Order Code RL32333

Steel: Price and Availability Issues

Updated June 1, 2005

Stephen Cooney
Industry Analyst
Resources, Science, and Industry Division

Steel: Price and Availability Issues

Summary

The end of the steel safeguard tariffs under Section 201 of the Trade Act of 1974 did not lead to the lowering of steel prices, as expected by industries that use steel products, and some Members of Congress. Rather, the price of steel mill products continued to rise, and by early 2005 had in many cases doubled over the past year. Though prices have fallen since then, they remain at elevated levels. The rapid growth of both steel production and demand in China, despite a slowdown in 2004, is widely considered as a major cause of the increases in both steel prices and the prices of steelmaking inputs.

Steel companies have achieved much greater pricing power, in part through an ongoing consolidation of the industry. Most of the integrated side of the industry, nearly half of U.S. production, is controlled by just two companies: U.S. Steel, the traditional industry leader, and Mittal Steel, itself the result of multiple international industry consolidations. Nucor, the largest minimill operator, and Gerdau, a company of Brazilian origin, have meanwhile been active major consolidators of U.S. minimill production.

U.S. production for 2004 was reported at 110 million tons, the highest level since 2000. Despite high scrap prices, minimill production in 2004 soared to 58 million tons, an all-time high. Imports rebounded by nearly 50%, but the increased supply total of almost 19 million tons did not result in price relief. Rising coke, iron ore, and natural gas prices have had a major impact on the costs of integrated steel mill operations. Despite their higher costs, both minimill and integrated producers for 2004 reported increased sales, dramatically improved earnings, and strong rises in their equity values.

Internationally, the Bush Administration has worked to eliminate foreign scrap trade export restrictions, while not adopting any controls on U.S. scrap exports. The U.S. government joined others in opposing Chinese efforts to reduce its coke exports in 2004. Efforts inaugurated by the United States to achieve an agreement within the Organization for Economic Cooperation and Development to eliminate steel subsidies worldwide have so far failed, but are continuing.

Some representatives of steel consuming industries, particularly auto parts manufacturers, complain that rising steel prices are putting them out of business. Representative Joseph Knollenberg introduced H.Res. 84, to urge consideration of the impact of high prices on consuming industries during reviews of specific antidumping and countervailing duties on steel imports. Nevertheless, the U.S. International Trade Commission in April 2005 determined to retain such duties on hot-rolled steel imports from Brazil, Japan and Russia. The Bush Administration in March 2005 retained and broadened the steel import monitoring it had established with the safeguards in 2002. H.R. 1121 has been introduced in Congress to repeal the Byrd Amendment, a law under which $58 million in trade remedy duties was disbursed to steel companies in 2004, but which has been found contrary to World Trade Organization rules. This report will be updated as warranted by developments.

John Williamson, Technical Information Specialist in the CRS Resources, Science and Industry Division, assisted in producing Figure 1 and Table 1.

Contents

List of Figures

List of Tables

Steel: Price and Availability Issues

Introduction

Many American businesses are concerned by a recent strong rise in the price of steel. Their problems have resonated with some Members of Congress, especially those who were previously concerned that the steel safeguard tariffs, imposed by President Bush under the terms of Section 201 of U.S. trade law, could have been keeping steel prices artificially high. Before those tariffs were terminated on December 4, 2003, the costs of raw materials and other inputs in steelmaking were starting to increase, thus creating a cost-driven increase in the price of steel. After the tariffs were removed, the price increase nevertheless accelerated. On the other hand, after decades of implementing efficiency improvements while struggling to be profitable, many steel companies in 2004 found themselves making more money than in many years.

The problem of steel prices for consuming industries has been exacerbated by a strengthening of the U.S. economic recovery and global economic growth, which increased demand for steel. The growth of China, in particular, has contributed to a large increase in demand for both steel and steelmaking inputs. China has become both the world's largest steelmaker and steel consumer.

This report reviews the pattern of U.S. domestic steel prices over recent years and the current status of U.S. steel production. It also analyzes the impact of the growth of China. The report reviews the rising prices of steel scrap and other inputs as contributory factors. It will also consider the role of profit recovery in the steel industry as may be needed to finance further consolidation and technological modernization. Finally, the report reviews some policy options that have been proposed with respect to steel pricing and availability issues.

Current State of the Steel Industry

One of the stated purposes of the presidential action on steel safeguards was to effect a restructuring of the domestic steel industry.[1] To a great extent, that restructuring has been achieved, with the development of two dominant players among the integrated companies, and two, in particular, among the minimill

---

[1] "I have determined that the safeguard measures will facilitate efforts by the domestic industries to make a positive adjustment to import competition...[including] consolidation of United States steel producers..." President George W. Bush. Memorandum on "Action under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products" (Mar. 5, 2002) in *Message to Congress* (House Doc. 107-185), March 6, 2002, p.56.

producers. The sharp rise in demand for steel plus the consolidation of the industry led to higher steel prices and profits almost across the board in the industry in 2004.

Figure 1 illustrates how the increase in demand has largely been met by imports and increased minimill output. The integrated side of the industry has consolidated by closing older operations and increasing productivity. The production of the large integrated mills using basic oxygen furnaces (the last U.S. open hearth plant closed in 1991) hovered around 60 million tons per year in the 1990s, then fell substantially below that figure after 2000.[2] The integrated mills produce steel from iron ore, using coke and other inputs. They are characterized by unionized workforces and, in competing with both minimills and imports, state that they have been burdened with high levels of employee and retiree benefit costs.[3] Although no steel mill is small, integrated mills are generally larger than minimills and may make a wider variety of products at one location.

Minimills employ electric-arc furnaces (EAFs), a newer technology, which has been widely employed only since 1970. Although they may use various forms of iron ore input, most rely primarily on steel scrap, a generally cheaper source, which they remelt. The minimill sector is largely non-union, and, by contrast with the integrated mills, provides defined-contribution employee pension packages instead of benefits defined by union contract. Minimills steadily increased production after the recession of 1991 and gained market share. **Figure 1** shows that their production topped 50 million tons for the first time in 2000, when it reached 47% of domestic raw steel production, up from 37% at the beginning of the 1990s.

Output from both integrated steel works and minimills fell in 2001, as total U.S. raw steel output fell below 100 million tons for the first time since 1993. In 2002, production began to grow again, as minimills overtook basic oxygen furnace (BOF) steel production for the first time, by 50.8 million tons to 50.1 million tons. Since then, integrated mills have marginally increased overall shipments, reaching 52.6 million tons by 2004. By contrast, minimills, which can ramp their EAF production up or down much more readily than integrated mills, responded to favorable market conditions by increasing output to a record of more than 57 million tons in 2004, according to industry data. According to the same preliminary source, total U.S. steel production for 2004 was 110 million tons, a 6.4% increase (about 6.5 million tons) over 2003, and nearly equal to the high level of domestic production in 2000.[4]

Imports also recovered in 2004. **Figure 1** shows imports increasing in the 1990s through a 1998 surge to more than 40 million tons. The movement of imports has been up-and-down since that peak, but under the pressure of the safeguard tariffs fell in 2003 to 23.1 million tons, the lowest level since 1993. Once the safeguards were

