I wonder whether the real objective is to restrain legitimate wage increases. At what level of market penetration will this be a reality in the steel industry? And when it reaches that level, how many workers will be penalized by losing their jobs in order to control the pricing policy of the various corporations?

Until such time as we can have international price competition in which labor is not a commodity and there are international fair labor standards, then I suggest that American workers not bear the full brunt of a national pricing policy.

I submit, therefore, that we are not talking about extremes—a total free trade policy or the protectionism of Smoot-Hawley, as envisioned by the massive retaliation arguments. Our position as a union lies within the framework of an expansionary trade policy—but one which is balanced. Our concern is not over a freer trade relationship. We are committed to that. Nor is it one of being unduly aroused over fairer trade. Certainly, we seek equitable antidumping laws and the reciprocal elimination of nontariff barriers. But for an industry that is primarily domestic, our attention is directed at a more orderly and balanced penetration of our market. Even GATT regulations recognize the chaotic conditions arising from "market disruption."

We are advocating, therefore, that these quota restrictions be enacted and enforced until such time as world overcapacity is moderated. Once there is a more proper relationship between world demand and world capacity, then, injurious competition will be abated. We are not opposed to steel trade—even at competitive prices—but, we are convinced that the competition should arise from lower cost factors and not from the compulsion of excess facilities. Hence, we view the fact of overcapacity as the crucial malady in the world steel trade picture and not necessarily other competitive factors, like wage costs.

I might also mention that the principle of trade adjustment assistance to a limited number of workers displaced by foreign trade is most necessary, but highly unsatisfactory as a solution to massive displacement. I am aware that there are a number of proposals before Congress which would liberalize that section of the Trade Expansion Act dealing with assistance to workers adversely affected by foreign trade. I hope that Congress will react favorably to these proposals. It is my understanding that, as of now, not one single case has been acted upon favorably by the Federal Tariff Commission. However, it is one thing to provide assistance for a small group of workers, who will be adversely affected, in the interest of a broader trade policy, which provides greater demonstrable economic growth for the economy and

more job opportunities for American workers. However, such a relief program cannot be a substitute for a more basic solution to the problems facing the steel industry.

Within the framework of an expansionary trade policy, we must now grapple with the question of a balanced trade development. It is that task which Congress must face, and it is one which this union is completely convinced must be done now—this year, 1968.

Thank you, Mr. Chairman.

Mr. HERLONG. Thank you, Mr. Abel. Are there any other witnesses at the table who have statements? Are there questions? Mr. Burke will question.

Mr. BURKE. I want to commend both of you gentlemen for your statements and I believe you hit the nub of the problem here. Most people opposing some of these bills that are before the Congress are attacking the Congress and charging them with being protectionists, and I was one of those who voted for the trade bill back a few years ago, but I think that you gentlemen have pointed out that you are not asking for a shutdown on imports or a cutdown on imports.

What you are asking for is an orderly marketing procedure on the part of these countries and not have them expect to glut the market with their products to the extent that we destroy our own basic American industries. Is that true?

Mr. PATTON. That is true, Mr. Congressman. As far as the industry is concerned we recognize that there is a share of the American market that should be open to foreign competition. We say that that share has now reached its highest level and that any growth now from there on should be up or down with the requirements of the economy just as the growth of the domestic steel industry is based on that requirement.

We are not asking for any rollback whatsoever, beyond what is in the bill.

Mr. BURKE. Thank you. That is all, Mr. Chairman.

Mr. VANIK. Mr. Chairman.

Mr. HERLONG. Yes, Mr. Vanik.

Mr. VANIK. Mr. Chairman, I would like to ask, within that limitation of import quotas that you seek, whether or not there is a general classification. You don't seek any special identification within that 10-percent limitation?

Mr. PATTON. We think that the historical pattern should be related both to the total tonnage imported and to the type of products imported and to the ports of entry, the areas that have been penetrated. All three factors should be considered in the legislation.

Mr. VANIK. But there would be free competition within that 10 percent.

Mr. PATTON. There certainly would.

Mr. VANIK. In all lines and in all product lines.

Mr. PATTON. There certainly would, Mr. Congressman.

Mr. VANIK. I would like to point out one other thing, Mr. Chairman: that American industry, steel and all the other industries, carry an overwrite expense in taxes in maintaining an army in both Japan and in Germany, a defense structure which is paid for out of the profits of American operations.

This is an over-write expense and industries in those two nations as well as other nations in the free world. Most steel producing coun-

tries do not have the same burden to carry. In a sense, a part of our added costs in this country are reflected in the taxes that we pay to contribute to support defense for these areas of competition.

I have one other question, Mr. Chairman. The build up of imports pending or during a management-labor dispute could have the effect of perhaps of disrupting or even destroying labor-management negotiations in collective bargaining.

In addition—in addition to the establishment of tolerable quotas—would it be helpful to modify this trade bill to provide for the licensing of imports of any kind under circumstances wherein either the management or labor, or both, could appeal to the President that imports during a strike or negotiation are disruptive and taking undue advantage of the labor-management controversy in America?

Now, if either of you gentlemen have a response to that I would like to have it.

Mr. ABEL. Certainly we support that position. We urged that upon Congress, if you recall, a few months ago when we were engaged in the strike in the nonferrous industry, which was prolonged for some eight and a half months primarily because of fantastic imports of foreign copper and the increase of the price of copper from roughly 41 or 42 cents a pound to 65 and 67 cents a pound, and I think the experience encountered by our union in the nonferrous industry of last year and the early part of this year is certainly justification for consideration of this type of action.

Mr. VANIK. So that I take it that you would support this kind of an amendment to the bill.

Mr. ABEL. Very strongly. We have advocated this sort of action, Mr. Congressman.

Mr. VANIK. Is there any comment by you, Mr. Patton?

Mr. PATTON. Mr. Congressman, it is my belief that if the bill which is now pending is passed the situation outlined by you will be automatically taken care of and that such a situation couldn't arise because there would be a historical amount of steel that they could bring in and they couldn't bring in any more, and I wouldn't think that the labor relations would be disrupted.

If you passed the bill now before you I think you will have cured the situation which you outline.

Mr. VANIK. In other words, by the 10 percent limitation you would remove the need for special situations.

Mr. PATTON. Yes, sir.

Mr. VANIK. Where there is a labor-management controversy. I want to thank the gentlemen, Mr. Chairman.

Mr. HERLONG. Thank you. Mr. Betts.

Mr. BETTS. Gentlemen, I am pleased to have you here to give your views on a subject which I think is very important to this committee as far as decision and determination on the bill is concerned. I simply want to ask for a comment in connection with the testimony of a witness, I think last week, in opposition to the import quota concept, and particularly with respect to steel.

I asked him especially what views he had to meet this problem if he didn't go along with the quota concept and he took the position that the steel industry should be subsidized to a certain extent to help this problem and that the adjustment assistance provisions in the proposed

administration trade expansion bill took care of the steel industry so far as that is concerned.

Do you see anything in the adjustment assistance provisions which would help the steel industry in this case?

Mr. PATTON. No, sir; I do not. The steel industry is not asking for subsidies. We are asking for a limitation on imports into the market and not for any help from the U.S. Treasury in that respect.

Mr. BETTS. From the taxpayers, I might add.

Mr. PATTON. I might say that I don't see, even if they wanted to have a subsidy, how it could be any answer to our problem. We are talking here about an entire industry that would involve billions of dollars and that is not the kind of help that they are talking about in any assistance that is in this new bill.

It would take billions of dollars to do the job that is needed by way of assistance, and it is not practical and it is not contemplated at all.

Mr. BETTS. I might say that I think your views coincide with mine, but I certainly wanted to have them for the record because I think my conversation with that witness ended just on the same note that you are striking here, namely, that if we were to try to find some remedy through adjustment assistance it would simply be completely impossible to do it with the tremendous cost involved.

Mr. PATTON. We are talking about an entire industry that has an investment of billions and billions of dollars, and that is what you are talking about and this kind of assistance is not meant to meet that kind of situation. It just doesn't meet the case.

Mr. BETTS. I certainly am glad to have your views. Do you agree with that, Mr. Abel?

Mr. ABEL. We of course support assistance to workers who are displaced or displaced because of unfair competition and we feel there are certain things that can be done both for the industry as well as the workers in giving some assistance.

We certainly don't advocate a subsidized industry. I would point out to you that a lot of our problems stem from situations where we have socialized as well as subsidized industries in other countries, and this, I think, Congress must take into consideration.

If we want to get down to that level of competition, then we can compete, but I don't think this country wants to move in the direction of socializing the steel industry or providing competitive subsidies for the steel industry.

Mr. BETTS. I am certainly grateful to you for those answers, and I appreciate your comments. Thank you, Mr. Chairman.

Mr. HERLONG. Mr. Ullman has a question.

Mr. ULLMAN. You gentlemen are certainly very able spokesmen for your industry. Tell me, in your judgment, if there is something unique about your industry so that it should be considered separately?

If it is unique, and if you can make a convincing argument that it is a separate problem and should therefore be dealt with separately, I would like to know on what basis you base that conviction.

Mr. PATTON. Mr. Congressman, I certainly do believe that the steel industry has a unique case to present because steel, unlike many other products, is a very basic material, basic to the welfare of the whole economy of the Nation, basic to the security of the Nation, and the country just can't get along without a healthy steel industry, not only this country, but any country in the world.

You will find, Mr. Congressman, that every country of any consequence has a steel industry, and it is doing everything in its power to keep that steel industry healthy and growing. It is also doing everything in its power to see that it is not being withered by a lot of imports into the country.

I think the United States is the only Nation in the world that is not doing something to protect its steel industry from imports, because every other nation realizes that steel is essential to the economy of that nation, essential to the security of that nation.

Its future depends upon this basic material, steel, and it is doing everything it can to see that it has a steel industry. The very fact that every nation which is emerging, the first thing it asks for is a steel industry, indicates that that nation thinks that this is an important element.

I repeat, steel is a basic material on which the economy of this Nation and the economy of every nation and on which the security of this Nation depends and it is unique and should receive, if necessary, special treatment apart from some less important products that might be involved.

Mr. ULLMAN. Mr. Abel, did you have a comment?

Mr. ABEL. I concur completely in everything Mr. Patton said. I could only emphasize what he said.

Mr. ULLMAN This wouldn't apply, then, to copper?

Mr. ABEL. No, no. It is a different situation entirely. I might say this, Mr. Congressman: In many cases contrary, because a lot of the foreign copper production is owned and controlled by some of the industry right here in this country. This is not true in the basic steel industry.

Mr. ULLMAN. I presume that very little American capital is involved in foreign steel production.

Mr. PATTON. As of the present moment, that is true.

Mr. ULLMAN. Why do you qualify it? Do you see some change?

Mr. PATTON. I don't mean to qualify it. I merely say that it indicates the impracticability of having a large investment in steel abroad. It has been suggested that maybe American steel industries ought to go abroad and put plants in low-cost wage countries. What happens if we do that?

Then you have a material which is coming into the United States destroying the investment of the steel industry in the United States, destroying the jobs of steelworkers in the United States, and giving another source of supply on which this country is going to depend from a foreign source, and if that source is cut off in a time of emergency, we have no steel available to take care of our own requirements.

We in our own company very seriously look at the possibility of investments in other countries in basic steel facilities, and we have concluded that they are not economic and not practical and not in the best interests of our workers or our stockholders, either one.

Mr. ULLMAN. I am a bit intrigued about the argument of the uniqueness of this industry. We are groping for an answer here, as members of this committee. We are besieged by industries that are being severely hurt by imports, and it is very difficult to establish a rationale that would allow us to proceed independently on a bill dealing with a separate industry.

If you can come up with some more cogent and concise arguments in this regard, I would be very interested in receiving them prior to the time that we take this matter up in executive session, because it certainly is going to be one of the very difficult decisions we are going to have to make, as to whether we can proceed with one industry or whether we are going to be forced, if we do take action in this area, to deal in terms of general legislation covering a multitude of industries.

Mr. PATTON. Mr. Congressman, we would be very happy, and I beg leave of you now for permission to file with you a statement on the very subject which you have just been talking about.

Mr. ULLMAN. Mr. Chairman, I would suggest that we hold the record open for such a statement.

Mr. HERLONG. Without, objection, the record will be held open for that statement of Mr. Patton. Thank you.

(The following information was received by the committee:)

"UNIQUENESS" OF STEEL—RESPONSE TO QUESTION BY CONGRESSMAN ULLMAN

The situation of the steel industry in respect of import legislation can be differentiated from the situations of other industries in the following respects:

1. Steel, as a basic material in machinery, construction, transportation facilities and other essential commodities and services, is vital to the continued functioning of the economy.

2. Our military strength depends on the ready availability of steel products of many kinds as components of both military hardware and the industrial complex which produces and transports military equipment and supplies. The emergency planning of the Executive Departments contemplates that non-contiguous supplies of steel would be cut off in the event of a general, non-nuclear war.

3. The kinds of steel required for both military and civilian uses are constantly changing and can be met only by sustained research and development activities. These, in turn, can be supported only by a growing and profitable domestic industry.

4. The construction of steel producing facilities involves lead-times of up to three years, large amounts of capital and capital goods, and substantial forces of engineering, supervisory and construction workers. All these are in short supply at times of national emergency. Hence, deficiencies in productive capacity resulting from gearing steel plant capital expenditures to static or declining markets cannot be overcome quickly.

5. Imports of steel mill products into the United States are facilitated by the policies of foreign governments which recognize the unique importance of steel to a modern, industrial economy and stimulate the growth and development of their steel industries by encouraging them to export.

6. No other major industrial country (including Western Europe, Japan and the Soviet Union) has net imports of steel mill products much above 5% of its total supply. Ours are now running in the vicinity of 15% and the trend has been steadily upward.

The foregoing points are developed in detail in the paper entitled "Steel and the National Security," which Mr. Patton introduced as an exhibit at the hearings on June 18, 1968.

Mr. HERLONG. Mr. Schneebeli.

Mr. SCHNEEBELI. Mr. Patton, the Office of Emergency Planning has been established to look out for the welfare of those industries whose future survival is considered to be in the interest of national security. I understand at the present time that only one basic industry is qualified for the quota system that has been established by the OEP.

In the light of your testimony and your discussion of the national security aspects, has the steel industry made any exploratory approach

to OEP as to whether they could qualify for the quota system established by OEP?

Mr. PATTON. I am sure that the steel industry has had conversations with OEP on this subject.

Mr. SCHNEEBELI. This is the agency of the Government, as you are aware, which determines whether an industry qualifies for national security concern and quota treatment. You say most all of the other nations import less than 5 percent of their steel requirements and we are up in the 12 to 15 percent area.

Now, has the steel industry made any approach to OEP to qualify?

Mr. PATTON. We have had conversations with OEP and, you know, it takes a Presidential order, as I understand it, to get this kind of a clearance and no such order has been issued as I understand it.

Mr. SCHNEEBELI. Has any request been made for an approach along this line?

Mr. PATTON. I don't know that it has been made formally, sir, but I know we have had conversations with the agency and I know they are fully familiar with the situation.

Mr. SCHNEEBELI. I am impressed with your argument as a security measure. I think it is very valid.

Mr. PATTON. It is very valid. We honestly and sincerely say that we have to get relief from the Congress, sir, and not from the agencies. We have not been very successful in getting relief from the agencies.

Mr. SCHNEEBELI. But the establishment of quotas is already legislatively possible by qualification through OEP. I was wondering whether this course had been taken or even approached by your industry.

Mr. PATTON. As I said, I know that we have had conversations with that source but we have gotten no results or no indication that we would get such a——

Mr. SCHNEEBELI. There hasn't been any formal approach.

Mr. PATTON. No; but they are fully familiar with it.

Mr. SCHNEEBELI. Could you tell me whether any of the leading trading nations with whom we do business have quotas established such as the bills that have been introduced in this Congress?

Have any of the leading nations established quotas on basic commodities such as steel?

Mr. PATTON. Not on steel that I know of. They have on other commodities.

Mr. SCHNEEBELI. But has this approach been used extensively by any other countries?

Mr. PATTON. Approaches that are much more drastic than this have been used in other countries.

Mr. SCHNEEBELI. Would you supply for the record the knowledge of what you and your industry have along that line of artificial barriers.

Mr. PATTON. Yes. Some other countries have completely prevented the importation of steel. In others, as I said, you have to get a license to get any steel into the country. In other cases they make it very difficult in many ways to get in, not by quotas, but by other avenues that are more severe by far than the quota bill that we are asking Congress to enact here.

(The following information was received by the committee:)

STEEL IMPORT CONTROLS OF OTHER COUNTRIES—RESPONSE TO QUESTION BY CONGRESSMAN SCHNEEBELI

Restrictions placed by other countries on steel imports are varied and many are not codified. A general discussion of barriers to trade appears as Appendix 1 to "The Steel Import Problem", which was introduced as an exhibit at the hearings on June 18, 1968. Additional information is found in Chapter III and Appendix C of "Steel Imports", a study by the Staff of the Senate Committee on Finance, which was also introduced as an exhibit on that occasion.

The variety of restrictions is remarkable and their identification is difficult because of the informal character of many. Officially, the Japanese have no restrictions other than tariffs on most steel imports. Yet, because of subtle, non-tariff barriers, even the most resourceful exporters are unable to sell steel in Japan at any price except to fill gaps in the domestic supply. One reason may be that about three-quarters of the steel sold in Japan is distributed through trading companies with which the steel producers are affiliated. The balance is sold to users in which the steel companies have some degree of financial interest. Thus, there is no open market for steel in Japan which compares with ours. Trading companies are associated with stevedoring concerns, warehouses and domestic transportation companies. Thus, they can influence physical access to such Japanese markets as might otherwise be open to foreign steel, small as it is.

Within the European Common Market, member nations are supposed to trade freely in steel, and, in fact, did so until the recent announcement by the French government of its intention to impose quotas on steel imports. Officially, only tariffs and border taxes restrict access to the market by non-members. Yet imports of steel from countries outside the Common Market account for only about 5% of total supply. Domestic preference buying for government use is one factor restricting imports and, because government enterprises bulk larger in the economies of the Common Market nations than they do here, this factor is of substantial importance. But more subtle forces are clearly at work when the Japanese producers, who have lower production costs than the Europeans, are able to sell only a tiny fraction of their total exports in the European market.

Ambassador Roth and others engaged in trade negotiations have noted repeatedly that identification of non-tariff barriers to trade is extremely difficult. The foregoing examples indicate not only why that is so but also why they are so difficult to eliminate.

Mr. SCHNEEBELI. Mr. Patton and Mr. Abel, the two largest steel companies of Japan which are now the fourth or fifth largest steel companies in the world have made application to the Federal Government of Japan for a merger. It is apparently part of their law that such application has to be made and approved.

At the time that the application was made it was felt that the approval would be given by the Japanese Government. If the merger were effected it would make this company the second largest steel company in the world, ahead of Bethlehem Steel.

The reason given by the press for the proposed merger was to meet international competitive situations. I have several questions along this line.

Do you know whether this merger has been approved?

Mr. PATTON. I don't know that it has been approved but I know that it is pending and approval is expected certainly

Mr. SCHNEEBELI. It was expected when it was applied for originally in April.

Mr. PATTON. Yes; I am sure that the companies involved expect the merger to be approved.

Mr. SCHNEEBELI. The same week this merger request was made I happened to be in Tokyo with 7 of my colleagues and we had a meet-

ing with 17 members of the Japanese Diet. One of the problems discussed was the matter of tariffs and trade. I reminded the Japanese that it would be much better for our future relationships if they imposed their own voluntary export quotas as far as steel was concerned in their exports to us, like they had done previously in textiles and other products.

I impressed upon them that this approach—their self-imposed quotas—would be much better than if the Congress of the United States adopted a more drastic approach which a lot of these recently introduced bills indicated might happen.

When I proposed this to my counterparts in the Japanese Diet, the reaction was, "We hope in the next 5 years we can get around to doing something about this."

Would your comment be about as explosive as mine was to the bland reply by the Japanese representatives?

Mr. PATTON. And in the next 5——

Mr. SCHNEEBELI. Would your comment be about as explosive as mine was?

Mr. PATTON. In the next 5 years, the American steel industry will be very bad off.

Mr. SCHNEEBELI. Their attitude seemed to be, "You are nice fellows and you will not do this to us."

I thought you would concur with my conclusion.

Mr. HERLONG. Mr. Broyhill?

Mr. BROYHILL. I saw this morning in the Washington Post, in an article which appeared on the comic page, I don't place any date in the article, but the article said the steel industry was looking for relief from Congress because of ineptitude over a period of years.

It said the foreign steel companies had done a much better job in research, and that you had not put aside a portion of your profits for research.

Did you see the article?

Mr. PATTON. No; but I have heard this charge made, and we have filed as part of our presentation, reports by two authorities on this charge, and this charge has no basis in fact. The American steel industry has modernized just as fast as circumstances would permit and as finances would permit. The American steel industry today is the most efficient steel industry in the world.

When you stop to consider that in America, it takes twelve and a half man hours to produce a ton of steel, and in Japan, which is looked upon as a very modern steel producing country, it takes over 17 man hours, you must realize we are efficient or we couldn't be producing on that kind of a basis.

Mr. BROYHILL. I appreciate your answer, and I am mighty glad to hear it, but I think the article I referred to is the greatest boost you could have had, because the person who wrote the column is so irresponsible that whenever he says anything, I look for the opposite. [Laughter.]

Mr. PATTON. If you read the material that we file with this committee, you will find that the American steel industry throughout the years has been progressive and alert to the new techniques coming in and has spent billions and billions of dollars to install new equipment and the best and most modern techniques in the world, and we are

more efficient in every respect today, I think, than any steel industry in the world.

Mr. BROYHILL. I have a great deal of faith, confidence and respect for American industry, and people like the person I am referring to are trying to knock it and run it down.

