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INTERNATIONAL TRADE:
Administration Short Supply
in Steel Import Restraint Agreements

Statement of
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Before the
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives



Mr. Chairman and Members of the Subcommittee:

Thank you for inviting us today to discuss our review of the Department of Commerce's process for evaluating short supply requests under the President's steel program of 1984. The program limits steel imports through negotiated Voluntary Restraint Agreements (VRAs). Our work focused only on the short supply provision of the VRAs, we did not review the VRAs; their administration or enforcement.

The President's steel program of 1984 was established to provide the domestic steel industry with temporary protection from steel imports in order to adjust to import competition. The U.S. Trade Representative negotiated 21 VRAs that limit 29 countries' steel exports to 18.5 percent (excluding semifinished steel) of the U.S. market for 5 years. All VRAs will expire after September 30, 1989, but the administration has stated its intent to renegotiate them, and both the House and Senate have introduced legislation to extend the enforcement authority for another 5 years.

Sixteen of the 21 agreements contain short supply provisions. The provision is a VRA safety valve to protect U.S. steel consumers from hardship when domestic supplies are unavailable to meet domestic demand. Steel consumers petition the Department of Commerce to allow additional steel imports from a VRA country. Commerce's International Trade Administration's Office of

Agreements Compliance (OAC) conducts steel short supply reviews. When Commerce determines that a particular steel product is in short supply, additional imports beyond VRA limits can enter the United States.

Commerce had received 161 short supply petitions as of the end of 1988, of which

- 94 were approved,
- 36 were denied,
- 27 were withdrawn and,
- 4 were still in process.

Commerce gave approval for 1.4 million tons of additional VRA steel imports through the end of 1988, of which 1.1 million tons consisted of semifinished steel. The 1.4 million tons represents about 2 percent of U.S. imports and 0.4 percent of U.S. consumption through 1988.

From our work at Commerce, we formed the following conclusions.

Section 805(b)(3), Title VIII (The Steel Import Stabilization Act) of the Trade and Tariff Act of 1984, gave extensive discretion to the Secretary of Commerce to make decisions on short supply petitions. Commerce makes its short supply decisions through an informal administrative process. We found no regulations or

comprehensive guidance on the program's operation and petition requirements. Commerce does not make public the reasons and results of its reviews. This situation generated complaints that the process lacks transparency, i.e. openness and clarity. This lack of transparency creates skepticism on the part of the users, who believe that decisions are made in a "black box." Commerce needs to address perceptions that the process lacks transparency by providing users with the operating policies, procedures, requirements for filing petitions, decision criteria, waiting time for a decision, and by publicizing the rationale and results of its reviews.

Commerce's criterion for short supply decisions is whether the steel is available domestically. Commerce does not generally consider price in making its decision, unless it deems that a price quotation is so high as to constitute a non-offer. To date, no petition has been approved on the grounds that a quoted price constituted a non-offer. Beyond arguments about the treatment of price, conflicts about steel specifications, delivery capabilities, and tonnage requirements have led to dissatisfaction with the process.

Steel short supply decisions were not timely from 1985 through the last part of 1987 but have recently improved. Based on our examination of 143 short supply petitions through August of 1988, we found that Commerce reduced the time for making short supply

decisions from an average of 236 days in 1986 to 81 days in 1988, but the process still may take too long for some steel purchasers to use. We found no rationale that fully explains why the decisions took so long, but we were told that Commerce's approach was to encourage steel purchasers to buy domestically produced steel and to allow time for domestic consumers and producers to reach agreement.

Commerce has no standard deadline for completing its reviews and does not measure the timeliness of the process from petition receipt to petitioner notification of a decision. Without a deadline, petitioners do not know how long the process will take and when to expect a decision. Commerce does not have a standard measure of its timeliness. Sometimes it measures the length of its reviews from announcement in the Federal Register starting a short supply review to the signing of the notification letter. Other times it measures from approval of the Federal Register notice to submission of a decision memorandum to the deciding official. Neither measurement covers the total time the process takes.

As part of our examinations, we assessed management internal controls in OAC's conduct of the reviews and found serious documentation deficiencies. Almost half of the 143 petition files we examined were missing one or more pieces of information; for example, original documents containing signatures and dates specifying actions at key steps in the decision process were

missing. For these petitions, we could not easily determine when decisions were made, the basis for them, or who made them and we had to use secondary Commerce documentation or sources for this information.

If the VRAs are extended, we recommend that the Secretary of Commerce direct the Office of Agreements Compliance to

- provide more transparency in the process by issuing comprehensive guidance or regulations on the program's requirements, policies (including decision criteria), procedures, and detailed filing information for petitioners' use and, by publicizing the decisions made and reasons for them;
- establish and publicize a standard deadline for processing short supply reviews and monitor timeliness through its tracking system on the full process from petition receipt to decision notification; and
- ensure that official short supply review files contain complete and official documentation, including a full case history and decision on each petition.

In its comments on our report, the Department of Commerce said that if the VRAs are extended it is proposing a number of procedural and substantive changes to the short supply program.

Commerce also stated that it had reduced the number of days to process a petition to an average of 40 days for those filed in 1989.

Mr. Chairman, this concludes my statement, and I will be happy to answer any questions you or the members may have.