---

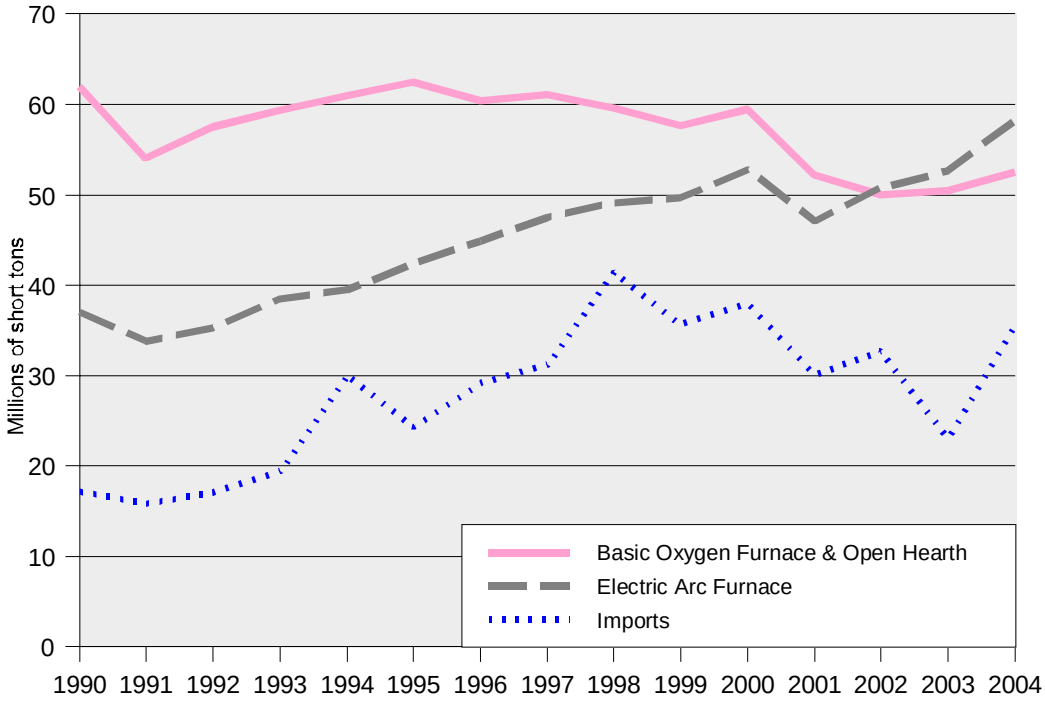
[2] All tonnage figures in this report are "short tons" (2,000 lbs.), as commonly used in the U.S. steel industry, unless otherwise indicated.

[3] The so-called "legacy cost" issue is discussed in CRS Report RL31748, *The American Steel Industry: A Changing Profile*, pp. 25-29.

[4] American Iron and Steel Institute (AISI). "Pig Iron and Raw Steel Production" (2004 final report).

removed, and given strong domestic demand, imports increased at an annual rate of more than 50% in 2004, to 35.7 million tons. Thus, the total domestically available steel supply in 2004 increased by nearly 19 million tons.

Figure 1. Sources of U.S. Steel



Sources: American Iron & Steel Institute. *Annual Statistical Reports* and 2004 final data. Imports calculated from U.S. Dept. Of Commerce. Bureau of the Census. Foreign Trade Division. "Steel Imports."

But the resurgence of supply in 2004 apparently did little to ameliorate the rise in domestic steel prices. The recovery of pricing power in the domestic industry may be attributable to industry consolidation. This development has affected both integrated mills and minimills. **Table 1** shows the effect of consolidation in the industry in recent years, generally using publicly available annual production data by companies for 2004. The data are for leading companies in the United States, Canada and Mexico, as a number of companies have operations in two or even all three North American countries. There are no tariffs or trade barriers across the borders under terms of the North American Free Trade Agreement. Although imports from Canada and Mexico are fully subject to U.S. antidumping and countervailing duties, they were exempted by President Bush from the safeguard tariffs, and therefore achieved share gains in the U.S. market.

Table 1. Leading North American Steel Producers

(millions of short tons, net)

	2004 Prodn.
Mittal Steel:	
International Steel Group (merged into Mittal Steel, April 2005)	17.8
LNM Holdings, N.Am.* (incl. Inland, US and Lazaro Cardenas, Mex.)	12.1
Nucor[a]	19.7
U.S. Steel (U.S. production only)	17.3
Gerdau Ameristeel[a]* (total prodn., 2005 1st qtr., annual rate)	6.3
AK Steel*	6.3
Dofasco	5.5
Stelco	5.4
Commercial Metals Corp.[a]	3.7
Hylsamex[a]	3.7
Steel Dynamics[a]	3.5
Ahmsa	3.3
Ipsco[a]	3.3
Severstal NA (formerly Rouge Steel Co.)	2.7[b]
Algoma	2.5
Wheeling-Pittsburgh	2.1

Note: Boldface company names indicates steel companies still independent as of 2005; plain text indicates operating companies consolidated into merged companies.

[a]minimill operator [b] *AMM* estimate for 2003. *based on corporate financial reports

Source: *American Metal Market*, March 28 and April 11, 2005. International data from latter issue converted into short tons by author.

The pace of consolidation since the U.S. industry nearly collapsed with more than three dozen bankruptcies after 1998 has been such that about one-third of the companies on earlier lists of leading U.S. and Canadian steel mill operators in 2002-2003 have already disappeared from independent existence. Some well-known and venerable names in the steel industry have gone out of business or have been merged into other companies. Moreover, at the top of the table is Mittal Steel, a newly formed international company that became in 2005 the largest single steel producer in the United States (about 22 million tons), North America (about 29 million tons), and the world (approximately 70 million tons).

The first bankruptcy that started the consolidation process was that of LTV Steel, which became the foundation for the International Steel Group (ISG) in 2002, when the financier Wilbur L. Ross led a group that bought the company out of liquidation. Ross put together a steel empire that soon came to challenge U.S. Steel as the largest U.S. integrated steel producer, and one of the three largest overall. He

acquired another venerable, but bankrupt, producer, Bethlehem Steel, in 2003. In 2004, ISG also acquired Weirton Steel, a former National Steel spinoff that had tried to survive as an independent, employee-owned corporation, but was finally forced to sell out after 20 years. Ross' group also acquired a South Carolina minimill operation, Georgetown Steel, which had gone into bankruptcy twice in recent years.

But ISG's days as an independent operator have been short-lived. Lakshmi Mittal, an entrepreneur originally from India, has been building a global steel empire with operations in places as varied as Poland, South Africa and Central Asia. Among his acquisitions was a U.S. integrated steel mill, Inland Steel. In 2004, he reached an agreement with Ross, under which Mittal's global holdings (LNM) were consolidated as Mittal Steel, and then the entire holdings of ISG were merged into this new company in April 2005 for a payment of about $4.5 billion to Ross and other ISG shareholders. In 2005, Mittal Steel may become the largest domestic U.S. steel producer, considering both the ISG acquisition and its previously owned Inland Steel operations (see **Table 1**). Mittal Steel, based in London and the Netherlands, will become the world's largest steel company, overtaking Arcelor, a European-based consolidation of several older companies. Mittal Steel will have total global capacity of more than 70 million tons.[5]

Historically, the largest domestic steelmaker had been U.S. Steel, which had held the title for a century until 2002. It significantly expanded its domestic operations, and took an important step in the domestic consolidation process, when it acquired another major integrated company, National Steel, out of bankruptcy in 2003. U.S. Steel was only able to make this acquisition after the federally chartered Pension Benefit Guaranty Corporation (PBGC) declared National Steel's pension fund insolvent and took it over, thereby freeing any acquiring party of this financial liability. Also, U.S. Steel used the new pattern of labor relations with the United Steelworkers (USWA), established earlier by ISG in its dealings with the union, to write a new labor contract for all its U.S. steelmaking operations — both the continuing U.S. Steel plants and the newly acquired National Steel facilities.[6]

U.S. Steel may not be finished in its North American acquisition activity, having reportedly been an unsuccessful suitor for Rouge Steel of Michigan and one of the parties interested in acquiring the bankrupt Canadian steel maker Stelco. U.S. Steel

---

[5] Ispat International N.V., Ispat International to Acquire LNM Holdings to Form Mittal Steel Co. — International Steel Group to Merge with Mittal Steel for Cash and Stock," news release (Oct. 25, 2004); *Washington Post*, "Steelmaker to Be Sold for $4.5 Billion" (Oct. 26, 2004), p. E1; *Wall St. Journal*, "Deal Would Create No. 1 Steelmaker" (Oct. 26, 2004); *Financial Times*, "Mittal Plan to Create First Global Steel Group" (Oct. 26, 2004); and, "Merger Reveals Details of Mittal Empire" (Oct. 29, 2004); *Business Week*, "A New Goliath in Big Steel" (Nov. 8, 2004), pp. 47-8; and, "The Raja of Steel" (Dec. 20, 2004), pp.50-2.