Mr. HERLONG. May I say to the gentleman that this same article told us that the cause for the depression in the 1930's was Smoot-Hawley. I am interested to learn that. I was a young man at that time, but I didn't know that was the sole cause of the depression.

Mr. Vanik?

Mr. VANIK. Subsidies are enjoyed by our foreign steel competition. Do you have any information concerning subsidies that the steel industries have, either Japan or Western Europe?

Mr. PATTON. Yes, Mr. Congressman. They take various forms. As you realize, some steel industries of some nations are wholly owned by the Government. You take England, that owns the steel industry completely.

In Italy, the majority of the ownership in every steel company is owned by the Government. In France, the Government is giving aid in the way of loans to industry at very low rates, and is rebating taxes on material that is exported.

The same is true in Germany, and the same is true in Japan, as I understand it.

Mr. VANIK. Is the expansion of the Japanese steel industry something that comes about through financial support made available through the Government in some way?

Mr. PATTON. Well, certainly in the early days, the number of these steel industries were made possible by money made available through the U.S. Government through the Marshall plan. It was a good thing. It probably saved these countries from going Communistic, and it was a good thing.

I can't say today that the Japanese Government is directly putting money into the Japanese steel industry, but we are certain that it is encouraging financial institutions in that country to make available to the Japanese industry—make money available to them.

Mr. VANIK. Do any of the countries involved in steel marketing today have import controls which limit our export of steel to them.

Could we, for example, sell steel to Japan, forgetting the issue of competition? Could we get it into Japan on any basis?

Mr. PATTON. Japan will say you can, but the history of the situation is that the imports of steel into Japan are very, very small, and it is difficult to sell steel in Japan that is not made in Japan.

Mr. VANIK. Do they operate with quotas, or licenses or restrictions against our product?

Mr. PATTON. They don't operate on a quota system or a license system, but they have their own informal ways of keeping steel out of their domestic market that is made abroad.

Mr. HERLONG. Mr. Battin?

Mr. BATTIN. Yesterday, Professor Richard Thorn, Professor of Economics at the University of Pittsburgh testified. He stated, and I will preface this so you will get the import of it—he talked about steel productivity, wages, prices, and output, and he submitted to us a chart showing that the steel industry in a period of 1957 to 1966—

this is on a percentage per annum—that the output per man hour in the steel industry was 2.8, and comparing it with all other manufacturing, was 3.6. All other manufacturing was 3.6.

The compensation per man hour was 3.4 as compared to 3.8.

Unit labor cost was 0.6 compared with 0.2. Prices were comparable, 0.7 to 0.7, and the output in steel was 3.4 versus 5.0 compared with all manufacturing.

Then he went on to give us his idea of what the solution was to the steel problem.

I would like to ask questions concerning the three points.

One, increased expenditures of research and development on new products in order to step up the rate of cost reducing innovations. The steel industry spent only .60 cents for every $100 of sales in research and development, compared with $1.90 for all other manufacturing.

Only the textile and wood products industries spent less on research and development.

Mr. PATTON. I will be glad to comment on that. If you will compare steel with any steel industry elsewhere in the world, you will find that we are far, far greater in research expenditures than any other steel industry in other places in the world. That is number one.

Number two, if you compare the research expenditures of the steel industry in the United States with the basic metals companies, I think you will find that we compare very favorably.

True enough, our research budget does not compare with that of a drug company, for instance, or some sophisticated industry of that kind.

But we are spending millions of dollars on research, and we are spending millions more than any other steel industry in the world, and the fact that we have made these discoveries in this country that other companies all over the world are desirous of licensing, indicates that we are well ahead in research in the world steel industry.

Mr. BATTIN. As a matter of fact, many of the competitive countries who have, since World War II, actually gotten back into the steel producing business, aren't they using United States licenses in the manufacture of their steel?

Mr. PATTON. Yes; they are. You will recall that it was the policy of this Government at the end of World War II to ask the American steel industry to give their know-how and knowledge and ability to produce steel and make available to these foreign countries the equipment we had available in this country to make steel, so that the basis for the world steel industry today is American know-how and American equipment.

Mr. BATTIN. That generosity is coming back to haunt us now; isn't it.

Another point you made, which I thought was rather unique, is that to maintain the present high level of investment over the next decade, this requires greater use of outside financing. The steel industry itself financed 85 percent of its investment expenditures—almost 100 percent of working capital is included—compared to the 61-percent figure for all other manufacturing companies.

In other words, the professor is suggesting, as I understand it, that, rather than use your own capital in financing expansion that you go into the market and borrow this money from whatever sources that might be available, as some of the other industries have done.

I am just curious whether that wouldn't increase the cost of the product that is now not competitive in world trade because of price.

Mr. PATTON. It would very well increase the cost of products, because by pouring back into our new equipment our retained earnings, we are keeping the amount of interest that we have to pay and the amount of money that we have to pay back to people who would loan us the money, at a lower level, so that should tend to keep down our costs and not increase our costs.

Mr. BATTIN. I would think the suggestion here would have two effects, and that is, No. 1, it would increase your cost, and the fact that the steel industry might go into the money market would also have a tendency to create more competition for the available dollars.

Mr. PATTON. It would do that, and when you stop to consider that the steel industry is not the favorable industry of the financial community because in a study that was made by the National City Bank of the earning ability of industries, steel stood 39th out of 41 industries surveyed.

We made on our net worth 7.4 percent, whereas the average for all industry was about 12½ percent. So that steel is one of the lowest earning industries in the country, and it is not as easy for it to borrow at favorable rates or to sell securities at good prices as it is for other industries.

One of the things we wish to do is to get steel to a situation where it will be looked on by the investor as a good industry in which to put his money. Today, it is not.

Mr. BATTIN. There is a third one I don't understand very well, that there should be an introduction of an aggressive and flexible price policy designed to expand the steel market position both at home and abroad.

Our domestic steel prices have risen 51 percent since 1952, compared with 19 percent in Germany, and a 30-percent decline for Japan.

In the long run, greater price stability depends on cost-reducing measures. And he goes on to talk about the competitive position of the industry.

What has happened in Japan is that there has been a decline in steel prices. Is that because of Government subsidy, or because of some other reasons?

Mr. PATTON. Japan had no steel industry in 1945, and as its volume grew, its costs came down, and it has all new equipment, and they get good productivity out of the workers, so the cost has come down.

The American steel industry, if you will look back to, say, 1958, you will find that there has been very moderate increases in the price of steel since 1958.

As a matter of fact, the index indicating the steel increase since that period is lower than the general wholesale index or the retail index, and the price of steel in recent years hasn't gone up very much at all.

When you add to that the fact that the steel we are selling year by year is of a very superior quality, each year better than the year before, our customer is getting a better product at the same price—in effect, he is getting a lower price, because he is getting a better steel.

Mr. BATTIN. I was interested in both your statement and Mr. Abel's concerning the need to have a healthy steel industry in terms of the national security.

It would seem that because of this peculiar situation, it is going to be necessary through one avenue or another to make sure that the steel industry stays as healthy as possible, to meet not only the domestic expansion needs, but also to remain in this necessary position of having an industry ready to react as far as our own national security is concerned.

I think this becomes a very vital question on what this committee and this Congress does, because I don't think there is anybody that doesn't agree that it is necessary to have a strong steel industry, including our trading partners.

I have never heard the argument made by either Germany or Japan that they would like to see our industry here suffer as a result of the exports they are sending out and the imports we are getting.

Have you ever had discussions?

Mr. PATTON. I think everybody recognizes that there comes a point when imports are a danger, and everybody recognizes that steel is basic to our economy and to our national security.

The problem arises as to, first, when that point of danger arrives, and we say it has already arrived, and, second, what is the remedy to handle this situation, and we say, Mr. Congressman, that the remedy as set forth in the bills which have been introduced to put in flexible quotas based on recent historical imports of steel, and confining the growth in the future to the growth of our own steel requirements in this country.

I think that everybody recognizes the problem and where is the danger point and what do you do about it? We say it has been reached and this is the way to cure it by quota.

Mr. BATTIN. I wish to thank you and Mr. Abel for what I consider two good statements.

Mr. ABEL. Mr. Chairman I would like to add further with respect to what Mr. Patton said on the kind of job our industry is doing by calling your attention again to a statement in our statements, which, briefly, is this:

That in 1952, steel production was 93 million tons. We had 545,000 steelworkers in the industry. But in 1967, the number of workers had dropped to 424,000, for a reduction of 121,000 workers, while production has increased by 34 million tons, roughly one-third increase in productivity.

So certainly the industry hasn't been standing still. It is this sort of thing that disturbs us, especially when we have this tremendous growth of imported steel, and while the witness yesterday, Mr. Thorn, may register some views in this regard the facts pretty well speak for themselves in this that the industry is modernizing at an expenditure rate of better than $2 billion a year which is sizeable even in our economy.

I would remind you too that Mr. Thorn did start out his testimony yesterday by stating that he, too, felt that there should be some curbs on the importation of steel in this country.

Mr. BATTIN. One question. There is a position you took in your testimony that I would like to explore a little more, and it has to do with adjustment assistance.

As I understand, as I remember the case, when the Trade Expansion Act of 1962 was passed, and this adjustment assistance section was in

the bill, it was contemplated that only small industry might be affected. We saw this come about with the passage of the United States-Canadian Automotive Agreement, where it was contemplated that perhaps a small subcontractor or supplier of a part for a car, rather than the manufacturer of the automobile, would be displaced, and that as a result he should get this adjustment assistance to either try to retrain him or give him the ability to take the time and furnish the money to get back into a competitive job.

If we look at adjustment assistance in looking at the steel industry we are going to face a big dollar problem.

Another witness we had yesterday from MIT suggested that the United States, if it could not compete in steel, we ought to then get out of steel production and put our resources into something else, and he qualified this, of course, with the national security problem, but he said he did not represent the economists generally in the country.

But what are you going to do? This becomes a real problem. We don't have enough money to take care of the people that would be displaced—and I am not talking about the workers in the industry alone—we are talking about the industry itself.

Would the people in this country accept eliminating and then paying for the elimination for all of the people engaged in the steel industry as far as the workers are concerned, and then buying out, if you will, the investment that the companies have in the steel mills and their properties?

It is a very frightening thing to me. I don't believe that the adjustment assistance system would be able to even come close to taking care of the needs of the people who could be hurt in the steel industry.

Mr. ABEL. That is true. You can't take care of all the needs. Certainly there are areas in which Government can be helpful in this transitionary period, and this is the concern that we have.

Certainly I point out to you again that even with this provision that nobody has ever received any benefit, and it is because it has been too restricted in its application.

Certainly it is not so urgent at the present moment, our economy is in good shape, but there are periods when this sort of assistance not only is helpful, but very much needed, and I think we had a good experience a few years ago when Studebaker went out of business in Indiana.

Certainly the community as well as the workers had a great need, and the Government had a real and responsible bit to play in a situation like that, in our opinion.

Mr. HERLONG. Mr. Curtis?

Mr. CURTIS. Mr. Chairman, I know Mr. Patton was testifying essentially on the steel and iron ore quota bill, but does your organization have a position of the administration bill?

Mr. PATTON. No; we do not, sir. We do not believe that the administration bill would solve the problem of import quotas.

Mr. CURTIS. I understand that, but would you be opposed to the administration bill? It doesn't solve your problem, but would you support the administration bill as it is?

Mr. PATTON. There are many parts of the administration bill which we do not think are good, but I want to say that I am only speaking for myself. I could not commit the organization one way or another on the administration bill.

Mr. CURTIS. Is your organization going to testify on the administration bill?

Mr. PATTON. I cannot answer that at this moment.

Mr. CURTIS. Mr. Abel, would you comment on that?

Mr. ABEL. Frankly, Mr. Congressman, we support the position of the AFL–CIO on that measure, and Andy Biemiller has testified on certain provisions of it and objecting to certain other provisions.

Mr. CURTIS. I see. Your testimony here has been confined to this position you have talked about.

Mr. ABEL. That is right.

Mr. CURTIS. To get all this in context, what position does your industry take, Mr. Patton, in respect to the Kennedy round? Has that in any way aggravated the problem of the steel industry, or do you feel you are largely unaffected?

I don't think too much went on there in steel products, but I would like to get whatever position the steel industry has with respect to the impact of the Kennedy round.

Mr. PATTON. My our position with respect to the Kennedy round is that it had not too much impact on our problems. Our problems were far and beyond the Kennedy round.

The slight reduction in steel imports which were involved in the Kennedy round didn't change the problems of the steel industry in any material respect.

They were there before and they are more there, in an emphatic way, than they were before.

Mr. CURTIS. In other words, your problem with the Kennedy round was not what it did, but what it didn't do that might have helped?

Mr. PATTON. I think that would be a fair observation.

Mr. CURTIS. The same question to you, Mr. Abel: Has your union taken a position on evaluating the Kennedy round?

Mr. ABEL. We supported the Kennedy round action, but our position has been and still is pretty much as Mr. Patton has said, on the basis that our industry is primarily a domestic industry and not too much concerned with the export market, and so the Kennedy round and the tariff arrangement doesn't have too much impact.

Mr. CURTIS. Mr. Patton, I am anxious to pursue, not necessarily here, but perhaps by memorandum, the line of questioning earlier on the use of the national security machinery, OEP. I don't know anyone who disagrees with your point that a viable and vital steel industry is essential to the security of this nation, or any nation.

But I would appreciate a memorandum—perhaps that would be the best way—as to what the industry has done through the OEP, including whether or not you feel that the machinery there is inadequate to meet the national security aspect of the steel problem.

Mr. PATTON. We will be glad to file such a memorandum with you, Mr. Curtis. We are convinced, however, that any relief through administrative agencies is not realistic.

(The following information was received by the committee:)

DISCUSSIONS OF STEEL IMPORTS WITH OEP—RESPONSE TO QUESTIONS BY CONGRESSMAN CURTIS

As Mr. Patton indicated in his testimony on June 18, 1968, representatives of the steel industry have discussed the national security aspect of steel imports with members of the staff of the Office of Emergency Planning.

The steel industry has not, however, made a formal application to the OEP for a finding, under Section 232 of the Trade Expansion Act, that steel imports threaten to impair the national security. There have been several reasons for this:

1. The OEP is not an independent, fact-finding agency but is an arm of the President's Executive Office. It has appeared to the steel industry that, absent a prior decision to act by the Administration as a whole, an application to OEP is unlikely to be successful. This view is reinforced by the fact that the only findings by the OEP of national security impairment have related to petroleum and, in those cases, the initiative came not from applications filed by the industry but from the President himself.

2. The powers of the OEP are limited under Section 232 to a finding that national security is endangered and a recommendation that the President take appropriate action. The President makes the final determination and decides what, if any, measures are necessary to alleviate the threat to national security.

3. Cases dealt with by the OEP indicate that its investigative procedures are time-consuming. The steel industry believes that the import problem requires prompt action and that this could not be expected from OEP.

Rather than apply to the OEP for relief, the industry has chosen to appeal to the Executive and Legislative Branches as such. Representatives of the industry have engaged in numerous presentations of the steel import problem not only to the Congress, but also to officials in the Commerce, State and Treasury Departments, the Council of Economic Advisers and the Office of the Special Trade Representative.

Mr. CURTIS. But OEP does provide for the quota approach, and it is tied to a procedure that is established. OEP uses the very argument you were using here, where it establishes the fact that our industry is being affected deleteriously, which would impair our national defense.

That is why I would like you to comment on not just what you have done through OEP, but if you feel whether the Congress wrote the OEP laws adequately. Maybe there is something we need to do further. I am worried about this business of writing new laws without first examining carefully whether administration of the present laws might not solve the problem.

Some of it could be maladministration. Some of it could be that the laws themselves are inadequate and therefore that other laws are needed.

Now, your proposed legislation on quotas, would not be tied to national security guidelines, would it?

Mr. PATTON. Not at all, no.

Mr. CURTIS. Not at all?

Mr. PATTON. It would not be tied to national security as such. It would be a straight out quota bill, but it would have an impact on having steel available when national security requires it.

Mr. CURTIS. There is no question then that this would render unnecessary, I guess, any proceeding through OEP.

Mr. PATTON. Yes. I must speak perfectly frank, Mr. Curtis, in saying that our experience in seeking relief through administrative agencies or existing avenues has been very, very dismal. We haven't been successful at all, and we don't see that we will be in the future.

We must get relief from Congress.

Mr. CURTIS. Let me warn you that Congress is not the executive branch of the Government. All Congress can do is legislate. Whatever we legislate is going to have to be carried out by the executive branch of the Government.

Even, for example, if we were to pass a quota bill, the Executive is the one that is going to have to implement it. And the Executive will make the decisions. Possibly we might have judicial review, and hopefully Congress would exercise oversight, but I don't think that you should count on the Congress getting into the Executive function.

Whatever we do will be to write another law. If the OEP is not being administered properly, as you think or the laws we wrote for relief through the Tariff Commission are not administered well—do you see what I am driving at?

Mr. PATTON. I do, Mr. Congressman, but I come back to the position that the bill which is pending before you, in it you have the guideposts set up specifically so that the administrative end of the Government must follow these specific posts, and they are too nebulous in many other existing things, and they make their own determination of what is right and wrong.

Mr. CURTIS. I wish I had the faith you have. [Laughter.] I have been in this business of trying to write guideposts in legislation only to see the Executive interpret them differently, or not even recognize that there were guideposts.

But let me ask this: You do approach this, if I understood your testimony, as a temporary relief? Am I correct?

Mr. PATTON. Yes.

Mr. CURTIS. This is not what you are advocating for permanent methods of handling international trade in this area.

Mr. PATTON. We think the time has come when this Government should take a complete new look at its foreign trade policy. We don't think it is going to be able to do that in a very short time.

Until that is done, until circumstances in the world change, we think that we ought to be protected in the interim, beginning now, and you take a look again at the end of 5 years and see where we are.

Mr. CURTIS. These temporary things worry me, because they have a tendency to be permanent.

Do you have in your proposed legislation guideposts for termination of the quota in, say, 5 years?

Mr. PATTON. It would be up to the Secretary of Commerce to make a recommendation to the Congress as to whether the law should be repealed or whether it should be carried forward.

Mr. CURTIS. In referring to the guideposts, I know you said that the overproduction of steel, or, I guess a better way to put it is that when world demand for steel equals world production, is that the point that you would then suggest that this temporary measure be eliminated?

Mr. PATTON. Not necessarily. I think that when the time—I think the time would be that when the trading circumstances, the trading practices that exist in world markets are such that they are fair and equitable to all countries involved, including the United States, when the tax elements are equal, when the labor elements are equal, when other elements are equal, then we would all have a fair shake at the thing, I think that is probably the time.

Mr. CURTIS. Very good, because that is what I wanted to get to.

Your main point in your discussion in regard to these unfair trade practices, and I certainly would regard them as such, and there are a whole variety, including subsidies, and others—as I understand your

argument, it takes time to get at those things, and this quota would be in effect until we really got at those problems. Is that correct?

Mr. PATTON. That is one of the purposes of the bill. There are so many complications involved in world trade, including some of the things you have just mentioned, that it is going to take time to get this whole new posture of world trade properly set up as far as the United States is concerned, and in the interim we ought to have this protection.

Mr. CURTIS. This makes a big difference as to whether we encourage these foreign nations to eliminate those practices, rather than for us, in turn, to emulate them. I wanted to be sure that we were in agreement on the thrust of what we should be doing in the ensuing years.

Should we be trying to encourage these other nations to stop subsidizing——

Mr. PATTON. Yes, sir.

Mr. CURTIS. Or try to drop what we might consider our own unfair trade practices.

Mr. PATTON. I would hope ultimately we would have a situation evolve in world trade where we could say that we were all playing in the same ball park.

In the interim, however, we don't want the American steel industry to go down the drain. We want protection now.

Mr. CURTIS. I won't prolong this further. I thought that was your position, and I might state here that I certainly will listen to such a proposition, because as long as I see in which direction our thrust is, then I am a little bit wiser.

You give us the picture as far as actual steel production, but not that which concerns all aspects of steel.

For instance, we export a great deal of structural steel as well as heavy machinery and automobiles that are made from steel, and I do think it is important to have a complete picture before this committee.

Mr. PATTON. Mr. Abel has that picture. He presented it in his statement.

Mr. CURTIS. Is that item in here, Mr. Abel?

Mr. ABEL. Yes, sir. It shows roughly an adverse balance of about $500 million a year on steel products, equipment made of steel. That is contrary to the general belief.

Mr. CURTIS. Yes, it is contrary to what I had thought was the picture as far as steel products are concerned.

Mr. ABEL. As a matter of fact, what I say in the statement is simply this, that we have been a deficit nation in the value of direct steel trade since 1962. The current deficit amounts to about $900 million, but more than that, we are still a deficit Nation when we take into consideration indirect steel trade, that is, trade in which steel is used in manufactured products.

In 1966, our total steel trade balance was in a deficit position by almost $500 million.

Mr. CURTIS. What I need to do, then, is to supply to you the figures I have seen on this in order to have them reconciled with your figures, and I will do that through correspondence, and we can look at that.

Mr. PATTON. Thank you, sir. We will be glad to get them.

(The following material was received by the committee:)

MEMORANDUM FROM REPRESENTATIVE THOMAS B. CURTIS, OF MISSOURI, TO THE AMERICAN IRON AND STEEL INSTITUTE

The table cited by Mr. Abel in his testimony to the Committee was drawn from the Senate Finance Committee's *Steel Import Study*, page 69, table 31. Table 31 attempts to more accurately measure total steel export-import trade by *including the value of steel exported and imported in the form of end-use items.* The total trade balance presented by this table, which was compiled by the American Iron and Steel Institute, shows a deficit of $496 million in total direct and indirect steel trade.