[6] The story of U.S. Steel winning a takeover battle for National against AK Steel, with the support of the USWA, was described as it unfolded in *AMM*, Jan. 10, 13, 24 and 27; Feb. 3 and 10; April 21 and May 21, 2003; See also, Bloomberg.com, "AK Steel Makes Rival $1.02 Billion Bid for National Steel" (Jan. 23, 2003). On the USWA role in reorganizing the industry and renegotiating labor contracts more generally, see *AMM*, Dec. 24, 2002, Jan. 8, 2003 and "A Template for Change" in Jan. 20, 2003 print ed., pp. 2-4; *Business Week*, "Salvation from the Shop Floor" (Feb. 3, 2003), pp. 100-01.

is also the U.S. domestic steelmaker that has been most active in expansion abroad in recent years, having acquired a large integrated mill in Kosiče, Slovakia (now known as USSK) and another in Serbia. These two mills give U.S. Steel about six million tons of capacity in Europe.

Another historically famous integrated steel mill to disappear as an independent operator is Rouge Steel, originally founded by Henry Ford to supply his Detroit motor vehicle manufacturing operation. It was acquired by a large Russian company, Severstal. The remaining U.S. independent integrated mills are AK Steel, which has both minimill and integrated steel operations, and Wheeling-Pittsburgh. The latter was in bankruptcy, but succeeded in using an Emergency Steel Loan Guarantee to secure financing to build a new minimill, and thus become a joint operator of both technologies.[7] Of the remaining integrated companies on the list in **Table 1**, three are Canadian companies: Dofasco, Stelco and Algoma. Stelco, formerly Canada's largest producer, has been operating under Canadian bankruptcy laws since January 2004. It has recently been making a profit again, and is trying to undertake a financial reorganization.[8] Of the major Mexican producers, one, the integrated steel works on the Pacific coast at Lazaro Cardenas, is owned by Mittal. Ahmsa (acronym for *Altos Hornos de Mexico S.A.*) is also an integrated steel mill company. Hylsamex is a minimill-based operation, of which Argentina's Techint Group has just agreed to acquire a controlling interest.[9]

The leading U.S. minimill operator, Nucor, temporarily became the largest domestic steel producer in 2002, passing U.S. Steel. It now operates 16 minimills in 12 states and poured almost 20 million tons of steel in 2004. In recent years, Nucor has expanded mostly by acquisitions, notably through buying financially struggling Birmingham Steel Corporation out of a "prepackaged" bankruptcy in 2002. Birmingham Steel at that time was the second-largest U.S. minimill operator.[10]

The new second-largest minimill operator in North America is Gerdau of Brazil. As shown in **Table 1**, while producing only about a third of the tonnage of Nucor in the domestic market, it has clearly distanced itself from the remaining minimill companies and is the other major minimill consolidator. Gerdau in 2002 acquired a Canadian-based company with U.S. minimill operations, Co-Steel, plus one mill from the Birmingham Steel Group. It consolidated these mills together with its own North American operations, to create Gerdau Ameristeel, operating in both the United States and Canada. Then, in 2004, Gerdau acquired North Star Steel, controlled by the Cargill Inc. group, which had already sold one mill to Nucor, and was seeking to exit the steelmaking business.[11]

---

[7] *AMM*, Aug. 4 and Sept. 10, 2003; Mar. 5, 2004.

[8] See report in *ibid.*, "Fiery Debate May Loom as Stelco Lays Out Plan" (May 12, 2005).

[9] "Techint Inks Deal to Acquire All of Hylsamex for $2.25B), *AMM* (May 20, 2005), p. 1.

[10] For a summary of Nucor's acquisitions and other developments, including Gerdau's expansion, in consolidation of minimill operations, see *AMM*, "Out of Easy Targets, Buyers Are Beginning to Look Upstream" (Feb. 7, 2005 print ed.), pp. 10-11

[11] *AMM*, Sept. 10 and Nov. 3, 2004.

Thus in 2005, the largest operator of U.S. integrated steel mills and the second-largest operator of U.S. minimills in the United States, controlling between a quarter and a third of annual North American industry output, will be companies based outside North America. This is an historic change for a domestic industry that had been almost exclusively North American-based.[12]

Indications are that the steel industry is using the strong earnings recovery in 2004 to undertake capital spending projects that have been delayed during a long-term industry down period. During U.S. International Trade Commission (ITC) hearings in March 2005 on whether to maintain trade remedy duties on certain hot-rolled steel imports, representatives of the steel industry argued that one year of strong net earnings in 2004 had to be set against four successive years of overall industry losses.[13] Professor Timothy J. Considine of Penn State University, using corporate reports from 2004 and earlier data from the American Iron and Steel Institute (AISI), calculated that, overall, the industry recorded losses from 1999 through 2003, reaching more than $6 billion in the latter year. In 2004, the steel industry by contrast earned an estimated net income of more than $6 billion. He also reported that capital expenditures began in 2003 to increase again from low levels of about $1 billion annually in 2001-02, and were $2.5 billion in 2004.[14]

Most of this expenditure was spent on technologically upgrading or expanding existing steel mills. As prices moderated in early 2005, many steel companies moved forward planned outages and upgrades, hoping to be able to take advantage of an expected renewal of strong demand later in the year. Taking advantage of the new consolidation in industry ownership, some operators also explicitly cut back production because of slower demand and larger inventories in mid-2005.[15] Also, the one project to build a new mill appeared to be attracting opposition in mid-2005. John Correnti, formerly CEO of Birmingham Steel, put together a group of investors behind a projected known as "SteelCorr," to build a new minimill in the lower South, with the express purpose of supplying sheet steel to some of the new automotive plants in the region. The state of Mississippi and a local county have reportedly guaranteed a total of $110 million in incentives to encourage the location of the project on a site near Columbus. However, AISI and the Steel Manufacturers Association (SMA, representing minimills) have strongly opposed any federal loan

---

[12] A good summary list of all industry takeovers and mergers is in Timothy J. Considine, *The Transformation of the North American Steel Industry* (April 2005, available through American Iron and Steel Institute, Washington, DC), tab. 3.

[13] U.S. Steel Corp., "Five-Year Reviews on Hot-Rolled Steel from Brazil, Japan and Russia," ITC Hearing on "Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, Japan and Russia" (Inv. nos. 701-TA-384 and 731-TA-806-808, Review), Mar. 2, 2005.

[14] Considine, *Transformation of Steel Industry*, fig. 4.

[15] *AMM*, "Slack Demand Spurs ISG to Idle Ohio Flat-Roll Plant" (Apr. 8, 2005); "'Let's Take It Slow,' Steel Says in Bid for Balance" (May 9, 2005); "USS Moves Up Gary Furnace Rebuild Amid Slow Shipments" (May 13, 2005); and, "Mittal to Idle Weirton Mill for One-Week 'Vacation'" (May 25, 2005).

guarantees to support this project, citing, among other reasons, a contradiction of U.S. policy that opposes subsidies to steel industries in other countries.[16]

Another structural change in the industry, which may affect labor-management relations in the integrated side of the U.S. steel industry, is the proposed merger of the United Steelworkers union with the Paper, Allied Industrial, Chemical and Energy Workers International Union (PACE). The executive boards of the two organizations agreed to the merger on January 11, 2005. When the merger is completed, the new union will reportedly have 850,000 members, located in bargaining units in the United States, Canada and the Caribbean. While the merged union would have perhaps the longest formal name in labor relations history (the "United Steel, Paper and Forestry, Rubber, Manufacturing Energy, Allied Industrial and Service Workers International Union"), its abbreviated name will still be the United Steelworkers, and Leo Gerard, current USWA president, will be the head of the merged union.[17]