But I wondered if this table should be qualified by factors explained in the *Steel Import Study* itself. For example, in addition to inserting with his testimony table 31, Mr. Abel might have for completeness included reference to the chart shown on the following page of the Senate Finance Study which follows as Appendix 1. This chart, Chart 32 on page 70, reveals a $6 billion surplus (in 1966) in trade of end-use items containing steel. Thus, if the adverse balance of trade in direct steel products alone of $1 billion (this figure includes an additional 10% added to the value of imports to represent cost, insurance, and freight and subtracts from exports the amount of AID-financed steel shipments) was combined with the $6 billion favorable balance resulting from trade in products containing steel, the result is a favorable balance of trade in 1966 for steel and products made from steel of $5 billion.

I wonder also if the value of the direct steel imports might not have been overvalued by 10% to represent the c.i.f. costs (the standard measurement of value of U.S. imports is the "export value", which does not include these costs), and if by eliminating AID-financed exports the Table presented by Mr. Abel might be incomplete.

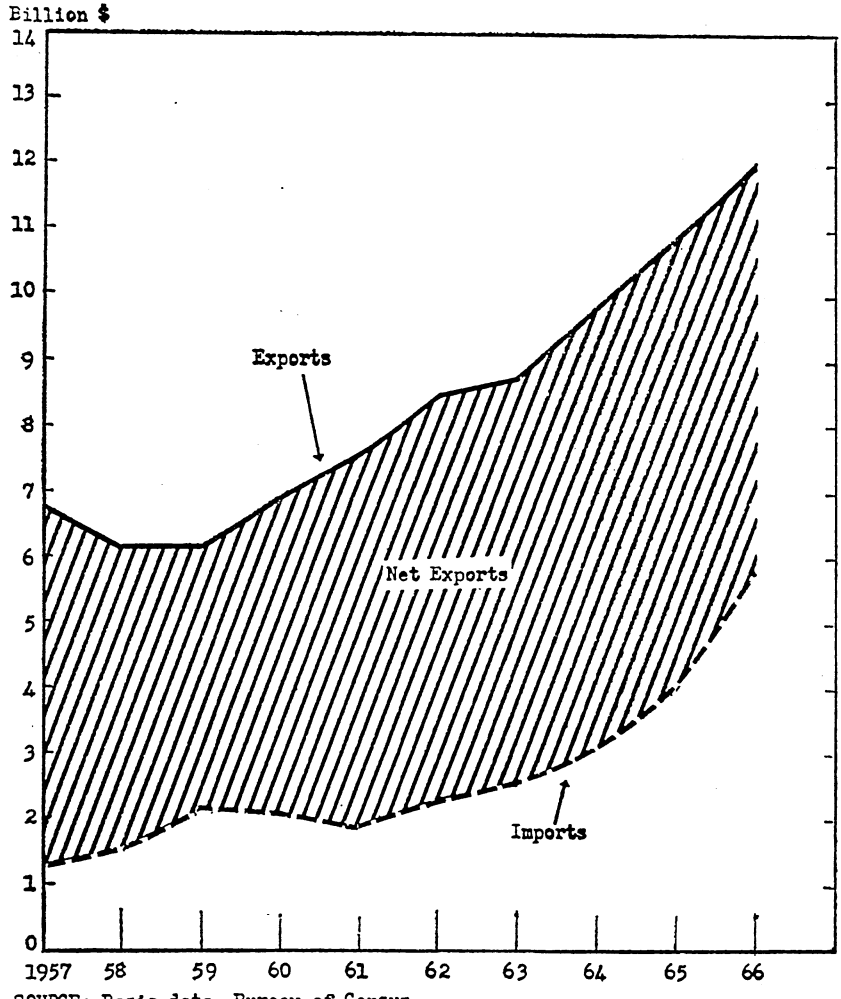
The Senate Finance Committee Report itself qualified the information in the Table presented by Mr. Abel, noting the difficulty of estimating the steel content of end products made of steel. According to the *Steel Import Study*, page 68, "the data on foreign trade are not well adapted to the job of estimating steel content; there are vast categories of machinery and equipment items represented only by value data and with no corresponding unit figures. Even if unit data were available, the average steel content is unknown without a bill of material for each type of machinery." Furthermore, shipping weights of such manufactured items are not necessarily representative of steel content. An automobile contains hundreds of pounds of other materials.

Finally I feel it is very difficult to measure the *value* of the steel contained in these exports. For example, one large exporter informs me that they pay considerably more than the average steel price used in the estimates presented in Mr. Abel's Table. This is because their machinery exports contain many forgings and castings, special alloys and heat treated steel, as well as special sections, nonstandard specifications, and special sizes. Thus the value assigned to the steel in Mr. Abel's table would seem to be too low at least for one major type of steel exporting industry.

I wonder if it is not also appropriate to give special consideration here to the fact that end-use items made from steel—such as machinery, transport equipment, and many kinds of fabricated metal products—which make up the backbone of our exports of manufactured goods, contain a great deal of additional American labor in high wage industries. Some of these workers in fact are members of the United States Steel Workers of America.

Finally, I wonder if the Table presented by Mr. Abel doesn't have problems in its attempt to calculate a balance of trade simply for the steel contained in end-use products. This is because no business is transacted in the *steel* contained in end-use items. Obviously, it is the end-use items themselves which flow in world trade. In selling these items, too, much more is sold than the steel contained in them. Perhaps more importantly, United States exporters of steel-containing end-use items sell value added by labor—high skill, high wage labor—engineering, research and development and very high amounts of human capital in the form of management and marketing skills.

Value of U. S. Foreign Trade in End-Use Items Containing Steel, 1957-1966



SOURCE: Basic data, Bureau of Census
U.S. Department of Commerce, Office of Business Economics

CHART 32

REPLY FROM AMERICAN IRON AND STEEL INSTITUTE—INDIRECT IMPORTS AND EXPORTS: QUESTIONS BY REPRESENTATIVE CURTIS

1. *Question:* Why is the value of imports adjusted from an f.o.b. to a c.i.f. basis on the indirect import and export table published by Dr. Weidenhammer's report, page 69? Why is the adjustment 10 percent? (Footnote 1)

Answer: The reason for making an adjustment to the import value from f.o.b. (foreign port) to c.i.f. (port of entry) is to reflect more completely the total cost of U.S. imports to the economy. The dollar value shown in the U.S. import statistics is generally the market value in the foreign country and therefore excludes U.S. freight charges from the foreign country to the U.S., insurance, and other incidental costs. It is necessary to adjust the landed value of imports upward by some percentage to cover the charges from foreign port to U.S. domestic port. It was felt that the 10 percent adjustment would be appropriate, although the number is an approximation but in accordance with the Tariff Commission studies. The U.S. export statistics report all values f.o.b. seaport or border point, and all values are based on the selling price and include inland freight, insurance, and other charges to the port of exportation. Thus a more realistic comparison can be made by comparing the adjusted import value with the actual export value.

2. *Question:* Why are steel product exports shown less AID-fianced exports? (Weidenhammer Report, Page 69, Footnote 3.)

Answer: AID-financed exports were excluded since they do not represent any inflow of foreign exchange. In effect, they are no different than if the commodity itself were given, rather than the funds with which to purchase the commodity. In the second instance, however, it would be obvious that no foreign exchange was generated and the question of inclusion or exclusion of AID-financed purchases would never arise.

3. *Question:* Why was $150 per ton used as the average price in estimating the value of steel contained in indirect exports?

Answer: The range of sales realization per ton for carbon steel during the 1957–1966 period ranged from $148.76 to $159.64; the selected value falls within this range. Carbon grades represented from 90.2 percent to 93.8 percent of all steel shipments during the period. Obviously the bulk of all steel contained in indirect exports was of this grade.

Admittedly, an all grades value could also have been used. Had this been done, the range would have been from $165.36 to $180.30 or from 11 to 13 percent higher. Whether these values would have been more realistic is, of course, unkonwn. Nevertheless, a new Table 31 is attached which uses the values for all grades to illustrate the effect on this basis. (This new Table 31 also incorporates the value of AID shipments in exports and deducts the 10 percent adjustment to imports.)

A contrary argument, however, can be made for the value of steel contained in indirect imports. It has often been stated that steel imports to the U.S. are sold at less than country of origin domestic prices. If this is true, then certainly a higher value than the average value per net ton of imported steel mill products should have been used. If the value of steel contained in indirect imports were adjusted upward as seems appropriate, the steel trade balance would be less favorable than shown.

SUMMARY:

As noted in the last question, a revised Table 31 has been prepared. The revised table adjusts for the 10 percent f.o.b. to c.i.f. adjustment, exclusion of AID-financed exports, and the value of steel contained in indirect exports.

These adjustments were made by reducing the value of steel product and end-use item imports by the 10 percent by which they had previously been increased. The AID-financed exports shown in Table 29 on Page 67 were simply added to the steel product direct exports (apparently indirect steel exports had not been previously adjusted to exclude AID-financed exports). The value of indirect exports has been recalculated by multiplying the estimated net tons by the average sales realizatioon per net ton of steel products (all grades) for the respective year, rather than the $150 used in the original table.

Interestingly, the trade balance for 1966 is still negative, although to a lesser degree than shown in Table 31. Our point, however, is that the trade balance is continuing to deteriorate—not the level at which it presently stands. Furthermore, there is no indication that the balance will improve in the near future.

VALUE OF DIRECT AND INDIRECT (END-USE) STEEL IMPORTS AND EXPORTS AND THEIR EFFECT ON U.S. BALANCE OF PAYMENTS

[In millions of dollars]

	Imports [1]			Exports			Trade balance, total exports less imports
	Steel products (direct imports)	End-use items [2] (indirect imports)	Total (direct plus indirect)	Steel products [3] (direct exports)	End-use items [4] (indirect exports)	Total (direct plus indirect)	
1957 [5]	214	99	313	1,010	546	1,556	+1,243
1958	229	100	329	753	501	1,254	+925
1959	581	155	736	498	533	1,031	+295
1960	502	132	634	727	554	1,281	+647
1961	420	93	513	547	553	1,100	+587
1962	533	117	650	565	567	1,132	+482
1963	684	115	799	627	594	1,221	+422
1964	815	140	955	780	697	1,477	+522
1965	1,268	175	1,443	721	752	1,473	+30
1966	1,313	234	1,547	635	793	1,428	−119

[1] After deducting 10% allowance for FOB to CIF adjustment.
[2] Values calculated by multiplying estimated net tons of indirect imports times the average CIF landed value per net ton of imported steel mill products after deducting 10% allowance for FOB to CIF adjustment.
[3] Values represent steel product exports including AID-financed exports.
[4] Values calculated by multiplying estimated net tons by the Average Sales Realization per Net Ton of Steel Products (all grades) for the Respective Year. (Computed from Census of Manufactures Data Published by the Bureau of Census).
[5] The value of "other steel products" component of the steel product direct imports and exports estimated.

Source: Steel Imports—Staff Study of the Committee on Finance, United States Senate, December 19, 1967, page 69.

Mr. CURTIS. I know the use of countervailing duties is coming back into play.

Do you feel that this is a possible way for us to continue to move forward to try to at least equalize some of these unfair trade practices?

Mr. PATTON. There is no harm in moving forward on that area, but I must respectfully submit that we consider it to be wholly inadequate to correct the situation as we see it.

There is only, as I recall, one case that has been decided on countervailing duties involving some Italian radio power, and as I understand it, only half of that case has been decided and they have been waiting a year and a half for the other half to be decided.

So it is a very slow process, and if we went at this thing case by case and sale by sale, Mr. Congressman, we wouldn't get any relief in any appreciable form in any kind of time.

Mr. CURTIS. You are among those who think the administration has not been enforcing the law as it has been written on the books for sometime. It certainly hasn't seemed to have used the tools which it has available which would move in this direction.

Now, whether this is so, we ought to find out whether this is a proper channel, to see if by developing the countervailing duty approach we can handle these problems. Believe me, I would much prefer to see this kind of tariff differential counter these unfair trade practices that create your problem. Anyone can read a tariff schedule, even the smallest businessman.

No matter how much you like it or dislike it, quotas require the action of a political bureaucracy. You can put in your guideposts, but, believe me, those are going to be interpreted by civil service employees and others in the executive branch of the Government. We run into the same problem of writing laws and then finding that they have not been administered the way some of us have thought they would be administered.

Mr. PATTON. Mr. Congressman, I fully appreciate your sincerity and your views on countervailing duties, but I must say that we in the steel industry don't think we are going to get relief of the kind we need within the time we need by a case by case by case buildup which takes a trial and an appeal and everything else, and it is just going to be interminable.

Mr. CURTIS. Let me say this: I would be much more inclined to go along with what is requested in the name of being temporary, if I saw a real effort on the part of those who are asking for temporary relief to come in and help develop the movement toward eliminating these various unfair trade practices which, when eliminated, would be the basis for terminating the temporary quota.

But when there isn't this kind of thrust, I begin to wonder how temporary is "temporary." The long-term cotton textile agreement was supposed to be temporary.

We do have experience of the sugar quota that was put on, I think, back in 1938, and we can see the long-range effect of the quota and license approach in this field. So we do have an example to go by on what might occur.

You say that your guideposts are to, in effect, freeze the trade patterns. You use the word "historical trade patterns."

This means that what kind of steel products would come from what country, into what ports, and at what times, and all other factors—all these decisions will be made by bureaucrats, people in the executive branch of the Government.

Mr. PATTON. On the basis of guideposts that are set forth in the bill, you have the historical pattern of the country of origin, the tonnage, the products, and the ports of entry.

Mr. CURTIS. That is why I use the word "freeze." You freeze the trade pattern. What happens to innovation and flexibility when you freeze patterns in this dynamic economy of ours?

Mr. PATTON. I think there is plenty of room for innovation. In the first place, that is just a small percentage of the total steel requirements of the country. We in the steel industry are fighting tooth and nail with each other, not only for the market, but for a recapture, if you please, of the steel that has been lost to foreign competition.

We are fighting with aluminum, with plastics, with all kinds of competitive materials. I think there is plenty of room for innovation, and it will come.

Mr. CURTIS. I agree that there is this kind of innovation. In fact, in many respects, I think a great deal of the problems in steel come from these other kinds of competition although I don't want to minimize the problems that exist in this trade area, because I do happen to believe there has been a great deal of unfair trade practices going on in your industry.

I think there is over-production, and I think a lot of this has come about through the Government's intervening in the market place.

What I do urge this industry and others to recognize is that when you come to the Government for protection in this fashion, you are giving great powers to the Government to freeze the marketplace in certain ways, and it will also interpret the guide posts.

We try to write guideposts, and if we do pass this legislation, I will do whatever I can to be sure that the guideposts are as clear as we

can make them, but I know from experience that no matter how well intentioned we may be and how much we try to write them clearly, they still will be interpreted by the Executive as it wishes.

I hope that there is great emphasis laid on the fact thta this quota proposal is temporary, and that this temporariness is related to some specific things that must be done, and that when those things are done, then there is an end to the temporary measure.

Otherwise, I can assure you that it will be permanent.

Mr. PATTON. I am sure that we wouldn't want this to remain in effect permanently. I am sure that while it is in effect the industry will be cooperative to advance on every front with respect to every type of relief that might be thought of or that is in existence to make it better and more effective than it is today, and to close whatever loop holes exist either in the act itself or in the administration of the act.

I am sure we would be doing that.

Mr. CURTIS. Thank you, and I thank you for your testimony. Let me emphasize that I have a very high regard not only for the steel industry, but for all American industry. I think that you and we, if I can use the word "we," can compete against anybody if the practices are fair.

Mr. PATTON. Thank you for those kind words.

Mr. HERLONG. Thank you, gentleman, for being here and for the contribution you have made to our committee.

Mr. PATTON. Thank you, Mr. Chairman, and thank all of you for coming and sitting with us and listening to our problems.

We urge again that you promptly enact the quota bill that is before you.

Mr. HERLONG. Thank you.

(The following letters and telegrams were received by the committee:)

BETHLEHEM STEEL CORP.,
Bethlehem, Pa., June 17, 1968.

Hon. WILBUR D. MILLS,
Chairman, Committee on Ways and Means,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Bethlehem Steel Corporation endorses the testimony of Mr. T. F. Patton before the Ways and Means Committee of the House of Representatives during its review of tariff and trade proposals. Mr. Patton's statement on the iron and steel import problem and the solution reflected in the orderly marketing bills now before the Committee have our full support. We urge the Committee, upon completion of its trade hearings, to take prompt and favorable action on those bills.

Very truly yours,

EDMUND F. MARTIN,
Chairman.

JONES & LAUGHLIN STEEL CORP.,
Pittsburgh, Pa., June 20, 1968.

Hon. WILBUR D. MILLS,
U.S. House of Representatives,
Washington, D.C.

Jones & Laughlin Steel Corporation appreciates the opportunity which the Ways and Means Committee accorded the steel industry and the United Steel Workers to present testimony before the committee on June 18. Mr. Patton's statement with respect to the problem and the recommended solution which is reflected in the various iron and steel orderly marketing bills now before the

committee have our full support. We urge you and the committee to take prompt action so that these bills may be reported favorably to the House for passage.

CHARLES M. BEEGHLY.

KEYSTONE STEEL & WIRE CO.,
Peoria, Ill., June 10, 1968.

Hon. WILBUR D. MILLS,
Chairman, Ways and Means Committee,
House Office Building, Washington, D.C.

DEAR CHAIRMAN MILLS: With the domestic markets for some of our products being half filled by imports, we at Keystone are vitally interested in the current hearings.

Since this subject has such a vital interest to us, we appreciate and are grateful for the opportunity your Committee is giving us to be heard. As one of the smaller steel producers, Keystone supports the statement being presented in behalf of the American Iron and Steel Institute members. We supplement that statement with one of our own stressing the impact that imports have had on this Company and its people.

On behalf of the men and women of Keystone—the employees, the shareholders, the vendors and the neighbors who have a stake in our business—I respectfully and earnestly urge the adoption of the legislation proposed by the American Iron and Steel Institute.

Sincerely,

WALTON B. SOMMER,
President and Chairman of the Board.

STATEMENT OF WALTON B. SOMMER, CHAIRMAN OF BOARD AND PRESIDENT, KEYSTONE STEEL & WIRE CO.

I am Walton B. Sommer, President and Chairman of the Board of Directors of the Keystone Steel & Wire Company, Peoria, Illinois. I submit this statement to solicit your favorable consideration of appropriate legislative action to help equalize certain trade factors, the imbalance of which presently permits foreign steel products to consume so great a share of our domestic market.

The Keystone Steel & Wire Company was started by my grandfather and his father in Central Illinois in 1889. Today our Company has over 5,500 stockholders and with our subsidiary companies employs 6,300 people.

Back in 1889, we started this business by weaving galvanized steel wire into wire fencing for the farmer. The Company has progressed to today where we are capable of producing 700,000 tons of steel ingots in five open hearth furnaces at Bartonville, Illinois. This steel is rolled or cast into billets, some of which are then processed into rods in which form they are sold to subsidiaries and other manufacturers. Our finished products are various types of industrial wire, products for the farm market (under our Red Brand trademark for field fence and barbed wire), building and construction materials from nails to welded wire fabric for reinforcing concrete and plaster, etc. Our main plants are at Bartonville, Illinois, but with our subsidies, the National Lock Company in Rockford, Illinois, Mid-States Steel and Wire Company in Crawfordsville, and the Chicago Steel and Wire Company in Chicago and their various branch operations, we have active producing and distribution outlets from New York State to Florida to California to Seattle. The most recent addition to our corporate family by acquisition is the plant and properties of Wickwire Bros., a wire products fabricator in Courtland, New York.

While our production is centered in Peoria, Illinois, imports of steel and wire products through most of the customs districts have a sharp impact on our competitive climate. Those steel products which are our specialty such as wire rods, drawn wire, barbed wire, woven wire fence, nails and staples have had their domestic markets heavily infiltrated by imported steel from Europe and Japan. This is reflected by the 1967 statistics of U.S. imports of selected steel and wire products which Keystone produces, shown as a percentage of the U.S. market: wire rods, 46.1%; drawn wire, 15.1%; wire nails, 39.8%; barbed wire, 40.6%; and wire fence, 32.9%.

Important markets for Keystone's customers have also been diluted by imports. I refer to the fastener business where imports of bolts, nuts and rivets practically

doubled from 1963 to 1967. Our wire rope and wire strand customers offered a similar report.

During the calendar year of 1958, 181,284 net tons of wire rods were imported into this country. At the same time, 432,185 net tons of wire and wire products were imported. Nine years later, for the calendar year of 1967, these comparative figures were 1,076,467 net tons of rods and 797,445 net tons of wire and wire products. During this same period of time, the earnings' record of Keystone Steel & Wire Company showed that the percentage of profit on net sales dropped from 11.01% in 1958 to 4.82% in 1967 and percent profit on investment plummeted from 16.31% in 1958 to 6.08% in 1967.

We do not seek the abolition of free world commerce, only the opportunity for domestic steel companies including the Keystone Steel & Wire Company, Peoria, Illinois, to compete equitably with foreign steel producers in the United States domestic market.

WASHINGTON STEEL CORP.,
Washington, Pa., June 28, 1968.

Hon. WIBUR MILLS,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN MILLS: You have heard some of the critics of the proposed legislation to set a reasonable limit on imports of steel say that "None of the steel companies seem to have been seriously hurt." This is certainly not true of the Washington Steel Corporation.

Substantially all of the company's production is stainless steel and more than 70% of the stainless steel produced is nickel-bearing material; in fact, the average nickel content is 9½%. Thus, to support our minimal requirements we need 5 to 7 million pounds of nickel per year which makes us one of the largest consumers of nickel in the country.