Steel Price Pressures and Developments

Termination of Steel Safeguard Tariffs

On March 5, 2002, President George W. Bush established temporary duties of up to 30% on a wide range of steel imports under "Section 201" safeguard procedures (19 USC §2251-54).[18] These safeguard duties were scheduled to be in place for three years, but were successfully challenged under World Trade Organization (WTO) rules by a number of U.S. trading partners. After receiving a mid-point review from the U.S. International Trade Commission in September 2003, as required by law, President Bush on December 4, 2003, rescinded the safeguard tariffs in full.[19] He took this step just before retaliatory tariffs by the European Union (EU) against a wide variety of U.S. exports were scheduled to enter into effect. By this action the President immediately eliminated tariffs of 24% that were being applied to most flat-rolled imports from major producing countries, plus tariffs from

---

[16] Letter from Andrew G. Sharkey, III (AISI) and Thomas A. Danjczek (SMA) to Peter Thomas, U.S. Dept. Of Agriculture (Mar. 28, 2005); *AMM*, "Correnti Rips Objection to Loan Guarantee" (Apr. 4, 2005); "Miss. County Readies Bonds to Lure SteelCorr" (Apr. 14, 2005); "$30M Federal Loan Guarantee for SteelCorr Mill Approved" (Apr. 15, 2005) – this article applies only to Labor Dept. approval, final approval by the Agriculture Dept. is also required; and, "The Only Thing John Correnti Is Waiting for Now Is Cold, Hard Cash" (May 2, 2005 print ed.).

[17] *AMM*, "Executive Boards of USW, PACE Union Vote to Merge" (Jan. 12, 2005), p. 1.

[18] The Section 201 steel safeguard tariffs are described in archived CRS Report RL31842, *Steel: Section 201 Safeguard Action and International Negotiations*.

[19] President of the United States. "Proclamation 7741 of December 4, 2003," *Federal Register*, Vol. 68, no. 235 (Dec. 8, 2003), pp. 68483-84.

7% to 24% that were applied to imports of many long, tubular and stainless steel products.[20]

The President has maintained in place, however, the licensing and monitoring program for steel products established with the safeguard remedies.[21] In August 2004, the Department of Commerce requested public comments as to whether the steel import licensing and monitoring system should be maintained, and how or whether it should be modified.[22] House members of the Congressional Steel Caucus wrote Secretary of Commerce Carlos Gutierrez on January 27, 2005, to advocate that the system be maintained and expanded to include all steel mill products. Establishing such a permanent and expanded monitoring system, the signatories claimed, would not inhibit imports, would not directly contribute to increased prices, and would be compliant with U.S. international trade obligations.[23]

On March 11, 2005, the Commerce Department announced an interim final rule establishing a modified version of the steel monitoring and analysis system for another four years. All basic steel mill products will be licensed and monitored, not just the imports covered by the safeguards, and certain downstream products covered under the safeguards are excluded, namely carbon and alloy flanges and fittings. Details on tariff classifications included and excluded are in annexes to the announcement. The Commerce Department will take further comments on the interim final rule, and plans to issue the final rule by September 30, 2005.[24]

Steel Price Rises

Notwithstanding the removal of the safeguards, which had been heavily criticized by many steel-consuming industries and their representatives in Congress, the price of steel moved up, not down, after the President's action. Most economists would expect that, everything being equal, removal of the safeguard tariffs would encourage importation of steel into the domestic market, more competition with domestic steel producers, and, consequently, lower prices. But instead the price of steel in early 2004 rose sharply. It has declined somewhat since then, but is widely

---

[20] By law, safeguard tariffs must be progressively reduced. The safeguard tariffs ranged from 8% to 30% in the first year of operation. They had been reduced to 7% to 24% as of March 2003.

[21] "Proclamation 7741," p. 68484.

[22] The request for public comments (Aug. 25, 2004) is at 69 FR 52211. For comments by domestic industry groups favoring a permanent monitoring system covering all steel mill products, see the joint letter (signed by Andrew Sharkey, president of AISI, *et al.*) to Kelly Parkhill, U.S. Dept. of Commerce (Sept. 24, 2004). Opposition from importers is in the letter to Mr. Parkhill of the same date, signed by David H. Phelps, president of the American Institute for International Steel.

[23] Letter from Reps. Phil English, Peter J. Visclosky *et al.* to Sec. of Commerce Gutierrez (Jan. 27, 2005).

[24] *Federal Register*, vol. 70, no. 47 (Mar. 11, 2005), pp. 12133-40.

expected to stay at a much higher level in 2005 than it was before the initial presidential safeguard action of 2002.[25]

The price of steel did rise around the time that President Bush announced the safeguards in early 2002, though by mid-2003 it had fallen again. For example, the U.S. International Trade Commission (ITC), in its mid-point review of the Section 201 tariffs, reported that the weighted average price for a commercial grade of U.S.-produced hot-rolled carbon steel was $319/ton (T), as of the second quarter of 2000. By the last quarter of 2000, the price had fallen to $242/T, as the industry sought relief, and it declined further to $222/T one year later, in late 2001, for a total 30% fall from the 2000 peak. It was at this low point when the ITC, acting following requests from the President and Congress under Section 201 rules, recommended that the President undertake safeguard action.

Following the imposition of safeguard tariffs in March 2002, and other developments that reduced supply, such as the liquidation of LTV Steel, a major U.S. producer, the price recovered to more than $330/T by late 2002. But by the first quarter of 2003, the last date covered in the ITC report, the price had fallen back below $300, to $292/T.[26] LTV, reorganized into ISG together with Acme Steel and Bethlehem Steel, had come back on line, and U.S. production levels were stable at around 100 million tons per year. By July 2003, according to the *Monthly Steel Report* of Global Insight, a private economics consultancy, the spot price of hot-rolled sheet was still falling, to $260/T.[27]

But prices again started to rise in that latter half of 2003. As President Bush was considering the future of the safeguard tariffs following the ITC's mid-point review, the benchmark hot-rolled spot price reported by Global Insight reached $300/T by November, and was $310 in December 2003.[28]

Despite the President's decision to remove the tariffs, the rise in the price of steel then accelerated. Citing tightening input material supplies (steel scrap especially for minimills, coke especially for integrated mills) and higher natural gas prices, steel producers added an array of "surcharges" in addition to a base price increase. By March 2004, *American Metal Market*, the industry trade newspaper, reported that "[Such] moves ... effectively lift spot market prices for hot-rolled sheet to about ... $580 a ton ... for May deliveries." That level was double the average price reported by the ITC for one year previously.[29] But stronger demand, both

---

[25] Global Insight. *Steel Monthly Report* (Dec. 2004), pp. 1-2.

[26] ITC. *Steel: Monitoring Developments in the Domestic Industry* (Investigation no. TA-204-9) and *Steel-Consuming Industries: Competitive Conditions with Respect to Steel Safeguard Measures* (Investigation no. 332-452), issued together as Publication no. 3632, Vol. 1, Table II-27.

[27] Global Insight. *Monthly Steel Report* (Sept. 2003), Table 3.

[28] *Ibid*. (January 2004), Table 3.

[29] *American Metal Market* (*AMM*), "Steel's Wild Price Ride Far from Over" (March 1, 2004), p. 3; see also "CSI Adding Up to $150/T to Flat Rolled for May," in the same edition,

(continued...)

domestically and internationally, gradually replaced higher input costs as the strongest driver of steel prices, particularly as industry consolidation increased steelmakers' pricing power.[30] Steel companies reduced their materials surcharges but raised the basic product price levels. By October 2004, the average price per ton of hot-rolled sheet steel was $714, cold-rolled sheet was $795, rebar was $520, light structural steel $574, and more specialized products correspondingly higher.[31]

These levels are based on spot prices, meaning those paid by buyers outside contractual arrangements, either from steel mills directly or from metals service centers. The actual average transaction price may differ considerably, as many large customers purchase steel from mills under longer term supply contracts, although these contracts must be periodically renegotiated, and customers have to consider the risk of locking in higher prices to secure supply. This is especially notable for the "Big Three" Detroit-based car manufacturers, who generally purchase steel by such contracts for themselves and their "Tier 1" suppliers.[32] "Surcharges," as opposed to base price increases, may also be added to contract prices, but it is not clear that all customers actually pay them.[33] General Motors (GM) resorted to legal action to roll back higher prices from suppliers of steel and steel products that it claimed it was being forced to pay in violation of contract commitments.[34] As these steel contracts expire, however, automotive manufacturers must decide whether to lock in the new, higher prices for long-term contracts. It has been estimated that GM, for example, will pay $500 million more for steel in 2005.[35]

In testimony at a House hearing during the 108th Congress, representatives of smaller steel consuming businesses indicated that they generally cannot buy from metals service centers or mills until they receive orders from their own customers.

---

[29] (...continued)
indicating even higher prices on the West Coast.

[30] Relatively little U.S.-produced steel is exported. However, strong international demand, especially in China, has raised global market prices. Even though U.S. steel imports rose strongly in 2004, they did not significantly undercut higher domestic steel prices.

[31] Global Insight. *Monthly Steel Report* (Nov. 2004), Table 3.

[32] This system is described in Al Wrigley, "Car Talk: Wheeling and Dealing Steel in Detroit," *AMM*, Dec.23, 2002 print ed., p. 3. It is also summarized in Brian C. Becker and Kevin Hassett, *The Steel Industry: An Automotive Supplier Perspective* (Feb. 2005, funded by the Motor & Equipment Manufacturers Assn.), p. 13.

[33] See, for example, *AMM* articles, "Contract Customers Wage Fight over Steel Surcharges" (Feb. 3, 2004); "Court on Steel Price War: Keep Delphi Parts Rolling" (Mar. 8, 2004); and, "Republic, Delphi Resolve Dispute on Steel Supply" (Mar. 12, 2004).

[34] John Porretto, "Steel Firms Gouging, GM Says," AP wire story (Mar. 24, 2004); *AMM*, "GM Pays Higher Tags; Files Suit Against SDI, Textron" (Mar. 24, 2004).

[35] *Business Week*, "GM Is Losing Traction" (Feb. 7, 2005), p. 75; John Anton, wrote in the Global Insight Dec. 2004 *Steel Monthly Report*, "Contract buyers will pay more, as the benefits of signing up in winter 2003/04 are replaced by the pain of signing up in winter 2004/05."

They said that they are facing the full brunt of price increases.[36] The road and transportation construction industry noted that its members, many of them smaller businesses, generally face a gap of 8 to 10 months between when a contract bid is calculated and when steel for a project is ordered. As the price has risen substantially, a witness for this industry stated that contractors were frequently faced with a choice between defaulting on contracts or completing them at a substantial loss, due to the high price of steel.[37]

Similar pricing pressures have also begun affecting the stainless steel sector. The preliminary report on total U.S. production in 2004 was 2.6 million tons, about 10% higher than in the previous year. Stainless is a much higher value-added product, and the price in late 2004 approached $2,500/T for a common cold-rolled grade. That reflected a 48% increase over the course of the year.[38] Some stainless products were included in the Section 201 steel safeguards. Import penetration is already high in the sector, ranging from 20% to 60% across product lines, but after falling in 2003, import levels grew again in 2004.

In the first half of 2005, prices significantly eased for most steel products. In part, this may have occurred because China's demand for steel, a major market driver, has eased, reducing panic buying seen in the U.S. market in 2004 and a more normal pace of inventory drawdowns. In early May 2005 *AMM* reported, "Hot-rolled sheet, a benchmark product for the industry which was in a range of $780 to $800 a ton on the spot market in September 2004, has fallen to around $580 to $600 a ton currently."[39] Global Insight's analyst attributes this fall in sheet prices particularly to declining demand for large sports utility vehicles, especially those built by the domestically based "Big Three" automotive producers (General Motors, Ford and Chrysler). Prices for other products, such as plate, have either held steady or not fallen as dramatically. But this source expects concomitant falls in steel prices across the board eventually, though not in the foreseeable future to the levels experienced during the period that the steel safeguard remedies were in effect.[40]

---

[36] U.S. House. Committee on Small Business. *Spike in Metal Prices — What Does it Mean for Small Manufacturers?* Hearing, March 10, 2004. Statements of Kyle Martinson, Revco, Inc.; Barbara Hemme, Youngberg Industries; and, Lester Trilla, Trilla Steel Drum Corp., at.

[37] U.S. House. Committee on Small Business. *Spike in Metal Prices — Part II* Hearing, March 25, 2004. Statement of Patrick P. Loftus, High Steel Structures, representing the American Road and Transportation Builders Association, p. 2. On April 9, 2004, the Federal Highway Administration of the Dept. of Transportation informed "industry and state officials that it cannot legally allow federal funds to be used to reimburse contractors now facing higher steel costs unless adjustment clauses were part of the original contract." Bureau of National Affairs. *Daily Report for Executives* (*DER*), "Federal Highway Administration Turns Down Industry Plea for Help with Rising Steel Costs" (April 12, 2004).

[38] Global Insight. *Monthly Steel Report* (Nov. 2004), Table 3.

[39] *AMM*, "'Let's Take It Slow' ..." (May 9, 2005).

[40] Global Insight. *Monthly Steel Report* (Mar. 2005), pp. 1-2.

Steel Supply

Some businesses indicated in 2004 that they could not obtain adequate supplies of steel. Witnesses at a March 10, 2004, House hearing complained about supply curtailments. For example, Lester Trilla, head of his family-owned steel drum manufacturing firm, said:

> At the prices we are being quoted, there should be more steel produced, but this is not the case. Last month, our steel supplier cut the volume of steel they would supply to us ... and we have no place to go for more steel ... I was already facing a major shortage ... This will force me to cut back on production ... Faced with the bleak supply picture I just described, we contacted two other domestic steel mills in our area, but to no avail. Everyone seems to be short of steelmaking materials and domestic steel producers seem to be either unable or unwilling to sell to new customers. Steel warehouses do not have steel, because they are not being supplied by their sources. We have contacted the foreign steel mill that we used to do business with before the imposition of steel tariffs, but they won't even return our calls.[41]

Figures released by the American Iron and Steel Institute (AISI) and cited above indicate increasing production levels for the domestic industry. There may be no actual shortages across the board, and prices softened in 2005, but still remain at high levels. At the end of 2004, Global Insight's analyst wrote, "Inventories are replenished so shortages are less likely and will be limited to single products, rather than widespread across the industry ... Spot prices will decline but remain far above historical levels."[42] This has been the pattern in 2005.

The Impact of the Growth of China

Possibly the growth of China and its emergence as a major, market-oriented economic power are having more of a global economic impact on steel markets than anything else today. China was the number one threat on the horizon as seen by many steel industry veterans three years ago, when the U.S. industry was entering a downturn. With China's large, if largely outdated, steel industry, as well as low labor and environmental compliance costs, U.S. industry leaders saw no way that they could match a flood of low-cost steel imports from China.[43] In addition, China's government has maintained a fixed exchange rate against the dollar, leading many U.S. manufacturers to claim that in two-way trade this is unfair, because China's currency value does not reflect the country's growing industrial competitiveness.[44]

---

[41] Trilla, statement, pp. 3-4.

[42] Global Insight. *Monthly Steel Report* (Dec. 2004), p. 1.

[43] Interview with Van Reiner, Bethlehem Steel — Sparrows Point plant manager (August 2001).

[44] CRS Report RS21625, *China's Currency Peg: A Summary of the Economic Issues*, by Wayne M. Morrison and Marc Labonte. A Senate bill to add a 27.5% tariff to all imports from China unless the President can certify that China is no longer manipulating its exchange rate within six months (S. 295) was added as an amendment to the Foreign Affairs

(continued...)

Chinese steel mainly goes to its domestic market. What concerned the U.S. industry was that, as China adds new and modernized steel capacity, it will be used to export surplus steel as domestic demand is adequately met.