There are two specific and very real areas in which our company has been demonstrably hurt. Although the market price for electrolytic nickel is 95¢ per pound, plus or minus, (depending on which form you buy) we have been obliged to pay as much as $1.55 to $1.60 a pound for some of the units which we needed and one of our really helpful sources supplies high nickel ferro chrome to us at what constitutes a premium of 30% a pound nickel contained.

One other way in which we can get some nickel is to quote marginal prices on government contracts so that we can get some rated orders for which the nickel is assured—it's another way of paying a premium.

The other way in which we have been very seriously and demonstrably hurt is that on stainless steel sheets as much as 25% of domestic consumption has come into this country from Japan alone in many months—the average is running 18% to 22% now on stainless sheets. Thus, we have lost an important and profitable part of our production but the Jap's prices were as much as 30% below the book prices of the American producers and, little by little, the domestic prices deteriorated to the extend of 15% in an endeavor to hold on to some of the stainless steel sheet business; these reductions will probably never be regained and thus they came out of our former profits.

Before concluding, we would like to add that our own government has not made our plight any easier by allowing so much stainless steel scrap to be exported to Japan. No legislation is needed to control that; it's simply a matter of policing the export licenses.

Well, Mr. Chairman, I do plead with you to get us some action on these import limitation measures. Heaven forbid that our seven children and all the grandchildren who are now beginning to appear from all directions should ever have to go on public relief—the load would be heavy.

As a member of the American Iron and Steel Institute Public Affairs Development Committee, may I express to you my personal thanks for the fine treatment which was accorded our Committee by you and your associates. Please be assured that we wish to be helpful.

Respectfully yours,

T. S. FITCH, *President.*

(The following statement of Tool & Stainless Steel Industry Committee, was received for the record:)

STATEMENT OF TOOL AND STAINLESS STEEL INDUSTRY COMMITTEE

This statement is submitted by the Tool and Stainless Steel Industry Committee, an association of 17 producers of specialty steels. A list of our membership is attached as an Appendix hereto. We endorse the statement presented to this Committee today by the American Iron and Steel Institute. We submit the following additional amplifying comments because of our special concerns with the import problem.

I. SPECIALTY STEEL IMPORTS

Specialty steel producers make about one percent of the annual tonnage of the overall domestic steel industry, but account for about seven percent of its dollar sales. Ours is a specialty business. Our research, raw material, labor, and marketing costs are higher than those of the basic carbon industry because of the expensive alloys and particular skills we need to make high-performance steel. Much of our production is custom tailored to a specific need, and our industry tends toward job-shop production of small quantities of steel. We are truly an industry distinct, though not apart, from the basic carbon steel industry.

I say "not apart" because we share many problems with basic carbon steel. The one before us now is the problem of import competition. The trend of import penetration into the tool and stainless steel markets in the United States shows a curve which is similar to although steeper than that in the tonnage industry. In 1967 imports of stainless steel were 150,000 tons, up from 80,000 in 1964 and 8,000 in 1959. The share of apparent U.S. stainless steel consumption claimed by foreign products has jumped from 1 percent in 1959 to 16 percent in 1967. In tool steel the penetration has followed the same pattern, with imported high speed tool steel claiming 14 percent of the United States market in 1967.

The same international economic factors which permit the penetration of basic carbon steel markets in the United States have brought about this market loss in the specialty areas. World over-capacity, foreign wage-rate advantages, foreign government export incentives, and easy access to the United States market combine to injure the specialty industry just as they do the carbon producers. We feel strongly that quantitative limitations on imports of steel mill products are the only effective means of relief from this problem, and we join wholeheartedly in supporting the steel quota bill which the American Iron and Steel Institute has endorsed before this Committee.

II. IDENTITY OF SPECIALTY STEEL INDUSTRY

We feel equally strongly, however, that in recognizing our common problem and endorsing the analysis of causes and suggestions for solutions presented here by the American Iron and Steel Institute, we must not obscure the very specific differences existing between the basic carbon steel industry and the tool and stainless steel industry.

At the outset our products are more sophisticated. They are made to be used under conditions of temperature, pressure, stress, and corrosion for which carbon steels are not designed. They contain expensive alloying elements and undergo expensive melting and treating procedures which enable them to perform under these conditions. Manhours per ton in the stainless steel industry average 6.5 times the basic carbon steel figure, and in tool steel may reach 10 to 20 times the carbon average. These labor costs are not susceptible of substantial reduction by automation because of both the specialized nature of the product and the small quantities in which it is ordinarily made.

III. SPECIALTY STEEL AND THE NATIONAL SECURITY

Like basic carbon steel, specialty steel is essential to the national security and defense. A brief examination of some of its applications will amply demonstrate this fact.

To begin with, the fundamental use for tool steel is in the cutting and shaping implements which in turn are used in the production of every manufactured object in our economy. The direct military applications of tool and stainless steel, however, are as varied as the range of modern weaponry.

A single military aircraft engine, for example, will depend on bearings made of AISI M–50 or AISI 52100 tool steel. This steel must be made through a consumable electrode vacuum melt process in order to attain the precise chemical anal-

ysis and high degree of cleanliness required. Specialty steel producers are the only companies with the equipment and metallurgical experience necessary to this production.

This same engine may also contain torque rings or turbine or compressor discs made of high-temperature high-strength materials such as Waspalloy and moly ascoloy by small specialty companies which produce no carbon steel. Injury to their business cannot be offset by additional production in standard grades. This engine powers an aircraft containing structural members, linkage systems, gears, and actuating devices made of hot work tool steel of high cleanliness, strength, ductility and reliability. Its generator needs Vanadium permendur, a 49 percent cobalt, 2 percent vanadium alloy which requires close attention and skill in production because of extreme brittleness during its semifinished stages.

The airplane may carry reconnaissance photographic equipment having stainless steel parts. Its missile guidance systems contain servo-synchro motor transmitters made by a specialty steel company. Its radar system needs a klystron microwave tube with a vacuum envelope of iron so pure that it must be refined in a consumable electrode vacuum melt furnace at a specialty steel facility.

Meanwhile the infantryman in the Vietnam jungle carries an M–16 rifle with a stainless steel bolt. The rifle shoots bullets drawn from a special alloy-clad metal produced by a specialty steel maker. The soldier may be saved a dangerous wound by a stainless steel innersole in his combat boots. If injured he will be evacuated by a helicopter with a rotor shaft made of tool steel to a hospital where he will be sewed up by a needle of stainless steel wire.

From the antispike innersole to the delicate missile guidance system, our modern arsenal depends on tool and stainless steel to perform a myriad of special functions under extreme conditions.

IV. THE NEED FOR RELIEF OF THE SPECIALTY STEEL INDUSTRY

The ability of the specialty steel industry to continue the basic research and development which makes these products possible is now being hampered by the continuous rise in imports. This research and development activity is financed by the profits earned on routine sales of staple specialty steel products. These activities are carried on with the expectation that new products mean new growth and new methods mean new economies. As imports cut away the growth potential of the United States market, our enthusiasm for continued expansion of this vital research and development function is also eroded.

As part of the domestic steel industry, the tool and stainless steel producers ask this Committee to hear and heed the expressions of the American Iron and Steel Institute. As makers of distinct and specialized products, however, we urge you to have in mind our separate identity within the industry.

APPENDIX

Allegheny Ludlum Steel Corporation, 2000 Oliver Building, Pittsburgh, Pennsylvania 15222.

Armco Steel Corporation, Armco Division, Middletown, Ohio 45042.

Bethlehem Steel Corporation, Bethlehem, Pennsylvania 18016.

Braeburn Alloy Steel Division, Continental Copper & Steel Industries, Inc., Braeburn, Pennsylvania 15016.

The Carpenter Steel Company, Post Office Box 662, Reading, Pennsylvania 19601.

Crucible Steel Company, Four Gateway Center, Pittsburgh, Pennsylvania 15230.

Eastern Stainless Steel Corporation, Post Office Box 1975, Baltimore, Maryland 21203.

Jessop Steel Company, Washington, Pennsylvania 15301.

Jones & Laughlin Steel Corporation, Three Gateway Center, Pittsburgh, Pennsylvania 15230.

Joslyn Stainless Steels, 155 North Wacker Drive, Chicago, Illinois 60606.

Latrobe Steel Company, Latrobe, Pennsylvania 15650.

McLouth Steel Corporation, 300 S. Livernois Avenue, Detroit, Michigan 48217.

Republic Steel Corporation, Massillon, Ohio.

Simonds Steel Division, Wallace-Murray Corporation, Ohio Street, Lockport, New York 14094.

The Universal-Cyclops Specialty Steel Division, Cyclops Building, 650 Washington Road, Pittsburgh, Pennsylvania 15228.

VASCO—A Teledyne Company, Latrobe, Pennsylvania 15650.
Washington Steel Corporation, Washington, Pennsylvania.

Mr. HERLONG. I see our colleague, Senator Hartke, of the other body is here.

We are happy to welcome you to the committee, Senator.

STATEMENT OF HON. VANCE HARTKE, A U.S. SENATOR FROM THE STATE OF INDIANA

Senator HARTKE. It is indeed an honor for me to appear before this committee.

Today our Nation is suffering a bad case of economic pessimism. It is frequently said that our economic progress has reached its zenith; that we must retract and retreat; that we must tighten our belts; that we must cave in to the threats of European money changers; that the rapid improvement in our standard of living must slow down; that a decline in our prosperity is likely to be our lot for the next few years.

I believe that this is a wildly mistaken interpretation of what is happening to us. We are not suffering from the rheumatics of old age. We seem to forget that we are rapidly approaching a trillion dollar gross national product. There is no doubt, however, as you gentlemen are painfully aware, that we are facing today a number of crucial economic issues, that we must find solutions to a number of problems if our prosperity is to continue.

I submit that if we are to take our task seriously we must get beyond the sterile debate of protectionism versus free trade. We must focus not on utopia, but upon the hard realities of the present international economic situation. Today I want to focus on those realities relating to steel. But first permit me a word about American attitudes toward trade policies. Those attitudes are rapidly changing. The phrase "free trade" is almost a religion among economists, but today I see no other road by which we can achieve trade equilibrium.

I am opposed to quotas. I believe free trade is one way to triumph over selfish nationalism. But I believe that quotas are necessary in the short term now, in order to force free and fair trade in the long term.

If quotas are long delayed, under present circumstances, substantial unemployment must most certainly result. I prefer quotas to competitive international wage cutting as the road to international balance with the attendant social strife that wage cutting could bring. I firmly believe that unless we take limited steps now on behalf of some of our crucial industries, despite the screams about protectionism that we will hear from some critics we will be called upon by the American public in the next few years to take extreme steps on behalf of many of our industries. We will witness a conservatization of our trade policy to the extreme. Steps can be taken now to preserve and promote our prosperity and stave off such conservatization. But our failure to enact quotas as a defensive, not as an offensive, device for U.S. workers and the continued use of nontariff barriers by our trading partners will come to a result that will astound the free world; extreme isolationism and economic nationalism.

Mr. Chairman, right now the administration is seeking some solution to our deteriorating balance of trade—let me repeat, that is our balance

of trade, not the balance of payments. In March of this year we imported more than we exported for the first monthly period since 1963. They are contained on page 3 of his statement presented on June 6, 1963. One, he says restoration of wage-price stability. Is he saying that he will institute wage and price controls?

The second deals with the avoidance of work stoppages or threat of work stoppages. Is he asking for passage of legislation without right to strike?

Then he wants a new consciousness and energy on the part of management and labor to produce and sell for export. Certainly I think any manufacturer would want to do that today. The Commerce Department says they are doing all they can, in this record in separate testimony already, so there certainly cannot be much new expected in that.

The two other proposals, the enactment of new export expansion proposals, are excellent ideas, but there is no indication that these policies are going to achieve anything near what they are talking about.

Let me remind you that in a very short period of time we have come from a $700 million trade surplus to a $400 million trade surplus in the first quarter of this year.

The Secretary made no statement whatsoever about relieving any of the American industry from the antitrust laws which prevent Americans from competing against international cartels. The Secretary made no mention about innovations, about having international steel conferences of any nature whatsoever to eliminate the nontariff barriers to which we frequently refer.

Under consideration in the administration is a proposal to impose a 5 percent surcharge on imports. The surcharge would apply to all imports now subject to tariff duties; it would exempt noncompetitive imports of raw materials and foodstuffs.

Mr. Chairman, that proposal, if adopted, would be illegal under GATT—an indication of how far many parties are already willing to go. The import quota I recommend today, however, is perfectly legal under that international agreement. Let me now turn to the steel-quota proposal.

On October 16, 1967, I introduced in the Senate a bill to provide for orderly trade in iron and steel mill products—S. 2537—on behalf of myself, Senator Dirksen, as the chief Republican cosponsor, and 37 fellow Senators. A large number of members of the House have introduced identical bills.

When I introduced the Senate bill, I said that I believed it was a moderate and reasonable approach for meeting a clear and well-documented need. I will summarize it a little later.

I do not take lightly the espousal of quota proposals. Consequently, I urged the administration and the Senate Finance Committee to make thorough investigations of the steel situation. Last year the Senate Finance Committee authorized a staff study on steel imports, and that study, conducted under expert guidance, was released on December 19 and is available to the Congress.

I request the committee to insert in the record of these hearings after my remarks the portions of that study designated "Introduction," "Summary of Conclusions" and "Summary of Factual Find-

ings." Also in 1967, the American Iron & Steel Institute prepared a study on "The Steel Import Problem" which was released in October and that too is available. The Senate committee staff study and the American Iron & Steel Institute study provide conclusive evidence that the imports of steel have been growing so rapidly in the past few years, with no indication that they will not continue to do so, that the United States is forced to examine the implications for our domestic economy, our balance of payments, and our national security. The figures now available for 1967 and the early months of 1968 make it even more imperative that we should take action to deal with the rapidly increasing problems of our domestic steel industry which affect our national interest.

I am in favor of the ultimate achievement of free trade and I think we can all recognize the advantages that would accrue from it. I supported the purposes of the Kennedy round, but as was indicated by the prior testimony, tariffs are by no means the only trade barriers to be considered. In the world as it is today, even if we abolished all tariffs, we would still not have free trade. There are so many nontariff barriers in existence and so many economic and political factors that can be and are structured in such a way as to prevent free trade, that the conclusion of the Kennedy round negotiations is far from being the whole answer.

The problem of steel imports into the United States provides a good example of the limited value of tariff reductions. The American steel industry is not being seriously hurt by the low tariffs which apply to steel imports, but by other conditions which are far more formidable and in the next few years could so dislocate the domestic industry that domestic steel shipments would even decline from their present levels and our national security and our balance-of-payments position would be eroded to the danger point and even beyond.

One of the nontariff barriers used by members of the European Economic Community is the manipulation of transaction taxes, or turnover taxes, to favor exports and to limit imports. On exports from the European Economic Community to the United States the transaction tax is rebated to the exporter but the transaction tax is applied to goods coming from the United States when they enter the European community. Since the United States has no such indirect taxes, we are not in a position at present to use this system to reduce imports, although it is currently permissible under the provisions of the General Agreement on Tariffs and Trade.

Perhaps even more important is the fact that foreign governments take a very direct interest in their steel industries and regard them as essential to the national economy and national security so that measures are taken to assure that these national steel industries continue to increase their production.

This is achieved by providing for the low-cost financing for production facilities and by the use of licensing arrangements, warehousing requirements, redtape and buy-national policies to insure that imports will be held at a minimum. In fact, today the Common Market countries do not permit imports of steel products from outside the EEC to exceed 5 percent of the domestic market. Japan has imports of less than 1 percent. In the United States, in 1967 imports accounted for 12.2 percent of apparent supply.

In addition to using their domestic tax systems and government intervention in support of their steel industries, other major producers of steel products take full advantage of the wage differentials which favor the foreign product over the American product. Differences in unit labor costs are now on the order of $25 per ton to the advantage of Western Europe and $40 per ton to the advantage of Japan.

For all of these reasons steel produced in the European Economic Community and in Japan enjoys such substantial advantages over steel produced in the United States that there is frankly at present no way in which the price disparity can be met by our domestic industry.

Let me review for you the trend of steel imports during the last few years. In 1957 the United States imported 1.15 million net tons of steel products. In 1967 we imported 11.45 million net tons. Between 1957 and 1967 imports grew at a compound annual rate of 26 percent and, while this import penetration of the U.S. market varies by product and region, it affects every important product line or market area. In recent years, foreign-produced specialty steels have been entering the United States at an even higher rate of growth than that of total steel mill product imports and of course these specialty steels are of paramount importance to our national security.

The present price gap between foreign steel and domestically produced steel averages $30 to $40 per ton, which substantially exceeds the U.S. steel industry's average total profit per ton of $17 in 1966 before taxes. If we should project the average annual growth rate in imports of 26 percent for the last 10 years, we could expect imports of more than 23 million net tons in 1970 and more than 73 million tons by 1975. Even assuming arbitrarily that the rate of growth of imports is a more conservative 13 percent, or one-half the recent annual rate, then we could expect an import level of 17 million tons by 1970 and about 30 million tons by 1975.

And there is no reason why such import levels could not be achieved, since both Japan and the European Economic Community are planning expansion of their production facilities which can easily meet these levels. In fact, a year ago, the excess steel-producing capacity outside the United States in the free world was estimated at 55 million tons and it has been increasing since then.

Our own steelmaking capacity has also been expanding, but only at the average rate of about 2 percent a year over the last decade, and it is not certain whether this expansion can continue if imports are allowed to take up all of the growth in the domestic market as they have in recent periods. Investments in steel facilities depend upon reasonable assurance that the market for products will grow in proportion to increases in productive capacity. The steel industry's capital investment program depends on availability of capital and availability of capital depends upon the prospect of profitability. If the domestic industry cannot hold onto its present share in the U.S. market and participate in the growth expected in that market, the likelihood of maintaining a healthy and viable steel industry, which President Johnson, on April 8, 1967, proclaimed to be the core of industrial America, a vital product basic to our economy and essential to our security, will be put in jeopardy.

The Office of Emergency Planning has calculated that in the event of a conventional nonnuclear war in the next decade, and God forbid,

direct and indirect military needs would raise steel requirements by 20 percent above a normal peacetime level. A normal level of steel consumption in a year around 1975 is expected to be 115 million product tons. During an emergency in the middle 1970's domestic consumption would therefore be about 140 million tons. The OEP assumes that in the event of a conventional nonnuclear war, imported steel would only be available from Canada and Mexico, and under these conditions a shortfall of some 20 million tons seems likely by the mid-1970's, taking into account facilities projects already committed and underway, unless the domestic steel industry can find valid reasons to continue its building program. Such reasons will not exist if the growth in consumption is wholly absorbed by imports.

Under the provisions of the General Agreement on Tariffs and Trade, limitations on imports are permitted if necessary for reasons of national security and no reprisals would be authorized. But the effect of steadily rising imports is not limited to the serious threat to our national security. These imports can also profoundly affect employment in the United States and deepen significantly our balance-of-payments deficit.

I call again to your attention the statement made by Mr. Abel, that our production employees in the United States have already significantly dropped, by over 120,000 employees. It is estimated that about 6,400 people are now employed in steel plants for every million tons of finished products shipped in a year. An additional 1,300 persons are involved in coal and ore mining and transportation. In total, 7,700 American working men and women are employed for every million tons of domestic steel mill products shipped. The Department of Commerce estimates that 14.5 million tops of steel imports will come into the country in 1968. In simple English, and certainly no one should misunderstand this, the imports of steel have taken the jobs of 100,650 Americans. This is a loss of wages for America in this period of over $1 billion, and a loss of total tax revenue on wages paid alone of nearly one-fourth billion dollars.

So far as our balance-of-payments defict is concerned, steel imports already account for a significant amount of our difficulty. Overall steel imports in 1967 were up to 11.5 million tons, worth $1,292 million. The value of steel exported was down to $415 million, producing a 1967 deficit of $877 million. If steel import levels continue to rise without offsetting exports, the trade deficit in steel products will be truly alarming.

If we assume that by 1970 we will have 17 million net tons of imports, a conservative figure based on recent experience, and such steel imports are valued at an average of $113 per ton, the approximate 1967 average value, the steel trade deficit would then amount to $1.5 billion for that year of 1970. If we project steel imports on the same conservative basis to 1975, steel imports could then reach 30 million tons in that year, and the steel trade deficit, at today's prices would be $3 billion.

It seems to me quite apparent that the United States cannot permit the deterioration of its domestic steel industry which is essential to our national interest and that measures must be taken to limit the percentage of steel mill products we import from abroad. The bill I introduced, S. 2537, provides that the President may negotiate multilateral

or bilateral agreements limiting imports to 9.6 percent of the average amount of steel consumed in the United States during the 3-year period preceding each quota year. Product and country of origin limitations would also apply based upon their percentage share of total imports during the 3-year base period. For countries which do not enter into agreements with the United States as provided in the bill, imports would be limited to a percentage of recent consumption equal to the percentage of consumption supplied by that nation during a longer base period, 1959–66. This method of limiting imports would permit countries now supplying part of our requirements to participate in the growth of our market, but not to absorb all of the growth and even more. After 5 years the Secretary of Commerce would review the program and recommend to Congress the continuation, modification, or termination of quota relief.

Present conditions, including wage disparities and government policies, do not permit competition among the steel producers of the free world on a comparatively equal basis. A means must be developed to arrest the growing penetration of the American market to prevent the domestic industry from being seriously weakened, our national security put in jeopardy, our balance of payments increased, and domestic employment substantially reduced. While I think S. 2537 would achieve these results, and the method for limiting steel imports in the bill has the support of the steelworkers' union, I would also heartily support any effort our Government can make to establish voluntary restrictions on the exports of steel mill products from Japan and the European Economic Community to the United States.

If it is possible for the U.S. Government to take the lead in persuading the major steel producers to voluntarily limit their exports to this country to an amount which represents a fair share of the American market, in line with recent experience, then this would serve the purpose of preserving an adequate share of the domestic market for our own industry to permit it to continue to expand and to invest in research and development. This is what all of us want to see. We want to eliminate the danger to our national security, to our balance of payments, and to our domestic industry. I would caution, however, that foreign producers, like our own, are not in the habit of reducing their market opportunities simply out of sympathy for a competitor. Voluntary restrictions are only likely to come about, and remain in effect, so long as there is a credible threat that our Government will ace to prevent further increases of imports that are not in proportion to increases in our domestic market.

I strongly urge that we move forward with S. 2537, or the companion bills here in the House, and I want to thank the committee for giving me this honor in appearing before it.

Mr. HERLONG. Thank you, Senator.

Are there questions?

Mr. Curtis?

Mr. CURTIS. Yes. First, I want to compliment Senator Hartke not only for his statement, but the work he did in getting this study made by the Senate Finance Committee.

There is one item, however. Your statement I agree with, but you interjected the fact of the loss to the economy of jobs and wages from imports. This is, in my judgment, hardly a compelling argument in a

period of relatively low unemployment, where we actually have more jobs going begging right now than there are unemployed.

We get into a big problem—which is the only reason I raise this issue—because the thing that bothers me the most is allocation of our resources. Our society is getting this billion dollars from work being done in other industries.

Senator HARTKE. I don't know many industries that have a comparable scale of the steel industry.

Mr. CURTIS. I suspect they have better jobs. I suspect that the workers who left the steel industry have been unskilled and semiskilled, rather than your more skilled people. This argument has to be faced.

When we have a shortage of labor in our society, we are going to depend on production abroad in various areas to supplement our production.

Senator HARTKE. Congressman, I do not agree. I do not think we have a shortage of labor, and I do not think anyone in America can justify that proposition, because we still have 4 percent unemployed.

What we have is a shortage of skilled labor, but we do not have in the American marketplace today a shortage of available bodies, because we have 1 out of 25 Americans, according to the Department of Commerce statistics——

Mr. CURTIS. We can analyze the reason for unemployment, but I said in context that there are more jobs going begging than there are unemployed.

Granted that is a thesis, but it is about time you people quit assuming that the other is true without looking at what data we do have. I think what data we have clearly shows my theory to be a fact, but we need to discuss it, for steel as well as for other industries.

I remember colloquy with one of my colleagues here about the fact that we had cut back on a space contract, and he said it meant that 20,000 people lost their jobs in his area. I said I didn't realize there was unemployment in that particular area.

"Oh," he says, "They got jobs elsewhere."

Well, they did. They did get jobs elsewhere. I am not trying to detract from the total thrust of your argument. I don't think the point I am making does detract from the thrust of what you are trying to get across, but I do think that your argument, which is heard frequently, is, I would argue, specious.

Senator HARTKE. You can argue that, but I don't think you can prove it, and I don't think it is provable.

Mr. Phelps—I think his testimony is going to be in this record—represents a type of steel industry in which they use a cold-steel process.

They take the old steel automobiles, the junk cars, and they extract the nonmetal material, take the scrap steel, crush it and then reuse it. It is a wonderful thing.

He will testify, if he hasn't already, that not alone are they not able to keep their employment up, but they are laying people off.

If my argument is not true, why are they laying off people in this industry at this time? The reason is the simple fact that they cannot meet the import prices of steel.

Mr. CURTIS. We are not talking about the same thing. I am not saying that people have not been laid off in the steel industry. I am saying

that when we look at the total society and the allocation of our resources, our greatest resource is, of course, our manpower.

I am saying these people who have been laid off have gotten jobs. That is my point. Can we agree on that?

Senator HARTKE. I can agree on that.

Mr. CURTIS. The jobs going begging require skills, and those laid off tend to be unskilled and semiskilled people; and, therefore, we have to do a great deal more in the retraining area.

Senator HARTKE. Yes. I would like for you to join with us in putting through a 71-percent tax credit to train these people on the job.

Mr. CURTIS. As a matter of fact, it is 10 percent, and I first introduced it in the House. [Laughter.] If you will examine that, it was done in my workshop, and I was happy that Senator Javits and others cosponsored it in the Senate. It is a supplement to the Manpower Training and Development Act, which originated over here, too, in 1962. The tax credit does get the private sector in; and here, again, we share this goal.

Senator HARTKE. Let me congratulate you for your originality and innovation.

The point I want to make is on these job shifts. One of the most severe was when Studebaker closed down in South Bend. We put seven programs in there, and it was an excellent program; but we took people at that time who were working then with 25 and 30 years' seniority, out of an automobile plant with the wages the automobile work gave them, and we trained them to go into jobs where they were barely able to earn the minimum pay.

Ultimately what happens is a reduction of a standard of living. I don't want to reduce the American standard of living to the level of the rest of the world. I would like to see the rest of the world come up to our level.

Mr. CURTIS. We agree on that, too.

Mr. SCHNEEBELI. You say, in your statement, that they wouldn't reduce exports simply out of sympathy for competitors.

I agree with that. I would like to remind you of one problem I found to exist in Japan. The first 20 years of this steel industry, 1945 to 1965, was devoted largely to filling their own consumer and capital needs, which were enormous as a result of World War II.

Now that they have pretty well taken care of their own market, they are looking to foreign fields to take care of the huge production facilities they have built up, so they have to be more competitive than ever; and I think our competition with the Common Market and Japan is going to be due to the fact that they have taken care of their own needs that were so great after the war, and as a result now there is a more competitive position than ever.

I think in the next 20 years it will be greater than in the last 20 years because of this fact.

Mr. VANIK. I would like to ask the Senator one question. Statements before the committee today by Mr. Patton, Mr. Abel and by you have been most impressive, and I think they set the tone of reasonableness, and they have been logical.

What are the possibilities of favorable consideration of this kind of legislation in the Senate?

Senator HARTKE. I think they are excellent. We are going into trade hearings in the Finance Committee.

Frankly, I am of the opinion that probably this bill, especially this one and the one which passed, as you witnessed the passage of the textile bill, could be tacked on to House bills.

I disapprove of that procedure, but I might say——

Mr. VANIK. It works.

Senator HARTKE. If we cannot find the orderly processes of the origination in the House moving in a fashion which they should, we might try to do this in another manner.

Frankly, I think the possibility of this type of success is very good. I think it is good because it is right, and I would hope that the administration would meet its words when they consider this measure. The President said steel is the core industry of the United States.

The administration ought to join with us. Maybe the presidential candidates ought to express themselves before we vote for them this fall.

Mr. HERLONG. Senator, I believe that you asked that a portion of the Senate staff study on the steel imports be included as part of the record.

Senator HARTKE. Either directly or by reference.

Mr. HERLONG. If you want it included—well, we will include it by reference, then.

Senator HARTKE. Thank you.

I had requested permission to appear separately on the antidumping provisions, and I do have a statement here that deals with the International Antidumping Code. I would like to have it included in its entirety. Frankly, even the Tariff Commission agrees that the code and the law of the United States are in conflict; so I would hope that more than usual attention would be given to this statement.

Mr. HERLONG. This statement will be included following your testimony.

(The statement referred to follows:)

STATEMENT OF SENATOR VANCE HARTKE, A U.S. SENATOR FROM THE STATE OF INDIANA

The International Antidumping Act

On July 1, 1968, the International Antidumping Code, signed at Geneva last summer, is scheduled to take effect. The United States Department of Treasury, in consequence, promulgated regulations to implement the Code in this country.

Mr. Chairman, the Code and the Treasury regulations clearly conflict with the antidumping law of this nation. The Administration has acted beyond the bounds of its authority as granted by Congress or the Constitution. Only the Executive approved the agreement; the consent of the Senate was not asked. Only the Executive acted to conform American law to the agreement; implementing legislation from Congress was not sought. Yet the Code and the Treasury regulations would substantially amend the Antidumping Act of 1921. In short, the Executive has again usurped the authority of the Congress.

I am here today to urge this committee to act favorably upon H. Con. Res. 447 and its companion in the Senate, S. Con. Res. 38, expressing the sense of the Congress that the Code is inconsistent with the American Antidumping Act, that the President ought to submit the Code to the Senate for its consent, and that legislation is required if the Code is to be implemented in the United States. At the outset we need to be quite clear about two things. First, the act of dumping is universally considered an unfair trade practice and is universally condemned as such. Other nations seek to prevent dumping in their home markets; and the parties to the General Agreement on Tariffs and Trade denounced dumping. It is quite improper to label attempts to prevent dumping as protectionism.

Secondly, the Code, though negotiated during the Kennedy Round negotiations, was agreed to independent of any Kennedy Round Tariff concessions. To alter our commitment to this code would in no way alter our commitment to the tariff reductions, nor would it lose for us any reciprocal reductions from other nations.

THE ADMINISTRATION LACKED AUTHORITY TO ENTER AGREEMENT

Let me return to my main point: Members of the Administration—especially the Office of the Special Representative for Trade Negotiations—ignored the prerogatives of Congress from beginning to end in this manner: in negotiating the agreement, in signing the agreement, and now in implementing the agreement.

The failure of the Administration to recognize and respect the areas of policy determinations which are the province of Congress, can hardly be viewed as a mere oversight, attributable to inadequate familiarity with the well-established doctrine of the separation of powers. Almost two years ago the Senate overwhelmingly adopted Senate Concurrent Resolution 100, advising the Executive Branch generally and warning the Office of the Special Representative specifically against including in the Kennedy Round negotiations matters outside the scope of the Trade Expansion Act of 1962. Dumping was one of the matters which was specified. As summed up by the Senate Finance Committee in its report on Senate Concurrent Resolution 100:

"This problem (dumping) concerns unfair trade practices in a domestic economy and it is difficult for us to understand why Congress should be bypassed at the crucial policymaking stages, and permitted to participate only after policy has been frozen in an international trade agreement."

Notwithstanding this clear warning by the Senate, the Office of the Special Representative persisted in negotiating the Antidumping Code which conflicts directly with, and, if the Code becomes effective would amend the Antidumping Act of 1921 in many substantive respects. In point of fact the Code would emasculate the Antidumping Act of 1921 and for all practical purposes strike the Act from the statute books.

THE INTERNATIONAL CODE CONFLICTS WITH DOMESTIC LAW

While the Code would subject the Antidumping Act to a multitude of amendments, I limit myself here to an examination of three fundamental amendments of the Act.

First, Article 3 of the Code specifies that a determination of injury may be made only if it is found that "dumped imports are demonstrably the principal cause of material injury or of threat of material injury to a domestic industry * * * ." Section 201(a) of the Antidumping Act vests the Tariff Commission with authority to determine whether "an industry in the United States is being or is likely to be injured * * * by reason of the importantion of (dumped) merchandise." The Act does not restrict the Tariff Commission to affirmative findings of injury or likelihood of injury only when satisfied that dumped imports are "demonstrably the principal cause of material injury."

Thus, it is clear that the Tariff Commission's authority to make injury determinations, as conferred upon it by Section 201 of the Antidumping Act, would be materially altered and circumscribed by Article 3 of the Antidumping Code.

Secondly, Article 4 of the Code defines the term "domestic industry" to include *all* of a country's producers of a product which is "like" the dumped imported product under consideration. Only in "exceptional circumstances" may a regional competitive market sell "all or almost all of their products in such market." Further, an additional restriction on the Tariff Commission's authority to find injury is imposed, since "all or almost all of the total production" in the regional market must be injured.

Section 201 of the Antidumping Act does not restrict the Tariff Commission in its determination of what constitutes "an industry in the United States." In a considerable number of cases, the Commission has concluded that regional markets and regional industries may be found without regard to whether the producers supplying a limited competitive market "sell all or almost all their products" in such market, and without regard to whether "all or almost all: of the producers are injured.

Thus, it is clear that Article 4 of the Code is providing substantial limitations in its definition of industry and in adding a further restriction on the authority

to make affirmative determinations of injury, would severely curtail the present powers of the Tariff Commission under Section 201 of the Antidumping Act.

Thirdly, Article 5 of the Code provides that a dumping investigation shall be initiated only when supported by evidence of both dumped prices and of injury to the industry involved, and requires that evidence of dumping and of injury shall be "considered simultaneously." In addition, Article 10 forbids the institution of any provisional measures, which specifically include the authority to order withholding of appraisement unless there is "sufficient evidence of injury" as well as of dumping.

Section 201(a) of the Antidumping Act was amended in 1954 and transferred from Treasury to the Tariff Commission sole responsibility for injury determinations. This subsection specifies that the Commision shall make a determination of injury only *after* being advised by Treasury that a dumping price has been found by that agency. The Senate Finance Committee Report on the 1954 amendment made this crystal clear:

"This title would also transfer the injury determination under the dumping law to the Tariff Commission and provide that it be made within 3 months from the determination of the question of a dumping price by the Secretary."

Furthermore, Section 201(b) of the Act specifically requires that Treasury "shall authorize * * * the withholding of appraisement" whenever Treasury, in the course of an investigation and before a formal finding of dumping prices, "has reason to believe or suspect" that sales have been made at a dumping price. The Act specifies Treasury then "shall forthwith publish notice of that fact * * * and shall authorize * * * the withholding of appraisement reports." At that stage the Tariff Commission, not having been advised by Treasury of a determination of dumping, has no authority to institute an investigation, much less make a finding of injury or of the existence of "sufficient evidence of injury," whatever this phrase as used in the Code may mean.

Thus, it is patently clear that by requiring simultaneous investigations of dumping and of injury, and by requiring decisions on dumping and on the existence of "sufficient evidence of injury" as conditions precedent to the withholding of appraisement, Articles 5 and 10 of the Code conflict directly with the provisions of subsections (a) and (b) of Section 201 of the Antidumping Act.

U.S. TARIFF COMMISSION CONFIRMS CONFLICT BETWEEN CODE AND LAW

The United States Tariff Commission, reporting to the Senate Finance Committee on S. Con. Res. 38, concurred in the analysis I have just presented. In March of this year, the Finance Committee printed the report, and I would commend it to your attention.

That report, by the independent agency which now has prime responsibilities in administering the Antidumping Act, provides a point by point review of the inconsistencies between the Code and the U.S. law. After pointing up these crucial inconsistences, the most important of which I have outlined above, the Commission Report concluded:

"It is well settled that the Constitution does not vest in the President plenary power to alter domestic law. The Code, no matter what are the obligations undertaken by the United States thereunder internationally, cannot, standing alone without legislative implementation, alter the provisions of the Antidumping Act or of other United States statutes."

Commissioner Clubb, in his additional comments in the report, explicitly states that it is the majority opinion that in the absence of Congressional approval of the Code, the Tariff Commission is "powerless" to apply it.

In essence, the Code cannot be implemented in the United States without supporting action from Congress. To do otherwise would constitute a substantial amendment of United States law solely by the executive branch, emasculating the role of Congress in the lawmaking process.

THE CODE WOULD PROVIDE NO RELIEF FROM DUMPING

Under the present law, it is already very difficult to obtain relief from dumping. Under the Code and Treasury regulations it would become nearly impossible.

For one, the standard of "injury" is so rigid and the definition of "industry" so encompassing that almost no American industry, in the face of proven dumping, could obtain relief until it was practically on its last legs.

In its report, the Tariff Commission noted that had it applied the Code standards in previous cases, the outcome of those cases may have been completely different:

"The conditions under which a regional industry concept may be employed in an injury determination under the Code are so narrowly defined that four out of five affirmative determinations by the Tariff Commission might not have been made had the Code been in effect when the determinations were made. Moreover, the four findings of dumping are currently in effect and, if continued beyond June 30, 1968, would appear to be inconsistent with the Code."

The results from using the standards embodied in the Code would almost certainly be like those flowing from the adjustment assistance standards of the Trade Expansion Act of 1962, where no industry or labor group has yet been able to meet the rigid, complicated, and technical standards for obtaining relief despite the fact that any reasonable person can see that in accordance with Congressional intent assistance should have been forthcoming.

Now, of course, we are being asked by the Preident to liberalize those standards—and quite rightly, I believe. But let us take this as a lesson and not allow the Antidumping Code to establish impossible standards similar to the 1962 adjustment assistance standards.

CANADA HAS YET TO ACCEPT THE INTERNATIONAL CODE

Presumably the International Antidumping Code will bring reciprocal concessions that make it palatable at least to some segments of American business and industry. Previously, the Administration has particularly emphasized the concessions to come from Canada. Under Canada's present law duties are imposed as soon as a determination of dumping has been made. If and when Canada accepts and implements the Code, she will have to make a finding of injury as a prerequisite to the imposition of duties.

Canada, however, has not rushed headlong, as has the United States, to effectuate the Code. Like many other nations, she made it clear at the outset that her signature on the Code was not binding until Parliamentary approval had been obtained.

At this juncture no legislation has yet been adopted by the Canadian Parliament to implement this Code. In fact, it is my understanding, that no such legislation has even been introduced. Certainly there is considerable opposition from important Canadian industries to such legislative action.

At any rate, Mr. Chairman, the new Parliament is not expected to convene until after July 1—the agreed date for implementation of the International Code.

Certainly this provides additional reason for Administration to postpone implementation in this country. Such postponement could permit Congress to play its just role in this affair.

(The following statement was received by the Committee for inclusion in the record at the point when antidumping matters were discussed.)

STATEMENT OF BRUCE E. CLUBB, COMMISSIONER, U.S. TARIFF COMMISSION, BEFORE THE SENATE FINANCE COMMITTEE HEARINGS ON THE INTERNATIONAL ANTIDUMPING CODE, JUNE 27, 1968

My name is Bruce E. Clubb. I am one of four members of the Tariff Commission currently in office. I am appearing here at the request of the Committee to testify on the question of whether the International Antidumping Code negotiated during the Kennedy Round and scheduled to become effective on July 1, 1968, is sufficiently consistent with the provisions of the Antidumping Act of 1921 that it can be implemented by the United States without enabling legislation.

At present, the application of dumping duties in the United States governed solely by the provisions of the Antidumping Act of 1921. This Act, as amended, provides in effect that whenever the Secretary of the Treasury determines that imported merchandise is being sold in the United States at a price lower than that charged in the home market, he is to inform the Tariff Commission which has the responsibility of determining whether an industry in the United States is being injured by such sales. If the Commission determines that an industry is being injured by the sales of such dumped merchandise, dumping duties are imposed in an amount equal to the difference between the price in the country of production and the price at which the goods are sold here.

During the Kennedy Round an International Antidumping Agreement (hereinafter referred to as "the Code") was negotiated which describes the conditions under which the signatory countries, including the United States, agreed that dumping duties will be permitted. The Code was signed on June 30, 1967, and later that year Senate Concurrent Resolution 38 was introduced, stating that it is the sense of Congress that the provisions of the Code are inconsistent with the Act; that the President should submit the Code to the Senate for advice and consent in accordance with the treaty provisions of the Constitution; and that the provisions of the Code should become effective in the United States only at the time specified in enabling legislation. In due course the Resolution was referred to the Finance Committee and the Committee asked the Tariff Commission to report on it.

On March 8, 1968, the Commission filed its report which contained three separate statements. The report of the majority, made up of Vice Chairman Sutton, Commissioner Culliton, and myself, indicated that there are, in our judgment, important differences between the Code and the Act. Moreover, the majority stated that in any event the Code could not alter domestic law. In this connection the report states that

"It is well settled that the Constitution does not vest in the President plenary power to alter domestic law. The Code, no matter what are the obligations undertaken by the United States thereunder internationally, cannot, standing alone without legislative implementation, alter the provisions of the Antidumping Act or of other United States statutes. As matters presently stand, we believe that the jurisdiction and authority of the Commission to act with respect to dumping of imported articles is derived wholly from the Antidumping Act and 19 U.S.C. 1337."

I filed additional comments setting out the legal basis for the majority's position on this issue, the effect of which was that without legislative implementation of the Code the Commission was powerless to either apply the Code itself domestically, or to torture the construction of the Act so that it would be consistent with the Code.

In a minority statement Chairman Metzger and Commissioner Thunberg stated in effect that, while there are differences in language between the Act and the Code, these differences do not appear obviously or patently to call for differing results in future cases coming before the Commission. The minority also differed with the majority on the question of what effect should be given by the Tariff Commission to the Code in the absence of any action by Congress. The minority Commissioners took the position that the Commission had a responsibility to construe the Act in accordance with the Code. To do this it should

" . . . apply the principles of American law to the task of interpretation of the Act as it affects the facts of the investigation, including those principles relating to interpreting the Act so as to avoid inconsistency between it and the international obligations of the United States."

The minority further noted that if it was impossible to avoid an inconsistency between the Act and the Code, then the Act should prevail.

Subsequently, these hearings were scheduled, and I was requested to appear and give testimony on the question of whether the Code is sufficiently consistent with the provisions of the Act that it can be implemented by the United States without enabling legislation. I will attempt to comply with this request by identifying for the Committee some of those differences between the Act and the Code which are mentioned in the majority report to the Committee on Senate Concurrent Resolution 38. These are differences which the majority felt were important, and which in my judgment could affect the outcome of cases before the Commission.

Before identifying differences between the Act and the Code, however, I think it is only prudent to remind you that I do not speak for the Commission in this matter, nor do I speak for the majority. The Commission's report on Senate Concurrent Resolution 38, including both majority and minority views, is the official position of the Commission. I appear here as an individual Commissioner, and what I will give you is my own interpretation of portions of the report and what I believe to be the substance of the majority view.

With that in mind, let me begin by noting that the Act and the Code are entirely different documents. Not only is the terminology different, but also concepts expressed in one or two words in the Act, are sometimes the subject of lengthy and often limiting definitions in the Code. Accordingly, if one were attempting to determine what the differences are he would have to say that in a

technical sense the documents are different in almost every respect. In the Commission's report on Senate Concurrent Resolution 38, however, we attempted to identify those differences which seemed most important, and which might call for a different result depending upon whether the Act or the Code were applied. The Commission report notes a number of such instances. I will highlight only a few of them here.