In recent years, China has become the world's largest steel producer and, at the same time, the largest importer. According to International Iron and Steel Institute data, China's 2003 raw steel production was 221 million metric tonnes (MT), 38% higher than the combined total of the EU's 15 members before its expansion in 2004, and more than double the output of the United States. China's production in that one year increased by 39 million MT over 2002, and accounted for 60% of the world production gain. The main reason that China has had an impact on the U.S. steel industry and steel consumers is that the rapid growth of its own steel industry has absorbed increasing amounts of the world supply of scrap and other inputs, while it also replaced the United States, at least temporarily, as the largest importer of steel. China's rapidly growing appetite for steel also drew in high levels of imports from other major Asian producers such as Japan, Korea and Taiwan, probably diverting them from the U.S. market.

The consequences have been higher prices for steelmaking inputs in the United States and lower availability of imported finished steel at competitive prices — while U.S. steel consuming industries are increasingly having to compete with downstream fabricated products from Chinese suppliers. U.S. steel producers have joined with their customers to support legislation that would allow U.S. producers to bring countervailing duty (CVD) cases against exporters alleged to be receiving government subsidies from governments of countries that are designated nonmarket economies, such as China. Current Commerce Department enforcement policy is not to bring CVD cases in these circumstances, but rather to require U.S. producers to seek trade relief exclusively through antidumping laws.[45]

The Chinese government in 2004 sought to restrain growth by curtailing consumer credit, reducing the growth in demand for products made of steel, such as motor vehicles. As a consequence of this policy, plus perhaps industry bottlenecks and Chinese government efforts to prevent overinvestment in basic industries such as steel, the steel consumption and output growth rate slowed in 2004. Steel output increased to 273 million MT, a 24% increase over the 2003 annual total and a quarter

---

[44] (...continued)
Authorization Bill (S. 600, Title XXIX) on April 6, 2005, when the Senate voted 67-33 not to table the amendment; *Cong. Record* (Apr. 6, 2005), pp. S3249-53. See *Wall St. Journal*, "Senate Slams China Currency Policy," (Apr. 7, 2005), p. A2; and, *AMM*, "Senate Tariff Act Seen as Message to Bush," (Apr. 8, 2005). In an analysis for three trade associations of steel prices and the impact of China's exchange rate policy, Global Insight's John Anton was skeptical as to whether proposed solutions would result in the alleviation of competitive pressures for U.S. industry, and believed that any changes in China's currency policy must be managed with great care; *Steel Markets: Causes and Factors Affecting Steel Prices in the Near and Medium Term* (Mar. 2005), pp. 15-17.

[45] For details on this issue, see CRS Report RL32371, *Trade Remedies: A Primer*, by Vivian C. Jones.

of global production, but at a slower rate of growth.[46] Moreover, by the end of the year, China was reportedly a net steel exporter again, and this is reflected in U.S. trade statistics with China. Imports from China had reached 1.4 million MT in 2000, but then fell to 582,000 MT by 2003, less than 3% of total U.S. imports. However, U.S. steel imports from China in 2004 were almost 1.7 million MT, nearly triple the amount of 2003. In 2005, the annual rate of imports from China has been more than 200 million MT.

Steel Input Materials Supply Issues

The Steel Scrap Price Rise

A recent and extraordinary rise in the price of steel scrap has especially affected the minimill sector of the U.S. steel industry. Steel scrap is generally the major input in EAFs, the production technology used in minimills. By 2002, total U.S. EAF production had overtaken the output of basic oxygen furnaces, the steelmaking technology of integrated mills that produce raw steel from iron ore, coke and other materials. While scrap is usually the principal input in minimill furnaces, it is also frequently added to iron in making steel at integrated mills (up to 25-30%), historically because it enables them to produce a more competitively priced product, especially where absolute purity of the steel is not a prerequisite. Thus, all parts of the industry are affected by changes in the scrap price, though the minimills more than the integrateds. A less competitive minimill price enables the integrated mills to raise their prices as well in a tight market.

The price of ferrous scrap has tripled or quadrupled in recent years. In early 2002, the price of scrap was about $65 per ton, the composite price for "number 1 heavy melt scrap," a common commercial category, as calculated by *American Metal Market*. The price reached a plateau of about $100/T from mid-2002 through mid-2003. Then the price rise accelerated to $160/T by the end of 2003, and climbed more steeply to an average of more than $237/T by early March 2004. More premium grades commanded higher prices, up to reports of more than $300/T. At three different times during 2004 (March, August and November), the price of this benchmark category of scrap peaked near or above $250/T. By early 2005, the price had abated to around $200, but the level is still historically elevated.[47]

Many in the industry ascribed the rising price and reduced availability of domestic steel primarily to the rise in scrap prices, driven in turn by rising global demand, especially in China. As one witness testified at the March 10, 2004, House Small Business Committee hearing:

---

[46] Data on Chinese and international production taken from International Iron and Steel Institute production statistics, as reported by Global Insight, *Steel Monthly Report* (Jan. 2005), tab. 2; updated in *Brazil Steel Databook* (2005), tab. 1. See also the discussion on Chinese steel production and consumption in Anton, *Steel Markets*, pp. 8-9.

[47] See charts in *AMM*, (Feb. 7 and May 9, 2005 print eds.), both on p. 15.

> Steel prices are skyrocketing, due to rising U.S. steel scrap exports ... Steel scrap prices have grown astronomically and are at or above $300 per ton, according to industry reports [because] ... steel scrap exports from the United States are increasing, due to surging foreign demand ... U.S. steel scrap exports have almost doubled since 2000, rising from 6.3 million tons in 2000 to approximately 12 million tons in 2003 ... Meanwhile, U.S. domestic scrap demand has remained steady since 2000 and is increasing as the U.S. recovery improves.
>
> In particular [this witness continued] China and South Korea are purchasing greatly increased quantities of U.S. steel scrap. [Among more than 50 importing countries], these two countries alone account for approximately half of all [U.S. ferrous scrap] exports. China purchased 3.3 million tons and South Korea more than 2.5 million tons of U.S. steel scrap in 2003.[48]

The view that scrap prices are exceptionally and uniquely high was challenged by a representative of scrap recyclers at the same hearing. Emanuel Bodner, head of a privately owned recycling company, said that scrap was not in short supply, nor was it at a record high price on a constant-dollar basis. He emphasized that "scrap surcharges" by steel producers included transportation costs, and that these costs had also gone up. Bodner believed that scrap prices "have likely reached, and perhaps passed, their peak."[49] His views with regard to the current level of scrap prices were substantially supported by an independent witness, Wayne Atwell of Morgan Stanley Equity Research, who said, "We believe scrap prices will peak in 1-2 months and drive steel prices down in mid-2004."[50] While the March 2004 scrap price levels have not been exceeded, subsequent peaks in scrap prices indicate that this is now a dynamic global market, and one cannot assume that the high scrap price peaks of 2004 will not be repeated, or that the price will return to the low levels of 2002-3.

Export Controls on Steel Scrap

Some steel users heavily affected by higher steel prices in 2004 urged consideration of export controls on steel scrap. Under Section 7 of the U.S. Export Administration Act (EAA) of 1979 (P.L. 96-72), the Secretary of Commerce may establish controls over U.S. exports of products in short supply in the domestic economy. Section 7(c) of the EAA specifically establishes a procedure by which the Secretary may be petitioned to establish such controls by trade associations, firms or unions representing "an industry or substantial segment [thereof] that processes metallic materials capable of being recycled."[51]

---

[48] House Small Business Comm. Hearing (March 10, 2004). Statement of Robert J. Stevens (Impact Forge Inc. and President, Emergency Steel Scrap Coalition).

[49] *Ibid*. Statement of Emanuel Bodner (Bodner Metal and Iron Corp., and Institute of Scrap Recycling Industries), esp. pp. 4-7 and Fig. 4, and oral testimony.

[50] *Ibid*. Written presentation of Wayne Atwell (Morgan Stanley Equity Research), p. 2.

[51] Technically, after several periods of renewal, the EAA has expired. However, EAA regulations are enforced by executive order under the International Emergency Economic Powers Act. The text of EAA §7 is at 50 USC App. §2406. Currently, short supply controls are in place for domestically produced crude oil and timber from federal public lands, but

(continued...)