A. *The injury test*

THE ACT

The Act requires that the Commission shall determine "whether an industry in the United States is being, or is likely to be, injured . . . by reason of the importation of such merchandise . . .".

THE CODE

The Code states that before dumping duties can be imposed it must be found that the dumped merchandise is "demonstrably the principal cause of material injury or threat of material injury to a domestic industry," (Article 3) and that the authorities must "weigh, on the one hand, the effect of the dumping and, on the other hand, all the other factors taken together which may be adversely affecting the industry."

One difference here appears to be that the Code requires a weighing procedure while the Act does not, requiring the Commission to evaluate all factors adversely affecting the industry and determine whether other factors were more responsible for the injury to the industry than are the sales at less than fair value. Under the Act it is merely necessary to focus on one factor, dumped imports, and determine whether an industry is being injured by them.

The Code requires that in evaluating the effect of the dumped imports on the industry the Commission must consider all factors having a bearing on the state of the industry, and such as "development and prospects with regard to turnover, market share, profits, prices . . . export performance, employment, volume of dumped and other imports, utilization of capacity of domestic industry, and productivity; and restrictive trade practices." (Article 3) This appears to say that if the industry is otherwise healthy, then an injury finding cannot be made. The Commission majority noted, however, that—

"The Act does not authorize the forgiveness of a material injury caused by less than fair value imports in those cases where consideration of 'all [other] factors having a bearing on the state of the industry in question' shows that the industry is in a healthy condition despite the effect of the less than fair value imports."

Moreover, if I may add a personal view which does not appear in the majority report, if the language of the Code relating to restrictive trade practices means that under it a dumping charge can be defended on the ground that the domestic industry is engaging in restrictive trade practices, then it is clearly different from the Act, which provides no such defense.

B. The industry test

THE ACT

The Act states that dumping duties must be applied if "an industry in the United States is being or is likely to be injured . . . "by dumped merchandise.

THE CODE

The Code defines the domestic industry as producers of like products (Article 4(a)) and defines like products as those which are identical or have characteristics closely resembling those of the dumped product (Article 2(b)).

Differences

First, the Act permits the Commission to find injury to an industry other than that producing a like article. The Code would not. For example, if apples were being dumped and were being processed into applesauce, the Act would permit the application of dumping duties if the domestic applesauce producers were being injured. The Code apparently would permit the production of dumping duties only if there were injury to the apple producers, but not if there were injury to applesause producers.

THE ACT	THE CODE
The Commission shall determine "whether an industry in the United States is being, or likely to be injured" by the dumped imports.	"in exceptional circumstances a country may, for the production in question, be divided into two or more competitive markets and the producers within each market regarded as a separate industry, if, because of transport costs, all the producers within such a market sell all or almost all of their production of the product in question in that market, and none, or almost none, of the product in question produced elsewhere in the country is sold in that market or if there exist special regional marketing conditions (for example, traditional patterns of distribution or consumer tastes) which result in an equal degree of isolation of the producers in such a market from the rest of the industry, provided, however, that injury may be found in such circumstances only if there is no injury to all or almost all of the total production of the product in the market defined."

The Act requires that injury to "*an industry* in the United States" must be found before dumping duties can be applied. The Commission has sometimes found that the producers in a particular area or those serving a particular market are "an industry" for this purpose. The Code would also permit a "Segmentation" of the industry for purposes of determining injury, but would so restrict it that it could not be employed as it has in the past. Thus, the Code would permit segmentation of the market only when all producers within a market (Paragraph 4(a)) sell all or almost all of their production of the product in that market. The Commission in the past has included in such a regional industry producers who were adjacent to the competitive market area. The Commission majority noted that the circumstances under which the Code would permit the employment of the regional industry concept are so narrowly defined that "four out of five affirmative determinations by the Tariff Commission might not have been made had the Code been in effect when the determinations were made."

The Code also requires that in order to find injury in a segmented market it must be found that "all or almost all" of the producers in the segmented market area are injured. The Act has no such requirement. In fact, under the Act the Commission can find that an injury to one of the producers is sufficient to sustain a determination of injury to the industry.

Procedural matters

THE ACT	THE CODE
The Act provides that the Secretary of the Treasury is to make a determination of sales at less than fair value, and then the matter is to be sent to the Tariff Commission for an injury determination.	The Code requires that dumping complaints be rejected by the Treasury Department unless there is sufficient evidence of injury to justify proceeding with the case (Article 5(c)).

Differences

Under the Act the Treasury Department normally receives a complaint from a domestic producer and is then required to make the "arithmetical computation" necessary to determining whether sales at less than fair value are being made. If they are, then theoretically Treasury "automatically" refers the matter to the Tariff Commission for an injury determination. Under the Code, Treasury would not only have to make the LTFV determination, but would have to make a preliminary injury determination as well.

The present division of responsibility between the Treasury and the Commission was established by the 1954 Amendment which transferred the injury determination function to the Commission. The apparent reason for the transfer was that the Treasury Department was not staffed to handle it, and did not feel that it was competent to do so. The Code requires the Treasury Department again to make injury determinations by requiring it to receive evidence of injury in order to determine whether to proceed with the investigation. This requires the Treasury Department to determine (a) what constitutes evidence of injury, and (b) what is the minimum amount of injury and evidence required for an injury determination.

Not only might the thinking of the Treasury officials be different from that of the Tariff Commission on such matters, but also, as noted above, there are differences between the Code and the Act on what constitutes injury and, indeed, what constitutes evidence of injury. If the Treasury officials apply the provisions of the Code on the injury question, while the Commission applies only the Act, there might well be cases which would be dismissed by the Treasury Department on the grounds that no evidence of injury (which would satisfy the Code) had been received, in spite of the fact that, had the matter been referred to the Tariff Commission for an injury determination, a positive finding would have been made under the Act. Even if there were no other objection, however, it seems clear that by requiring a preliminary injury determination at Treasury, another obstacle not contemplated by the Act is placed in the path of a domestic producer seeking relief.

It might be argued that in fact the Treasury Department makes such "de minimis" determinations on the injury question even now, and has done so for some time under the Act. If so, my answer would be that this practice, too, is inconsistent with the Act.

Conclusion

I have attempted to point out some of the material differences between the Code and the Act which in specific cases could provide different results under the Code than would be reached under the Act. There are other instances whereby the Code can be made consistent with the Act only by the most tortured interpretation of the Act. Some of these are noted in the Commission's majority report on S. Con Res. 38.

I should say in conclusion that in making the report on Senate Concurrent Resolution 38 and in presenting this testimony the Commission and I have no desire to embarrass the President or his representatives or further to confuse international trade negotiations. We were merely asked whether there are inconsistencies between the Code and the Act, and our answer is yes. The majority of the Commission went further and said that, whether or not there are inconsistencies between the Act and the Code, the Code is not the law in the United States, and until the Commission is otherwise instructed by a proper authority, we will not apply it as such. The Commission did not attempt to pass judgment on the value of an international dumping agreement, or the desirability of this one.

(The following letter, with attachments, was received for the record, by the committee:)

AMERICAN MINING CONGRESS,
Washington, D.C., May 29, 1968.

Representative WILBUR D. MILLS,
Chairman, Committee on Ways and Means,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. MILLS: With the International Anti-Dumping Code scheduled to come into effect on July 1, may I respectfully ask you and your Committee to give timely consideration to whatever action might be taken to prevent, or at least postpone the implementation of the Code, until the Congress has had an opportunity to review the present shortcomings of the United States Antidumping Act and the further weakening of the U.S. law, which would be required by conformity to the International Anti-Dumping Code.

The American Mining Congress at its annual convention in Denver, Colorado on September 7, 1967 gave its support to Senate Con. Res. 38. An identical resolution, H. Con. Res. 447, has been introduced this session and is before your Committee. Enclosed is a copy of the anti-dumping portion of the AMC Declaration of Policy.

The Tariff Commission's recent report to the Senate Finance Committee on S. Con. Res. 38 points out significant areas of conflict between the International Anti-Dumping Code and the United States Antidumping Act. The report makes the very telling point that in four out of five cases in which dumping was found to be injurious to U.S. industry, no finding of injury would have been made had the standards of the International Code been followed.

Of particular interest to the Committee will be the revisions to the antidumping regulations which Treasury has said it will put into effect on July 1, to implement the Code. Under these regulations, the Treasury Department would take back a portion of the injury determination in dumping cases, in spite of the fact that in 1954 the Congress specifically withdrew the injury function from Treasury and placed it with the Tariff Commission. Requiring a dumping complainant to document for Treasury a prima facie case of injury will make the Tariff Commission's functions a dead letter—many cases will never even reach the Tariff Commission for a determination of injury to United States industry.

For your convenient reference in evaluating the many areas of disparity between the United States Antidumping Act and the International Anti-Dumping Code, enclosed is a staff study prepared by the American Mining Congress and a one page summary of the significant basic policy questions raised by these conflicts. I offer it to show both the full scope of the massive uncertainty which may be expected and that implementation of the International Code in July will seriously undermine the basic import price floor of United States trade policy provided by the United States Antidumping Act.

Noting that Canada will not have implemented the International Code by July 1, it may also be more appropriate for the United States to postpone hasty implementation of the International Code, rather than go through the more painful processes of revoking United States implementation of the Code at a later date.

With warmest personal regards,

Sincerely,

J. ALLEN OVERTON, JR.,
Executive Vice President.

DECLARATION OF POLICY, 1967–68, AMERICAN MINING CONGRESS, ADOPTED AT DENVER, COLO., SEPTEMBER 10, 1967

Antidumping—Foreign manufacturers who sell their goods in the United States at discriminatory prices—below the prices prevailing in the countries of origin—are engaging in a practice which is clearly contrary to the principles embodied in our domestic fair-trade laws and the intent of Congress as expressed in the Antidumping Act of 1921.

After 46 years, legislative amendment of this Act is now urgently needed; not as protection against fair international trade, but as a necessary countermeasure against the unfair trade practice of dumping. Experience has shown that Congressional guidelines are necessary to clarify basic concepts. There is an immediate need to eliminate loopholes revealed in administrative practices and to provide greater speed and certainty in the handling of dumping cases.

Bills designed to accomplish those objectives were introduced in the 89th and 90th Congresses under broad legislative sponsorship and with significant and substantial support from both industry and labor. The recent negotiation of an International Antidumping Code (referred to below) has stimulated further interest in antidumping legislation. As a consequence, additional bills—similar to the foregoing ones—may be introduced in the near future for the purpose of dealing comprehensively with this important subject. We urge Congress to assign a high priority to such legislation.

The International Antidumping Code, drawn up in Geneva during tariff negotiations under the Trade Expansion Act of 1962 and scheduled to become effective July 1, 1968, has been agreed to by the President and was made public on June 30, 1967. The code is inconsistent with the provisions of the Antidumping Act of 1921 and, we believe, could expose American industry to increased unfair competition from foreign manufacturers.

Because implementation of the International Antidumping Code may produce this result, its acceptance is clearly a usurpation of the legislative functions of our government and is contrary to Senate Concurrent Resolution 100, adopted in 1966. Therefore, we consider it essential that the code negotiated in Geneva be submitted to Congress for study, hearings and action as proposed in Senate Concurrent Resolution 38, 90th Congress, before it is made effective.

Summary of Issues Discussed in AMC Staff Study of International Antidumping Code

The U.S. Antidumping Act, 1921, as amended, as the law of the land, should prevail in areas of conflict with the International Antidumping Code, which is only in the nature of an executive international agreement. Yet, conformity with the Code of domestic law, regulations and administration is pledged by all signatory governments. Thus, endless arguments can be expected first, over whether conflicts exist, and second, over whether present U.S. law or the Code should prevail. Approximately 35 out of 60 major points of substance are mandatory. [see Appendix A.] It is difficult to believe that the remaining permissive criteria will not also be asserted as controlling in U.S. antidumping proceedings.

Areas of conflict go to the heart of whether or not the U.S. will have an effective deterrent to injurious dumping of foreign products. At stake are such issues as:

(1) the amount and type of injurious activity which must be shown [see Article 3(a)1].

(2) the scope of the market area in which the impact of injury may be measured [see Article 4(a)].

(3) whether injury determinations are to be undertaken without a knowledge of the margin of dumping involved and whether Treasury is, in effect, going to take portions of such determinations out of the Tariff Commission's hands contrary to the intent of Congress in the 1954 amendment [see Article 5(b)].

(4) whether the finality of dumping cases is going to be eroded by discretionary administration [see Article 8(a)].

(5) whether a "basic price" concept in certain exporter countries will circumvent the margin of dumping concept [see Article 8(d)].

(6) whether importers may dump in one regional market, stop, and then dump in another, and thereby elude the reach of U.S. law [see Article 8(e)].

(7) whether by redesigning the time-limits and retroactive features of provisional measures the effectiveness of the U.S. Antidumping Act will be irreparably diluted [see Articles 9, 10 and 11].

STAFF STUDY AND COMPARATIVE ANALYSIS BY THE AMERICAN MINING CONGRESS

of the

INTERNATIONAL ANTIDUMPING CODE

as it relates to

ANTIDUMPING PROVISIONS, ARTICLE VI, GATT
U.S. ANTIDUMPING ACT, 1921, AS AMENDED
U.S. TREASURY ANTIDUMPING REGULATIONS

S. 1726 introduced by Senator Vance Hartke and others (90th Congress)

Laurence P. Sherfy
General Counsel

J. Allen Overton, Jr.
Executive Vice President

Stanley W. Schroeder
Assistant General Counsel

American Mining Congress
1100 Ring Building, Washington, D. C. 20036
August 1967

(1949)

NOTE: This section-by-section comparative analysis and the basic materials from which the analysis was made are for convenient and continuing reference purposes; and as a working device to assist in developing American Mining Congress position. Staff commentary and explanation are intended to highlight some of the aspects which are likely to come up for discussion of the Code's scope and potential impact.

J. Allen Overton, Jr.
Executive Vice President

INTRODUCTION

SOME GENERAL OBSERVATIONS

REPRESENTATIONS THAT NO CONGRESSIONAL ACTION IS NEEDED

(a) A Code in Legal Limbo

Many pious statements have been made by members of the Office of Special Representative for Trade Negotiations that no Congressional approval of the Code would be required. They have claimed that this could all be done by mere changes of Treasury regulations. They seem to overlook the facts that:

(1) While the President as Head of State has the power to conduct U.S. foreign policy and to conclude executive agreements which have international force and effect, the power over U.S. commerce has constitutionally and historically been in the hands of Congress and has only been parceled out piecemeal in the international trade field to the President by specific Acts of Congress in the reciprocal trade agreements program starting in 1934.

(2) Congress did not, in the Trade Expansion Act of 1962, authorize the entry into an international agreement which would change the U.S. Antidumping Act, just as it did not authorize a change in American Selling Price.

(3) The Senate has not approved the International Antidumping Code as if it were a treaty, nor has the Congress implemented it by legislation.

The conclusion is inescapable that the U.S. accession on June 30, 1967 to the Code is without force and effect in relation to the U.S. Antidumping Law, unless implementing legislation is approved by the Congress. In the absence thereof, there is no change in the applicability of existing U.S. law.

(b) The "Permissive" Argument

One of the arguments which is likely to be raised in defense of the assertion that the Code will not require implementing legislation is that a good portion of the Code is permissive, i.e., the word "may" is used rather than the word "shall." A rough tabulation of approximately 60 major points of

substance contained in the Code [see Appendix A] reveals that approximately only 25 will fall in this permissive category while 35 will fall in the mandatory category. Two major areas of the Tariff Commission's concern would become almost completely mandatory if the Code were to apply. Article 3, for example, which sets out detailed standards for measuring injury and the threat of injury is completely mandatory. In Article 4 (a) the term "domestic industry" is required to be defined on a nationwide basis except where, under very limited conditions, the regional market can be isolated and a narrow competitive product concept is superimposed on both the national and regional industry concepts.

There is an incredibility factor in this "permissive" argument which raises these questions:

> Is the Congress to stand by and see the U.S. Antidumping Act emasculated on the basis of the excuse that approximately 25 out of 60 of the substantive provisions of the Code are couched in terms not mandatory, but permissive? Would our negotiators have us and our trading partners believe that it was really the U.S. intent all along not to implement the approximately 42 percent of the International Code whose provisions were couched in the permissive?

This is difficult to believe insofar as signatories to the Code pledge in Article 14 to conform their "laws, regulations and administrative procedures with the provisions of the Antidumping Code."

(c) The "Treasury Regulations Can Provide Conformity" Argument

It has also been asserted that a change in Treasury Regulations will be sufficient to effect any necessary changes to conform with the U.S. antidumping approach to the new Code. However, a number of mandatory provisions would apply to both the Treasury's dumping and the Tariff Commission's injury determinations. For example, the definition of "like product" in Article 2 (b) is central to the Commission's competitive product market concept contained in 3 (d) as well as the Treasury's determination of dumping in Article 2 (d). Clearly, a change in the Treasury Regulations could not accomplish the mandatory application of the like product concept in 2 (b) to the Tariff Commission's determination of the competitive product market in 3 (d)--if the Tariff Commission does not choose to do so itself.

Similarly, in Article 6, containing 10 evidentiary provisions of which 6 are mandatory, four would apply equally to the Tariff Commission as well as to the Treasury Department. These would include the right to present evidence [6 (a)], and to examine evidence [6 (b)], to the treatment of confidential information [6 (c)], and the right to confrontation and rebuttal [6 (g)].

(d) Simultaneous Dumping and Injury Investigations

The requirement in Article 5 (b) that evidence of both dumping and injury must be considered simultaneously in the decision of whether or not to initiate an investigation, "and thereafter", affects both the responsibilities of Treasury and the Tariff Commission in the prosecution of their respective dumping and injury finding duties. Insofar as the Treasury, under U.S. law, initiates the antidumping investigation by attempting to determine if there is a margin of dumping, it is presumed that the intent of this paragraph is to move up the start of the injury determination by the Tariff Commission to not later than the earliest date from which provisional measures may be applied. By definition in Article 10 (a) this is after a preliminary decision has been taken that there is dumping and sufficient evidence of injury. It must be concluded, therefore, that the preliminary determination of whether sufficient evidence of injury exists must be made either by the Tariff Commission or by the Treasury Department. If the Tariff Commission would make such determination, it would be a violation of the U.S. law which requires that the Tariff Commission take up the injury question after the Treasury has made a finding that there are sales at less than fair value. If the Treasury would make such determination, such action would be contrary to the 1954 amendment of the U.S. Antidumping Act which took the determination of injury to industry away from Treasury and gave it to the Tariff Commission without any reservations to the Treasury Department for preliminary injury decisions. [See comments under Article 5 (c)]. Thus, the procedure outlined either cannot be accomplished under U.S. law or a change of U.S. law is required.

(e) Many Principal Mandatory Code Provisions Will Conflict with U.S. Law

A list of some of the more obvious conflicts would include these areas:

- Principal cause of material injury [see Article 3(a)]
- National markets [see Article 4(a)]
- Simultaneous dumping and injury [see Article 5(b)]
- Discretion of authorities [see Article 8(a)]
- Basic price system [see Article 8(d)]
- Dumping cessation in regional markets [see Article 8(e)]
- Time limit on provisional measures [see Article 10(d)]

CONSIDERATIONS RE IMPLEMENTING LEGISLATION

Should the Congress consider the possibility of implementing legislation, it would seem appropriate to examine the relationship of the Code provisions to all aspects of existing U.S. law and regulations in order to understand the differences that exist and the consequences of any action which would superimpose the Code upon the existing law and regulations. Sufficient disparities exist between the Code and U.S. law to require many Congressional decisions as to which shall govern and nothing short of a massive overhaul of the U.S. Antidumping Law and implementing regulations would seem to be required, not to mention the effect such action would have in effectively forclosing the chances of unilateral U.S. legislative improvements of its antidumping law in the future [see discussion under Article 1].

[Code, the Exclusive Remedy]

International Antidumping Code:

Article 1

The imposition of an antidumping duty is a measure to be taken only under the circumstances provided for in Article VI of the General Agreement. The following provisions govern the application of this Article, in so far as action is taken under antidumping legislation or regulations.

Comment:

To require U.S. antidumping actions to conform to the conditions set out in the Code is to limit use of the present U.S. Antidumping Act and regulations to those areas in which the U.S. law and regulations are in accordance with the international code. In those areas not in accordance, it will be necessary to either change U.S. law and regulations to conform to the international code or to cease to use U.S. law and regulations now on the books, a situation which it is doubtful that the Congress intended.

Whereas the Code contains many permissive points which the authorities "may" apply, and therefore which would not seem to require conformity by countries signatory to the international Code, the danger of these permissive provisions lies in the fact that they prescribe the outer limits of any national legislation in the future, on the points they cover, just as effectively as those provisions which are mandatory under the new Code--should the Congress at a later time be persuaded that any legislation contrary to the Code would embarrass the President as being contrary to our international obligations. If this were the case, while Congress could still pass any legislation it desired, it would, as a practical matter, be effectively foreclosed from legislatively achieving many of the needed reforms outlined in S. 1726 and other industry proposals.

A. Determination of Dumping
Article 2
[Fair Value v. Normal Value]

International Antidumping Code:

2 (a) For the purpose of this Code a product is to be considered as being dumped, i.e., introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

Article VI, GATT:

I. "The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products."

Antidumping Act, 1921, As Amended:

Antidumping Act, 1921, does not specifically define dumping, but rather is directed only at sales at "less than fair value," which is undefined. Thus, Treasury is left free to define dumping in its regulations as it sees fit.