Some steel using industries seriously affected by the rising price of steel, having identified as the principal cause the sharp increase in the rise of steel scrap, formed a coalition to consider petitioning the Secretary of Commerce to take action under the EAA. Steel minimills, acting through the Steel Manufacturers Association (SMA), indicated support for the coalition, though it did not formally adopt a position calling for short supply controls on scrap. Representatives of the coalition and the SMA met with Commerce Department officials, including then-Secretary Evans.[52] But they did not present any formal petition to the Commerce Department requesting controls. Should a petition be presented, and the Secretary of Commerce were to decide to take monitoring or controlling actions (such as export restrictions and licensing), the entire process would require 135-150 days to be implemented.[53]

Steel scrap export controls were applied in the United States in 1973-75, and the experience of that era contributed to a backlash against the proposal. The imposition of controls at that time apparently led to an increase in the domestic price of scrap. In his analysis of the controls, Robert Dale Shriner found that this was perhaps because foreign scrap prices increased as U.S. scrap exports were restricted, everyone knew that the controls would be temporary, and foreign and domestic markets were not fully isolated from each other. U.S. recyclers reportedly withheld scrap from the domestic market, until prices here actually exceeded those abroad.[54]

Shriner's findings were cited by Emanuel Bodner, who represented the Institute of Scrap Recycling Industries, at the House Small Business Committee hearings on March 10, 2004. He was joined in opposing export controls by Wilbur Ross, founder and CEO of ISG, who suggested that China could retaliate by reducing coke exports to the United States. Moreover, he said, "in view of our staggering balance of payments deficit, it would be ludicrous to reduce our exports."[55] On the whole, the idea has not had broad support within the steel industry, with even the SMA eventually not supporting actual application of such a policy.[56]

---

[51] (...continued)
these controls were established by congressional mandates under different provisions of law.

[52] An excellent summary of the views and the logic of the Emergency Steel Scrap Coalition was presented at the House Small Business Comm. hearing (Mar. 10, 2004) by Robert Stevens, CEO of Impact Forge, Inc., and co-founder of the coalition, in his statement, pp. 5-6. See also *AMM*, "Mini-mills, FIA May Lobby for Scrap Export Controls" (Feb. 6, 2004); "Cellar Dweller Hatches Plan on 'Strategic' Ferrous Scrap," "Potomac Pulse" column in print ed. (Feb. 9, 2004); and, "Evans, Regula Aware of Scrap Export Moves" (Feb. 27, 2004).

[53] Interview with Bernard Kritzer, U.S. Department of Commerce, Bureau of Industrial Security, March 12, 2004.

[54] Robert Dale Shriner, "Control Reversal in Economics: U.S. Scrap Export Restrictions," *Business Economics*, XII:3 (May 1977), pp. 14-17.

[55] House Small Business Comm. hearings (Mar. 10, 2004); see Bodner and Ross statements; the quote from Ross is on p. 5.

[56] See Paul Schaffer, "Short Supplies, Export Angst," *AMM* print. Ed. (February 23, 2004), p. 2, for a useful summary of the existing state of the law and the pro's and con's of action
(continued...)

A petition for short supply export controls was pursued in a parallel case involving non-ferrous scrap. As with steel scrap, users of non-ferrous scrap faced rising prices. On April 7, 2004, two industry groups formally petitioned that the Commerce Department monitor and restrict exports of copper scrap and copper-alloy scrap. On July 21, 2004, within the legally mandated response period, the Commerce Department rejected the request for export controls, and refused to establish a system for monitoring non-ferrous scrap exports.[57]

Foreign Countries' Steel Scrap Export Restraints

Other steel-producing countries, especially Ukraine and Russia, have been using formal or informal regulations to curb their own scrap exports, and thus have contributed to a tightening of supplies in the world market.[58] Article XI of the General Agreement on Tariffs and Trade 1994 (GATT 1994), the WTO agreement that contains the fundamental rules of international trade, clearly requires the general elimination of quantitative restrictions on exports as well as imports. However, there are important exceptions or exemptions to this general principle. Countries may levy duties, taxes or charges on exports, and many developing countries raise significant shares of their revenue through export taxes. Also, under GATT Article XI.2, member countries may impose temporary restrictions on exports of "foodstuffs and other products deemed critical to the exporting contracting party" to "prevent or relieve critical shortages." And the "general exceptions" in Article XX of the GATT 1994 include measures "essential to the acquisition or distribution of products in general or local short supply," subject to qualifications on duration of such measures, treatment of trading partners and other considerations.[59]

Neither Russia nor Ukraine is a WTO member, but both are seeking to join. Both have major steel industries and are also major scrap exporters to the important steel industries of western Europe, eastern Europe and Turkey. By restricting their own scrap exports in any way, these two countries have helped drive up the world market price of steel scrap. The United States is a major net exporter of scrap and imports little from these two countries, but steel products from them are exported in significant quantities to the United States in direct competition with domestic steel products. Russian and Ukrainian steel producers thus have access to domestic sources of scrap that are shielded from world market pricing pressures.

---

[56] (...continued)
on the issue; also, *AMM*, "Scrap Wars Create Turmoil, Skepticism" (Mar. 3, 2004). No SMA representative testified at the March 10 hearing.

[57] *Washington Trade Daily*, "Limiting Copper Scrap Exports" (Apr. 8-9, 2004); *AMM*, "Commerce Nixes Copper's Plea to Cap Scrap Exports" (July 22, 2004), p. 1.

[58] Except as noted, the factual data in this section and the descriptions of U.S. trade policy were provided in an interview of Jan. 27, 2005, with Jean Kemp, Director of Steel Trade Policy, Office of U.S. Trade Representative (USTR).

[59] World Trade Organization. "General Agreement on Tariffs and Trade 1994," Articles XI:2 and XX(j).

- *Ukraine* has an export tax of €30 per metric ton (MT), equivalent to about $40 at today's exchange rate. For comparison, the most recent composite domestic U.S. steel scrap price reported by *AMM* is about $200/MT. Turkey, which is a major importer of scrap from Ukraine, has negotiated a reduction in the export tax, reportedly to €20/MT, as part of the bilateral WTO accession deal reached between the two countries; under WTO rules, such a tax reduction must apply to exports to all other WTO members. The U.S. government is still seeking complete elimination of the scrap export tax in the U.S. bilateral accession package with Ukraine.

- *Russia* has applied an ad valorem 15% export tax to ferrous scrap exports since 1999. According to the Russian scrap recycling council, ferrous scrap exports increased much more rapidly than shipments to domestic sources in 2004, and totaled 13.5 million MT: more than U.S. ferrous scrap exports in 2004, and just under half of all Russian steel scrap shipments. According to an article based on the same source, the major scrap recyclers are also Russia's major steel producers. They are reportedly pushing for the government to adopt a fixed charge per MT, as in Ukraine, because they claim that "unlicensed" dealers are underselling the market, and thus proportionately reducing the deterrent effect of the export tax.[60] The Russian government also states that restrictions on ferrous scrap exports are necessary to insure that a domestic supply is available for steel mills that have been located in remote areas of the country, where they are major local employers, and have little hope of obtaining scrap competitively on the world market because of high transportation costs. The European Union (EU) has reportedly negotiated a reduction of the export tax as part of its bilateral accession package with Russia, but the agreement is not public. The U.S. government is still seeking complete elimination of the scrap export tax as part of its own bargaining position on Russia's accession to the WTO.

Many other countries restrict scrap exports through taxes or other policies. In March 2004, the government of South Korea notified its trading partners that it would institute a temporary and non-restrictive "monitoring system" to track scrap exports. According to U.S. embassy reports requested by the U.S. Trade Representative (USTR), there was apparently no "administrative guidance" given by the Korean government in conjunction with this policy. The monitoring was terminated in September 2004.[61]

---

[60] *AMM*, "Russian Processors Push for Cut in Export Duty" (Jan. 25, 2005).