U.S. Treasury Regulations:

At present fair value, as defined in paragraph 14.7 of the Treasury Regulations (19CFR 14.7), may be found if purchase price or exporter's sales price (as defined in sections 203 and 204, respectively of the Antidumping Act, 1921, as amended) is not, or is not likely to be, less than the foreign market value (as defined in section 205) or constructed value (as defined in section 206) after adjustments as provided for in section 202 at which such or similar merchandise (as defined in section 212 (3)) is sold for consumption in the country of exportation.

Footnote 15 of the Treasury Regulations makes it clear that the definition of fair value "does not in any way modify or affect definitions of foreign market value or constructed value, or their application as a basis for determining whether or not to withhold appraisement under section 201 or impose the duty under section 202.

S. 1726 (90th Congress):

The term "at less than fair value" would be defined in the statute so as to preclude Treasury from changing its regulations or the interpretation of its regulations. Therefore, the bill provides for a comparison of provisions already defined in the present Act--purchase price or exporter's sales price and foreign market value or constructed value. Section: 1 [201(f)(1)].

Comment:

Raises question of whether U.S. "fair value" is equivalent to Code's "normal value." If U.S. Treasury regulations have to be changed to read "normal value" then U.S. law would also have to be changed to read "normal value" since Treasury Regulations are intended to reflect the U.S. Antidumping Law.

[Like Product]

International Antidumping Code:

2 (b) Throughout this Code the term "like product" ("produit similaire") shall be interpreted to mean a product which is identical, i.e., alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

Antidumping Act, 1921, As Amended:

No comparable all-purpose concept under U. S. law. There is no such concept regarding injury but there is a concept somewhat similar for dumping; the section 212(3) definition of "such or similar merchandise" is used in determining foreign market value in sections 205, 202(b) and (c). Strict priorities are set out in section 212(3), however, for which there is no parallel in the International Antidumping Code.

U.S. Treasury Regulations:

Section 14.7(b)(3) of the Treasury Regulations requires that in any consideration of "similar merchandise" as described in subdivisions (C), (D), (E), or (F) of section 212(3), Antidumping Act, 1921, as amended, due allowance be made for differences in the merchandise, primarily the effect of such differences upon the market value. Consideration may also be given to differences in cost of manufacture if the amount of any price differential is wholly or partly due to such differences.

Comment:

The Code term "characteristics closely resembling those of the product under consideration" is thoroughly ambiguous. Are these to be physical characteristics, competitive equality, similarity of productive processes? What kind of variations would determine "closely resembling"?

Like product is further clarified in the Code only with regard to qualifications for comparison under the injury test--production process, the producers' realizations, profits. (See discussion in Article 3 (d)).

Thus, U.S. Law and Treasury Regulations are much more specific than International Code. This raises the question of whether these provisions must be scrapped in favor of the more generalized Code provisions.

[Trans-Shipments]

International Antidumping Code:

2 (c) In the case where products are not imported directly from the country of origin but are exported to the country of importation from an intermediate country, the price at which the products are sold from the country of export to the country of importation shall normally be compared with the comparable price in the country of export. However, comparison may be made with the price in the country of origin, if, for example, the products are merely trans-shipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export.

Article VI. GATT:

1. "...For the purposes of this Article, a product is to be considered as being introduced into the commerce of an importing country at less than its normal value, if the price of the product exported from one country to another

(a)...is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or..."

Antidumping Act, 1921, As Amended:

Antidumping Act, 1921 has no such intermediate country concept.

U.S. Treasury Regulations:

Not covered by Treasury Regulations.

Comment:

Article 2 (c) is permissive, not mandatory, so that U.S. need not adopt such procedure. Thus, Treasury could continue to use country of export on trans-shipments, and go to 3rd country prices rather than to country of origin. If Treasury wanted to use country of origin, a change in Treasury Regulations would be required and Sec. 205 (Foreign Market Value) of the U.S. law would have to be amended to bypass the parenthetical requirement in Sec. 205 to use 3rd country sales.

[Third Country Sales]

International Antidumping Code:

2 (d) When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to any third country which may be the highest such export price but should be a representative price, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and any other costs and for profits. As a general rule, the addition for profit shall not exceed the profit normally realized on sales of products of the same general category in the domestic market of the country of origin.

Article VI, GATT:

1 (b) "... in the absence of such domestic price, is less than either

(i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or

(ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit."

Antidumping Act, 1921, As Amended:

Antidumping Act has generally same purpose but many differences of details. No reference to highest export price.

The format of priorities under U.S. law in sections 201 (b) and 205 are as follows:

First, try to establish "foreign market value" in country of export (Sec. 205)

Second, if either (1) inadequate quantities in country of export compared to sales for export to countries other than the U.S. or (2) no sales, or, in the absence of sales, offers for sales in the principal markets of the country from which exported, in the usual quantities and in the ordinary course of trade--look to sales in third country by exporter (this is still "foreign value") Sec. 205.

Third, if no foreign value possible--use a constructed value (Sec. 201(b)) (Sec. 206).

U.S. Treasury Regulations:

Paragraph 14.7 follows priorities set out in U.S. law with exception that section 14.7 (a)(2) of the Treasury Regulations focuses exclusively on inadequacy of quantities without mentioning other factors such as absence of sales or offers for sales in the principal markets .. in the usual wholesale quantities .. in the ordinary course of trade.

S. 1726 (90th Congress):

Third Country Sales

The Bill would specify that the exporter's home market will be the basis for determining foreign market value so long as at least one vendor's sales of like merchandise in the home market account for 15% or more of his total sales, excluding sales to the U.S. This provision would greatly reduce the number of instances in which third country markets are used as the basis for determining foreign market value. Section: 4 [205 (a) (1)].

If no such vendor can be found, resort is to sales in country which is the largest consumer of the vendor's sales. Sec. 4 [205 (a) (2)].

In absence of proof of sales at a different price, foreign market value is presumed to be sellers' list or published price. Sec. 4 [205 (a)].

Comments:

U.S. law has definite priorities for using sales in exporter's home market, third countries, and then constructed value, while Article 2 (d) of International Antidumping Code would allow resort to either third country sales or constructed value once sales in exporter's home market were found not to permit a proper comparison. Thus, for the U.S. authorities to follow the GATT, a change in U.S. law would seem to be required. However, Treasury might try to get around this by not going to constructed value before third country sales, or by claiming that third country sales were insufficient or inadequate before using constructed value.

The requirements of third country price to be the highest but representative price is permissive. (Also, U.S. has already subscribed to those portions of Article VI of GATT not in conflict with U.S. law.)

The ability to use sellers' list or published prices contained in S. 1726 was not covered in the Code.

[Unreliable Prices]

International Antidumping Code:

2 (e) In cases where there is no export price or where it appears to the authorities concerned that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the prodicts are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the authorities may determine.

2 (f) (last sentence) In the cases referred to in Article 2 (e) allowance for costs, including duties and taxes, incurred between importation and resale, and for profits accruing, should also be made.

Antidumping Act, 1921, As Amended:

Section 207 defines specific relationships that will require use of Section 204 Exporter's Sales Price which is the price at which imported merchandise is sold or agreed to be sold in the United States, by or for the account of the exporter.

U.S. law does not contain the flexibility to use a "reasonable basis as the authorities may determine" where no resale to an independent buyer or no resale at all in the condition as imported.

Section 206 (b) and (c) dealing with constructed value allow valuations to be disregarded if transactions between related parties do not reflect market value. Resort is to best evidence available.

Section 205 (last sentence) dealing with foreign market value authorizes use of prices at which such or similar merchandise is sold through a sales agency or other organization related to the seller to determine foreign market value.

U.S. Treasury Regulations:

One type of compensatory arrangement exists where foreign exporters offe to reimburse U.S. importers for the payment of any dumping duties which may be incurred. This usually takes the form of a warranty of non-applicability of dumping duties. Under the Treasury Regulations such a warranty will reduce purchase price or exporter's sales price except to the extent that it covers merchandise which is (1) purchased or agreed to be purchased before publication of a withholding of appraisement notice, and (2) exported prior to a dumping determination by Treasury. 14.9 (f)

S. 1726 (90th Congress)

There are a number of features of S. 1726 designed to deal with the problem of the unreliability of foreign price data. Remedies are proposed in the following areas:

Reliance on List or Published Prices: In the absence of conclusive evidence that merchandise was actually sold at a different price, the seller's list or published price will prevail. Section: 4 [205(a)(2)].

"Usual Wholesale Quantity": Certain classes of transactions which are not likely to reflect a fair price freely arrived at on the open market should not distort Treasury's determination of what constitutes the "usual wholesale quantity." The Bill would exclude:

a. Quantity discounts not freely available to all purchasers at the time sales in question were made.

b. Transactions between "related" persons described in Section 207.

c. Contracts pursuant to exclusive dealing arrangements, e.g., exclusive distributorships or exclusive requirements contracts. Section: 7 (1)

Cost-Justification of Quantity Discounts: Treasury's recently revised regulations on antidumping, in effect, acknowledged that the long-standing complaint by domestic industry had been valid. Treasury's practice had been to make allowance for differences in quantity discounts--on sales to the U.S. compared with sales in the home market--if they were "reasonable" without explaining what standards it uses in ascertaining what is "reasonable."

Treasury's revised regulations specify that an allowance ordinarily will be made for a quantity discount only if it is actually in effect for six months with respect to 20 percent of the merchandise sold in the home market or in third country markets where applicable, or, in the alternative, unless it is cost-justified.

The 1965 Bill would limit the allowance for quantity discounts to differences in the cost of manufacture, sale, or delivery resulting from differences in wholesale quantities actually considered and taken into account by the vendor in establishing his price. Section: 2 [202 (b)(1) and (c)(1)].

Dummy Exporter Loophole: Importers could avoid the Act simply by setting up a foreign subsidiary to the parent company as the exporter of the dumped merchandise, and by seeing to it that the bulk of the profits from the sale of such merchandise are made by the subsidiary itself in the country of export. The Bill, therefore, provides that such markup for expenses and profits by the exporting subsidiary shall be deducted in determining the exporter's U.S. sales price.

In addition, if Treasury finds a margin of dumping both ways--whether it recognizes or sees through the subsidiary--the Bill provides that the dumping duty shall be equal to the greater margin. This would relieve Treasury of the need for extensive investigations to determine the bona fide nature of the exporting subsidiary in such cases. Section: 3.

Comment:

Article 2 (e) is permissive. It appears to envision some sort of a work-back from retail sales to an independent buyer, or if such sales are not available or if there is further manufactured by importer before sale the resort is to "such reasonable basis as the authorities may determine."

The last sentence of 2 (f) is less permissive, using the words, "should also be made." The question raised is whether Treasury could claim that almost any situation would enable it to use "such reasonable basis as the authorities may determine" so that any hope of getting more specific provisions such as are proposed by S. 1726 may be permanently foreclosed.

[Adjustments for Differences]

International Antidumping Code:

2 (f) In order to effect a fair comparison between the export price and the domestic price in the exporting country (or the country of origin) or, if applicable, the price established pursuant to the provisions of Article VI: 1 (b) of the General Agreement, the two prices shall be compared at the same level of trade, normally at the ex factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for the differences in conditions and terms of sale, for the differences in taxation, and for the other differences affecting price comparability. ... [last sentence is shown with 2 (e)].

Article VI, GATT:

I ... "Due allowance shall be made in each case for differences in conditions and terms of sale, for differences intaxation, and for other differences affecting price comparability."

Antidumping Act, 1921, As Amended:

Section 202 (b) and (c) and Sections 203, 204, and 205, taken together, would give substantially the same results. However, Section 212 (4) describes "usual wholesale quantities" as being the price of the quantity in an aggregate volume which is greater than the aggregate volume for any other quantity.

U.S. Treasury Regulations:

Section 14.7 (b) expands on differences in quantities in relation to discounts, differences in circumstances of sale, offers, cost of manufacture, the use of sales agencies, and sales at varying prices.

Also to be considered are adjustments for differences in merchandise: Due allowance will be made for variation in the quality of the merchandise being sold in the U.S. and the home market. Treasury will be guided primarily by the effect of such differences upon the market value of the merchandise, but in appropriate circumstances will also make adjustments for differences in the cost of manufacture where it is established that a price differential is wholly or partly due to such differences. 14.7 (b) (3).

Quantity discounts will be allowed if actually enjoyed by 20 percent of the exporter's home market for six months and freely available; or, in the alternative, are cost-justified. 14,7 (b) (1).

95-159 O - 68 - pt. 5 - 12

S. 1726 (90th Congress):

Circumstances of Sale:

The Bill would specify that due allowance shall be made for other differences in circumstances of sale affecting the cost of doing business to the extent that such differences were actually considered and taken into account by the vendor in establishing his price. This attempts to get at the realities of the transactions and to discourage sham manipulations and theories developed after-the-fact as spurious defenses to thwart Treasury's administration of the Act. Section: 2 [202(b)(2) and (c)(2)].

Quantity Discounts:

Must reflect differences in costs resulting from different wholesale quantities actually considered and taken into account in setting price. Section: 2 [202(b)(1) and (c)(1)].

Usual Wholesale Quantities:

The level of trade in general is those quantities at which offered for sale and sold in the ordinary course of trade to wholesale purchasers, but excluding wholesale quantities offered for sale or sold at quantity discounts only available to selected or preferred purchasers, all transactions between related parties, and exclusive dealing arrangements. Section: 7(1)

Comment:

The real infighting in an antidumping case involves the allowances for differences affecting price comparability. Sizeable dumping margins may be reduced to de minimis or even explained away completely. U.S. industry has been aiming for more specific regulations which would pin down the application of factors affecting comparability. S. 1726 would add the principle that such factors must have actually been considered by the vendor and taken into account in setting his price. On the other hand, there must be a possibility for weeding out exclusive dealing arrangements, preferential quantity discounts, and transactions between related parties if price-rigging for purposes of avoiding dumping is to be dealt with effectively. Conceivably, Treasury could now say that a number of the more specific provisions in U.S. law and regulations are not covered by Art. 2 (f) and therefore invalid. Article 2 (f), for example, contains no provision such as in Sec. 212(4) of U.S. law which requires the products in the greater aggregate volume to be the basis for finding "usual wholesale quantities."

[State Trading Monopolies]

International Antidumping Code:

2 (g) This Article is without prejudice to the second Supplementary Provision to paragraph 1 of Article VI in Annex I of the General Agreement.

Article VI, GATT:

The second Supplementary Provision to paragraph 1 of Article VI found in Annex I of the GATT recognizes that prices in state-trading monopolies may not be appropriate.

Antidumping Act, 1921, As Amended:

No comparable provision.

S. 1726 (90th Congress):

In dealing with countries which control home market prices by State fiat, Treasury has had to resort to procedures not explicitly authorized heretofore by the Act. The Bill makes it clear that Treasury may continue this necessary flexibility to determine the foreign market value of merchandise produced in Communist or centrally-planned economies or adopt other reasonable standards. Section: 4 [205 (b)]

Comment:

As East-West trade increases this will become increasingly important. Article 2 (g) merely would allow authorities to disregard State trading monopoly prices, but offers no positive guidelines. To date, the U.S. has no legislation to deal with this problem.

B. Determination of Injury ...
Article 3
[Principal Cause of Material Injury]

International Antidumping Code:

3 (a) A determination of injury shall be made only when the authorities concerned are satisfied that the dumped imports are demonstrably the principal cause of material injury or of threat of material injury to a domestic industry or the principal cause of material retardation of the establishment of such an industry. In reaching their decision the authorities shall weigh, on one hand, the effect of the dumping and, on the other hand, all other factors taken together which may be adversely affecting the industry. The determination shall in all cases be based on positive finding and not on mere allegations or hypothetical possibilities. In the case of retarding the establishment of a new industry in the country of importation, convincing evidence of the forthcoming establishment of an industry must be shown, for example, that the plans for a new industry have reached a fairly advanced stage, a factory is being constructed or machinery has been ordered.

Article VI, GATT:

6 (a) "No contracting party shall levy any antidumping or countervailing duty on the importation of any product of the territory of another contracting party unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry."

Antidumping Act, 1921, As Amended:

The Antidumping Act, 1921, delegates to the Tariff Commission the determination of whether an industry in the United States is being or is likely to be injured or is prevented from being established, by reason of the importation of such merchandise into the U.S. There are no specific guidelines for finding injury.

S. 1726 (90th Congress):

Section 201 (b) of the Bill would set forth several tests for determining whether material injury exists or is likely to exist. [See discussion under Article 3 (b)].

Section 1 [201(b)(2)(3) and (4)] of the Bill recognizes that dumping may be one of several contributing causes of injury. [See discussion under Article 3 (c)].

Comments:

Adherence to Code provision not only would limit the Commission's judgment function without any offsetting benefit, but also would prevent Tariff Commission from giving relief from dumping where dumping is only a contributing cause not of "principal" proportions. It would also be likely to preclude S. 1726 purpose of allowing dumping to be found even if concurrent causes are present. S. 1726 rationale asks why relief against one cause of injury should be denied merely because other causes also exist.

It is extremely doubtful that any dumping effect ever could outweigh all other factors taken together which may be adversely affecting an industry.

If Article 3 (a) had been written without the second sentence, it is likely that the "principal cause of material injury" concept could be considered as making it easier to show injury than having to show that dumped imports caused all of the material injury. But the second sentence, by requiring that all other factors which "may be adversely affecting industry" be put on the scale, has replaced the concept of material injury with one which is open-ended concept of adverse effects which can be expanded to infinity.

U.S. acceptance of GATT provided that GATT would apply only to the extent it is "not inconsistent with existing legialation" which, of course, included the Antidumping Act of 1921 and thereby excluded the U.S. from the need to base its injury test on "material" injury.

[Forms of Injury]

International Antidumping Code:

3 (b) The valuation of injury--that is the evaluation of the effects of the dumped imports on the industry in question--shall be based on examination of all factors having a bearing on the state of the industry in question, such as: development and prospects with regard to turnover, market share, profits, prices (including the extent to which the delivered, duty-paid price is lower or higher than the comparable price for the like product prevailing in the course of normal commercial transactions in the importing country), export performance, employment, volume of dumped and other imports, utilization of capacity of domestic industry, and productivity; and restrictive trade practices. No one or several of these factors can necessarily give decisive guidance.

Antidumping Act, 1921, As Amended:

No comparable provisions; Tariff Commission has complete discretion in determining what amounts to injury.

S. 1726 (90th Congress):

Definitions of "Injury"

Section 201 (b) of the Bill sets forth the following tests for determining whether material injury exists or is likely to exist:

Test 1. Percentage Loss of Market Share

THE NEED — Members of the Tariff Commission have tended to agree that a domestic industry must show "material" injury to obtain relief, but have disagreed on the percentage of a market which dumped imports must seize to be deemed "material".

PROPOSAL — Injury shall be found if imports determined by Treasury to be dumped:

Capture 5% of the total domestic sales of the relevant product in the competitive market area.

DEFENSE AVAILABLE — Unless there is clear and convincing evidence that had su dumped sales not been made, the industry in the U.S. still wo not have increased its sales.

The Commission could measure dumping in any 3-month ti span during a period starting six months before the initiation o the investigation by the Treasury Department and ending at the conclusion of the Commission's investigation.

COMMENT The choice of 5% can be justified on the basis of concepts borrowed from U.S. antitrust laws, and on the fact that domestic industry cannot be expected to suffer a 5% loss of sales to dumped merchandise without serious adverse effects. Section: 1 [201 (b) (1).

Test 2. Forcing a Price Break

THE NEED There has been wide disagreement within the Tariff Commission as to the role dumped imports must play in forcing a price break before they are considered injurious.

PROPOSAL Injury shall be found if imports determined by Treasury to be dumped are:

> A contributing cause of a decline in the prices of 50% or more of the relevant domestic merchandise supplied to the competitive market area.
>
> The price break must occur in any month within the period starting six months before the Treasury investigation and ending at the close of the Commission's investigation.

COMMENT Injury may be caused when, in order to protect their market position from dumping, domestic producers are forced to reduce prices. Even small quantities of imports at dumped prices can cause widespread price breaks in the competitive market area. Section: 1 [201(b)(2)].

Test 3. Losses by Labor

THE NEED The interests of domestic labor cannot be separated from those of domestic industry in the face of dumped imports. At present the Act makes no direct reference to injury to labor, only to "an industry."

PROPOSAL Injury shall be found if imports determined by Treasury to be dumped are:

> A contributing cause of a decline of 5% or more (in man-hours worked or in wages paid) of direct labor employed by a domestic industry in producing merchandise of the same class or kind supplied to a competitive market area.

COMMENT To measure a decline the Commission would compare man-hours worked or wages paid during any three of the months from six months before the initiation of the dumping investigation to the conclusion of the injury investigation, with the average monthly level of such employment during the year ending on the date the Treasury investigation began. Section: 1 [201(b)(3)].

Test 4. Other Anticompetitive Effects

THE NEED To allow the Tariff Commission the necessary flexibility to deal with factors indicative of unfair competition other than those listed above, there is a need for a "basket" clause.

PROPOSAL Injury shall be found if imports determined by Treasury to be dumped:

Have been a contributing cause of any anticompetitive effects in any competitive market area.

COMMENT Market disruption which follows dumped imports could be sufficient to justify the imposition of dumping duties. The Commission also should be expected to consider the disruptive effects of dumped imports on established patterns of trade, customer relationships and market habits which force serious adjustments in the reasonably expected results of a business venture, to name a few examples. Section: 1 [201(b)(4)].

Defenses: A Necessary Clarification

No Domestic Sales Lost--Under Test 1 the importer has a defense if he can show by clear and convincing evidence that the domestic industry would not have supplied that share of the market taken over by dumped imports even if no dumping had occurred. Section: 1 [201(b)(1)]. Meeting Competition--Meeting competition from other nondumped imports would not alone constitute a defense. Section: 1 [201(d)]. Predatory Intent --In recent years, the Commission has introduced into its determinations the irrelevant question of whether foreign merchandise was sold with predatory intent, as though this psychological inquiry had something to do with the question of injury to domestic industry. The Bill would make it clear that the exporter's or importer's intent is irrelevant. Section: 1 [201(d)].

COMMENT:

The last sentence of Article 3 (b) is a two-edged sword. On the one hand, U.S. industry has lost injury cases because of Tariff Commission focus on one or several factors. On the other hand, U.S. adherence to such multi-factored approach would preclude any future U.S. legislation to create several automatic injury tests which have been suggested by domestic industry. Without statutory tests such as those which are proposed by S. 1726 experience has shown that there is no assurance the Commission will find injury in even such obvious situations.

[Contributing Cause]

International Antidumping Code:

3 (c) In order to establish whether dumped imports have caused injury, all other factors which, individually or in combination, may be adversely affecting the industry shall be examined, for example: the volume and prices of undumped imports of the product in question, competition between the domestic producers themselves, contraction in demand to substitution of other products or to changes in consumer tastes.

Antidumping Act, 1921, As Amended:

No comparable provision.

S. 1726 (90th Congress):

Recognizing "Dumping" as a "Contributing Cause"

The second, third and fourth tests of injury, outlined in connection with Article 3 (b), require that the dumping of foreign merchandise must be a contributing cause of the stated effects. It is rarely the case that any event is the sole or even the predominant cause of any other event, especially in the field of economic cause and effect. Yet, the Tariff Commission has recently refused to recognize injury from dumping because injury might have been explained in part by causes other than dumping. The Bill would make clear that the mere presence of concurrent causes may not be used to avoid a finding of injury from the dumping. Section: 1 [201(b)(2), (3), and (4)].

Comment:

Article 3 (c) seems to be a causal relation test (whereas Article 3 (b) is concerned with the scope of injury

Article 3 (c) picks up several of the defenses which Tariff Commission used to deny injury finding.

The words "individually, or in combination" in Article 3 (c) are particularly damaging because they require the "principal cause" of Article 3 (a) not only to be the largest single cause, but also of greater effect than all other causes combined. Read in conjunction with the words in Article 3 (a), "all other factors taken together" this becomes the inescapable intent of the Code which the Tariff Commission would have to implement because no exception has been accorded the U.S. as was originally done regarding Article VI of the GATT.

[Competitive Product Market]

International Antidumping Code:

3 (d) The effect of the dumped imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of production in terms of such criteria as: the production process, the producers' realizations, profits. When the domestic production of the like product has no separate identity in these terms the effect of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

Antidumping Act, 1921, As Amended:

No comparable provision. The "such or similar" provisions in Section 212(3) of the U.S. Antidumping Act apply to comparability for purposes of determining whether there is dumping, not to the injury question.

S. 1726 (90th Congress):

The product market would include merchandise which is reasonably interchangeable in use with the class or kind involved. Other lines of commerce in which one or more members of a domestic industry may be engaged, but which are outside the scope of competition with dumped imports, are not to be considered by the Commission in weighing the impact of dumping upon a domestic industry. Section: 1 [201(f)(4)].

Comment:

Article 3 (d) attempts to solve the "relevant product line" problem. This concept would be superimposed upon the definition of industry as set out in Article 4 by Article 4 (c).

The Code's reference to production process would seem to preclude any subsequent possibility of legislation to allow a claim on injury to be made by a competing product not necessarily of the same material or made by similar processes, although such broadening of product line may be dangerous where broadening the relevant market base may make it more difficult to show injury.

The usefulness of this provision would depend upon whether the availabili of data and "necessary information" provisions can be satisfied.

[Threat of Injury]

International Antidumping Code:

3 (e) A determination of threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause material injury must be clearly foreseen and imminent.[1]

[1] One example, though not an exclusive one, is that there is convincing reason to believe that there will be, in the immediate future, substantially increased importations of the product at dumped prices.

Antidumping Act, 1921, As Amended:

Section 201 (a) gives the Tariff Commission the responsibility for determining whether an industry "is being or is likely to be injured."

S. 1726 (90th Congress):

Likelihood of Injury

THE NEED — The Tariff Commission has recently ruled that "likelihood of injury" can be found only on a showing of clear and imminent injury. This rigid standard, borrowed from an irrelevant concept defined under wholly different words used in the old Escape Clause, is almost impossible to satisfy. In keeping with the rule in other laws designed to curb unfair competition, the Commission should be able to cope with future dumping on a showing of reasonable likelihood of injury.

PROPOSAL — Likelihood of injury shall be found when:

The Commission finds a reasonable likelihood that an injury described in the tests above will occur by reason of dumping. Section: 1 [201 (c)].

Comments:

Neither the Act nor its legislative history gives any explicit indication as to the meaning of "likelihood of injury." None of the domestic antitrust laws has been interpreted so narrowly as the Commission's "clear and imminent" requirement. It is generally accepted that the effective implementation of unfair trade laws requires the judging body to make some estimates from evidence of records plus common business experience, and a probability of injurious effects even though this probability could not be demonstrated to a certainty.

Comments (Cont'd):

By its very nature, the likelihood of injury concept is forward-looking in time. Its purpose is to be prepared to deal with an inflow of dumped imports so that their impact may be headed off by rapid imposition of a special dumping duty.

As the Tariff Commission cases have shown, if the clear and imminent injury test is required, any attempt to show the threat of injury will become a dead letter in antidumping cases.

International Antidumping Code: 3 (f)

3 (f) With respect to cases where material injury is threatened by dumped imports, the application of antidumping measures shall be studied and decided with special care.

Comment:

A meaningless provision. The requirement of study and decision "with special care" would seem to be at cross-purposes with the need for speedy action where dumping is imminent.

Article 4
Definition of Industry
[National and Regional Markets]

International Antidumping Code:

4 (a) In determining injury the term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products except that:

(i) when producers are importers of the allegedly dumped product the industry may be interpreted as referring to the rest of the producers;

(ii) in exceptional circumstances a country may, for the production in question, be divided into two or more competitive markets and the producers within each market regarded as a separate industry, if, because of transport costs, all the producers within such a market sell all or almost all of their production of the product in question in that market, and none, or almost none, of the product in question produced elsewhere in the country is sold in that market or if there exist special regional marketing conditions (for example, traditional patterns of distribution or consumer tastes) which result in an equal degree of isolation of the producers in such a market from the rest of the industry, provided, however, that injury may be found in such circumstances only if there is injury to all or almost all of the total production of the product in the market as defined.

* * *

4 (c) The provisions of Article 3 (d) shall be applicable to this Article.

Antidumping Act, 1921, As Amended:

No comparable provision. The Tariff Commission in only a few cases departed from the nationwide concept of industry and measured injury of dumped imports in relation to the portion of the total U.S. industry selling in the market area affected by the dumped imports.

S. 1726 (90th Congress):

Definitions of "Industry"

The Bill borrows from antitrust principles in defining the domestic industry, the geographical market and the product market so as to assure that the Tariff Commission will focus upon the effects of dumping in a competitive market area, and to reverse the recent tendency of the Commission to consider the overall health of domestic industries, dogmatically presumed to be nationwide, before deciding whether the dumping caused injury.

S. 1726 (90th Congress) Cont'd.:

The competitive market area would be the geographical area in which the dumped imports compete with the domestic merchandise. Section: 1 [201(f)(3)].

The domestic industry would be those domestic vendors who supply merchandise directly or indirectly to the competitive market area. Section: 1 [201(f)(2)].

The product market would include merchandise which is reasonably interchangeable in use with the class or kind being dumped. Section: 1 [201(f)(4)].

Comment:

Article 4 (a) defines domestic industry generally as "the domestic producers as a whole of the like products or to those providing a major proportion of the total domestic production.

Article 4 (c) superimposes the "relevant product line" requirement in Article 3 (d) upon the industry concepts in Article 4.

Recognition is given (in only exceptional cases) to the possibility of a country being divided into two or more "competitive markets" which the producers within each market regarded as a separate industry. However, this feature is severely limited by the requirement that the producers within such market sell all or almost all of their production of such product in that market because of transport costs and that there be no, or almost no, sales into that area of other U.S. production situated outside such market. The Code also recognizes the possibility of special regional marketing conditions such as traditional patterns of distribution or consumer tastes, which result in an equal degree of isolation of the producers in such a market from the rest of the industry. Both of the aforementioned possibilities are also strictly limited by a further provision that injury must be found "to all or almost all" of the production of the product in the market defined.

S. 1726, on the other hand, incorporates a regional geographic market concept but is not restricted by requiring all those producers selling in that market to sell exclusively in that market. If the Code provisions are adopted injury in any regional market could never be shown if there were some sales in that market by a producer selling on a broader or nationwide basis.

Comment (Cont'd):

Subparagraph 4 (a) (i) raises the question of whether the production of a domestic producer would be excluded merely because he has some imports from his foreign subsidiary of "the allegedly dumped product?"

While the decision to divide a country into two or more competitive market areas is permissive, the requirements for doing so are mandatory. Although there seems to be no rational basis for the extreme isolation of the production in this market area which is the goal of Article 4 (a)(ii) it is conceivable that the Tariff Commission could follow this concept rather than their earlier regional market decisions.

4 (b) [Integrated-Countries Markets]

International Antidumping Code:

4 (b) Where two or more countries have reached such a level of integration that they have the characteristics of a single, unified market, the industry in the entire area of integration shall be taken to be the industry referred to in Article 4 (a).

Comment:

Apparently not applicable to U.S. but since "level of integration" is not defined as either political or economic integration, where negligible tariff or other barriers exist it might be argued that the "integration" referred to in Article 4 (b) of the Code is the type of economic integration resulting in certain industries, such as is fostered by the U.S.-Canadian Automotive Pact. The effect of this would be to expand the industry and make an injury finding more difficult.

4 (c) [Geographic/Product Market]

International Antidumping Code:

4 (c) The provisions of Article 3 (d) shall be applicable to this Article.

Comment:

Superimposes a "relevant product line" requirement upon the industry concepts in Article 4. This approach is also envisaged in S. 1726.

C. Investigation & Administration Procedures
Article 5
Initiation and Subsequent Investigation
[Substantiation of Complaint]

International Antidumping Code:

5 (a) Investigations shall normally be initiated upon a request on behalf of the industry[1] affected, supported by evidence both of dumping and of injury resulting therefrom for this industry. If in special circumstances the authorities concerned decide to initiate an investigation without having received such a request, they shall proceed only if they have evidence both on dumping and on injury resulting therefrom.

[1] As defined in Article 4.

Antidumping Act, 1921, As Amended:

Section 201 (b) implies that there be a preliminary dumping investigation by Treasury to determine whether the Secretary has "reason to believe or suspect, from invoice or other papers or from information presented to him or his delegate" that a margin of dumping exists.

Section 201 (a) requires the Tariff Commission to initiate the question of injury upon receiving advice from the Secretary of Treasury that merchandise is being, or is likely to be sold in the United States or elsewhere at less than its fair value.

U.S. Treasury Regulations:

The domestic industry's complaint must present detailed data reasonably available, as well as suggestions concerning specific avenues of investigation. 14.6 (b) (2) and 14.6 (b) (4).

Secretary may defer making an affirmative determination during the pendency of proceedings relating to similar merchandise from another country. He must consider the date of the complaints, the volume of sales involved in each proceeding, any hardship, and probably extent of delay which deferral would entail. 14.8 (a).

S. 1726 (90th Congress):

Regarding the consolidation of complaints, the Secretary of the Treasury would be required to consolidate all affirmative findings on complaints filed simultaneously, and to keep them consolidated when he forwards them to the Tariff Commission in order to permit appraisal of total impact of such dumped imports by the Commission. Hitherto, there have been as many

separate antidumping proceedings before the Treasury and the Commission as there have been foreign sources of merchandise dumped in the United States. This fragmented way of dealing with what really is a singular injury to a domestic industry has caused needless repetition and expense in the administration of the Act, and has led the Commission unjustifiably to deny the remedy in cases where that injury is the result of dumping from several foreign sources. Sections: 1 [201 (a)] and 6 [212 (a) (1)].

Unsupportable complaints can be dismissed within 15 days, and where imports from a country or countries are found not to be dumped, they can be dismissed from the consolidated investigation. Section: 6 [212(b) and (c)].

Comment:

Complainant cannot merely show injury to his own company--he is required to show evidence of injury to the entire industry at the time he initiates his complaint.

[Simultaneous Dumping and Injury Investigations]

International Antidumping Code:

5 (b) Upon initiation of an investigation and thereafter, the evidence of both dumping and injury should be considered simultaneously. In any event the evidence of both dumping and injury shall be considered simultaneously in the decision whether or not to initiate an investigation, and thereafter, during the course of the investigation, starting on a date not later than the earliest date on which provisional measures may be applied, except in the cases provided for in Article 10 (d) in which the authorities accept the request of the exporter and the importer.

Antidumping Act, 1921, As Amended:

Antidumping Act, 1921. The Code provision requiring the simultaneous consideration of dumping and injury with regard to the basic question of whether or not to initiate an investigation is patently contrary to the specific intent of Congress as expressed in the legislative history of the 1954 amendment of the U.S. Antidumping Act of 1921.

U.S. Treasury Regulations:

Section 14.8 (a) states, "Whenever the Secretary makes a determination of sales at less than fair value he will so advise the United States Tariff Commission."

S. 1726 (90th Congress):

Section 1 [201(a)] of S. 1726 was modified slightly compared to S. 2045, the Antidumping Act Amendment offered in the 89th Congress to make it clear that the Tariff Commission's injury determination shall be made within three months "after notification from the Secretary" of the Treasury of sales at less than fair value.

Comments:

Article 5 (b) would require simultaneous consideration of the evidence of dumping and injury. The U.S. Congress in 1954 specifically removed the injury determination from the Treasury Department, giving it to the U.S. Tariff Commission, and requiring the Tariff Commission to conclude its injury determination within 90 days after receipt of a finding of a dumping margin by the U.S. Treasury Department.

The Code does not make it clear whether Treasury again would make both a preliminary dumping and injury determination for which there is no basis in U.S law, especially after the 1954 amendment, or require the U.S. Tariff Commissi

to determine ab initio the injury question without the benefit of knowing the margin of dumping, if any, which may exist.

The requirement in Article 5(b) for simultaneous consideration of dumping and injury not only during the course of such investigation but also in the decision whether or not to initiate an investigation, is a complete innovation from the statutory scheme set up by the 1954 Amendment which required the determination of sales at less than fair value to be made before the question of injury even became pertinent.

The sentence beginning "In any event" makes no sense except as an attempt to require the U.S. Tariff Commission to begin consideration of evidence of injury once a preliminary decision has been taken that there is dumping and sufficient evidence of injury (the earliest date on which provisional measures may be applied--see Article 10 (a)).

The Tariff Commission could informally be supplied with information by Treasury on the injury question prior to a formal finding of a dumping margin--and conceivably could make a finding of "no injury" on the first day of the statutory 90 day period available for its injury determination--unless the domestic complainant requested the Tariff Commission to hold a public hearing on the question of injury. Conceivably, this is what our U.S. negotiators have in mind. The unavoidable question, however, is how the Tariff Commission is supposed to determine the injury question prior to knowledge of the margin of dumping involved in a finding of sales at less than fair value which, according to U.S. law, must be first supplied to the Tariff Commission by the U.S. Treasury so that the Tariff Commission can measure the impact of the goods containing the margin of dumping. [see also discussion on page iii]

[Dismissal of Insubstantial Complaints]

International Antidumping Code:

5 (c) An application shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There should be immediate termination in cases where the margin of dumping or the volume of dumped imports, actual or potential, or the injury is negligible.

Antidumping Act, 1921, As Amended:

No comparable provision.

U.S. Treasury Regulations:

Under Section 14.6 (d) (1) the Commissioner of Customs can close a case after conducting a summary investigation to determine if the merchandise is not being and is not likely to be imported in more than insignificant quantities.

S. 1726 (90th Congress):

Where no evidence to support a dumping complaint is found from a particular source, the Secretary can dismiss the complaint within 15 days. Section: 6 [212(b)].

Furthermore, where complaints have been consolidated in a single antidumping proceeding, the Secretary may prepare and publish a proposed negative dumping determination as to a country or countries whose exports to the U.S. are found not to be dumped, rather than wait until the preparation and publication of any proposed affirmative dumping determination Section: 6 [212(c)].

Failure to dismiss complaint would not cause automatic withholding of appraisement.

Comment:

Section 14.6 (d) (1) of the Treasury Regulations has no specific basis in the present Antidumping Act, 1921, as amended. Because the Tariff Commission only gets into the antidumping picture after the Treasury has found dumping--the Commission never sees "the ones that got away". It might be claimed that any residual administrative power regarding injury rests with the Secretary of Treasury, particularly insofar as before 1954 the Treasury could dismiss a case on the basis of either no dumping or no injury.

Comment (Cont'd):

However, as the law stands today, it appears that Treasury is usurping the Tariff Commission's injury function if it dismisses a case for a lack of injury where there was potential for an affirmative dumping finding to have been made. Should the combined impact from several sources of dumping have been injurious--the Tariff Commission would never have had an opportunity to find injury--because the Treasury could have dismissed each case piecemeal.

5 (d)

[No Customs Clearance Delay]

International Antidumping Code:

5 (d) An antidumping proceeding shall not hinder the procedures of customs clearance.

Antidumping Act, 1921, As Amended:

Section 201 (b) authorizes the Secretary of the Treasury to withhold appraisement, on unappraised entries made up to 120 days before dumping complaint was lodged if he has reason to believe or suspect a margin of dumping to exist.

Such withholding applies "until further order of the Secretary," or until a finding of dumping plus injury has been made public. If the goods have already been appraised at the time of the withholding notice, they are not subject to the special dumping duty. (Section 202(a)).

U.S. Treasury Regulations:

Section 14.10 provides that if there has been a withholding of appraisement notice or a Tariff Commission finding of injury, the customs collector may release any involved merchandise in his custody or which is thereafter imported if an appropriate bond is filed or on file, or if he is advised by the appraiser that merchandise involved in a specified entry will be appraised without regard to the Antidumping Act.

Article 6
Evidence
[Right to Present Evidence]

International Antidumping Code:

6 (a) The foreign suppliers and all other interested parties shall be given ample opportunity to present in writing all evidence that they consider useful in respect to the antidumping investigation in question. They shall also have the right, on justification, to present evidence orally.

U.S. Treasury Regulations:

Section 14.8 (a) gives interested persons an opportunity to make written submissions regarding Tentative Determinations. The Secretary of the Treasury retains the discretion (1) if an opportunity for oral presentation will be accorded, and (2) to whom it will be accorded.

S. 1726 (90th Congress):

The Bill provides that both importers and domestic industries shall receive a fair hearing in any antidumping proceeding, and shall have at any oral hearing the right to counsel, to present evidence, to confront interested parties, and to conduct whatever cross-examination may be required for a full and fair disclosure of pertinent facts. Section: 6 [212(d) and (h)].

General Comment on Article 6:

While Code Standards regarding treatment of evidence are similar to current Treasury Regulations in many respects and can be conformed with by Treasury and Tariff Commission administrative regulations, they should be compared with the provisions of S. 1726 because of a number of significant differences based on the practical experiences of industry in antidumping cases are reflected therein.

[Right to Examine Evidence]

International Antidumping Code:

6 (b) The authorities concerned shall provide opportunities for the complainant and the importers and exporters known to be concerned and the governments of the exporting countries, to see all information that is relevant to the presentation of their cases, that is not confidential as defined in paragraph (c) below, and that is used by the authorities in an antidumping investigation, and to prepare presentations on the basis of this information.

U.S. Treasury Regulations:

Section 14.6 a (a) makes generally available to any person all information, but not necessarily all documents, obtained by Treasury in connection with any antidumping proceeding. (There is no specific mention of the governments of exporting country). Summaries of factual documents prepared by officers or employees of the U.S., as distinguished from recommendations or evaluations, will be made available.

Information will be made available in specific or generalized form unless competitors would get a significant advantage, or the persons supplying the information would be adversely affected. Though Treasury has discretion over degree of disclosure, the names of particular customers, business or trade secrets, production costs, or distribution costs unless accepted for justifying quantity discounts or differences in circumstances of sale, ordinarily will not be disclosed. 14.6 a (c)(3).

S. 1726 (90th Congress):

Complainant and reviewing court would receive supplemental statement of information relied on by the Secretary, except confidential costs used to ascertain constructed value or justify claimed discounts for differences in quantities or circumstances of sale. Section: 6 [212 (c) and (i)].

[Confidential Information]

International Antidumping Code:

6 (c) All information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information) or which is provided on a confidential basis by parties to an antidumping investigation, shall be treated as strictly confidential by the authorities concerned who shall not reveal it, without specific permission of the party submitting such information.

U.S. Treasury Regulations:

Section 14.6 a (c) sets out standards for determining whether information will be regarded as confidential. This ordinarily includes situations where disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information. The final decision rests with the person supplying the information.

Section 14.6 a (b) sets out the provisions for strict confidentiality and the control of the party submitting the information.

S. 1726 (90th Congress):

Parties involved should know the evidence used against them. The provision for "reasoned opinions" contained in Section: 6 [212(c)(d)(e)(i)] usually will help accomplish this. While Treasury and the Tariff Commission would retain discretion to refuse publication of information which would impede them from obtaining similar information in the future, they would be required to prepare a supplemental statement of the information withheld for the use of the interested parties and a reviewing court to enable them to analyze the agency findings. Section: 6 [212(c) and (i)].

An importer would be provided with the right to review date in Tariff Commission injury investigation similar to that in proposed 1963 Antidumping Act Amendment for domestic complainant review in Treasury dumping proceeding. In addition, right to review data in the case at Treasury level would be limited to exclude the costs of manufacture in justification of quantity discounts, as well as costs used in determining "constructed value." Section: 6 [212(c) and (i)].