[61] This analysis from USTR contradicts the report in *AMM*, "Higher Prices for Raw Materials Lead S. Korea to Block Exports" (Mar. 10, 2004), p. 7, that Korea was effectively using the measure to lower scrap exports. But, in any case, the *AMM* article conceded that "... Korea exports so little ferrous scrap that the measure is seen as meaningless."

Besides the export taxes in Russia and Ukraine, and the developments in South Korea, an *AMM* article of March 5, 2004, also noted export restrictions in Venezuela, restrictions or export taxes to discourage exports in place for at least a year in Belarus, and appeals from industry to governments in countries as varied as Colombia and Kenya to bar scrap exports.[62] USTR also notes that a number of countries continue to maintain export taxes on steel scrap, including Argentina, Egypt, Vietnam and China, but considers the effect of these policies to be relatively marginal, given the minor role such countries play in providing scrap on the world market. USTR is currently seeking to eliminate all of Thailand's export taxes, including a 50% levy on steel scrap exports, as part of the negotiations on a free trade agreement with that country.

No European steelmaking country restricts scrap exports, according to USTR. During the current WTO Doha Round of trade negotiations, the EU pressed the issue of generally establishing WTO discipline over export taxes and restrictions, especially as they affect industrial raw materials and inputs for downstream manufactured products. On January 31, 2005, legal counsel for the Emergency Steel Scrap Coalition wrote USTR urging the U.S. government "to join the EU and others in attempting to achieve a WTO prohibition of all export taxes," in response to a request for general comments on U.S. negotiating policy and positions.[63] The U.S. government has decided to support this position.

Rise in the Costs of Other Steel Inputs

Ferrous scrap is hardly the only input that has risen in price and contributed to higher steel prices. At the March 10, 2004, hearing, Wayne Atwell stated his view that the "primary driving factors" were:

- "The weak dollar has driven up the cost of imports, which has provided a pricing umbrella over the domestic steel industry."
- "China's steel consumption has grown much faster than anticipated and has put a strain on the global raw-material industry."
- The metals industry as a whole has been insufficiently profitable and has therefore not been able to expand capacity, e.g., there has been "underspending on infrastructure."[64]

Wilbur Ross of ISG testified at the same hearing regarding a wider range of higher costs faced by integrated steel companies. He stated that these costs accounted for most of the higher price of steel delivered to the customer. He computed that assorted raw material input price increases alone added $178 since 2001 in production costs per ton (T) of steel produced at an integrated mill. Iron ore pellet costs had increased from $50-55/T of steel produced to almost $65, while coke costs per ton produced had increased from $25-30 to almost $150. Moreover, the

---

[62] *AMM.com*, "S. Korea Plans to Restrict Steel Scrap Exports" (Mar. 5, 2004).

[63] Letter of Alan H. Price and Timothy C. Brightbill to Office of USTR (Jan. 31, 2005), quote from p. 5.

[64] House Small Business Comm. Hearing (March 10, 2004), Atwell statement, p. 2.

cost of natural gas, used as a fuel in steelmaking, after spiking twice since 2000, had attained a third cost spike of nearly $22/T of steel produced in the winter of 2003-4, compared to a cost of less than $10/T produced for much of 2001-2.[65] To these increases, Ross added $10 in other costs and "incremental interest expenses." Finally, he noted that as 56% of ISG's steel is sold under contracts "that do not escalate rapidly, the spot price half of the business must go up faster to avoid insolvency."[66]

There is only marginal indication that price pressures for steelmaking inputs will lessen.[67] The benchmark Henry Hub, Louisiana, spot price of natural gas increased a further 22% between March and December, 2004. It rose a further 9.5% by May 2005.[68]

As for iron ore, in February 2005, when the major global steel making companies arranged their supply contracts for the coming year, Nippon Steel agreed an unprecedented 71.5% price increase with the large Brazilian iron mining company, CVRD. This deal was expected to set the pattern for international iron ore purchases by other integrated steel companies, and compares with the previous high one-year price increase of less than 20%, paid by Nippon Steel in 1980.[69] On the same day, Cleveland-Cliffs, the largest domestic U.S. iron ore producer announced its 2004 results, which included a one-year increase in sales of 45%, to about $1 billion, and an earnings turnaround of a 2003 net loss of $33 million to a 2004 profit of $324 million. Company CEO John Brinzo said, "Currently all signals that we are seeing point to another strong year for the iron ore industry and for Cliffs."[70] High iron ore costs have the greatest impact on the integrated steel industry, which must make steel from some form of iron ore. But it also impacts the minimills, which generally must use at least small amounts of pig iron for purity, and also have been seeking cheaper sources of "iron units," both as an alternative to high-priced scrap, and to produce a purer up-market product.[71]

The Cost and Supply of Coke

Noteworthy in Wilbur Ross' list of input cost increases was the price of coke, driven by recent U.S. shortages in coking coal. These shortages are both domestic

---

[65] Ross statement, Exhibits 6-9.

[66] Ross statement, p. 3.

[67] A more recent and complete review of the status of supplies of steelmaking inputs is in Anton, *Steel Market*, pp. 10-13.

[68] Global Insight, *Natural Gas Weekly* (Feb. 9, 2005)and *Natural Gas Monthly* (May 2005).

[69] *AMM*, "CVRD Wins 71.5% Increase in Japanese Iron Ore Deal — Asian Steelmakers Gird for Domino Effect" (Feb. 23, 2005), p. 1.

[70] *Ibid.*, "Cleveland-Cliffs Anticipating Windfall," p. 1.

[71] Price falls in pig iron prices, responding to declines also in scrap prices, led Brazilian producers, a major source, to cut back on production in mid-2005, in the face of continued high iron ore prices and other cost factors; *AMM*, "Slide Prods Producers to Idle 12 Pig Iron Furnaces in Brazil" (May 25, 2005).

and international in nature. According to the Department of Energy, U.S. domestic production of coke, derived from a grade known as metallurgical coal and used almost exclusively in blast furnaces by integrated steel mills, was 22 million tons in 1997. It was more than 20 million tons annually from 1998 through 2000, 18 million tons in 2001 and about 17 million tons in 2002-03.[72] With the recovery in domestic steel demand, imports have had to make up the gap. But with China as the key source of coke on the world market, and China's own domestic demand growing, availability has been squeezed, and the price has risen.

These problems were exacerbated by a mine fire and an interruption in coke supplies from U.S. Steel, a major coke producer, to other steelmakers in 2003-04. This created a shock wave through the integrated steel industry. According to one industry source, the cost of coke rose from $145/T to $250/T between November 2003 and early 2004.[73] The most seriously affected company was Weirton Steel, which relied exclusively on coke from U.S. Steel, and was forced to shut down part of its operations. With Weirton already in bankruptcy, the loss of a reliable, nearby coke source may have precipitated its sale to ISG, and its end as an independent company.[74] Since then, full supplies have been resumed for U.S. Steel, but the company has declared itself out of the merchant coke market. Plans are being made elsewhere to re-open or modernize existing coke plants, or even to develop new ones, but the probability is that the domestic integrated steel industry will remain short of coke as long as demand for steel production remains strong in the present cycle.[75]

The surge in China's own steel production has led to indications of a change in policy for this major U.S. import supplier. According to one source, in a recent year, China accounted for 60% of the 27.5 million tons annually in world metallurgical coke trade; Poland and Japan together account for 26%, and other countries only supplied minor fractions. The EU imported 35% of the global merchant supply, while North America was second with 16%.[76] As more Chinese coke output is being

---

[72] U.S. Dept. of Energy. Energy Information Administration (EIA). "Coke Overview, 1949-2003" at [http://www.eia.doe.gov] (Feb.11, 2005).

[73] Scott Roberson, "For Some Steelmakers, a Lump of Coal Would be a Welcome Gift," *AMM* print ed. (Mar. 15, 2004), p. 3. The information on the price rise is from industry consultant Charles Bradford, in Tom Balcerek, "Back Behind the Wheel," *AMM* print ed. (Feb. 9, 2004), p. 6. The thrust of the article, however, is that higher scrap prices have made the integrated industry overall more competitive against minimills.

[74] *AMM*, "Weirton Details Staggered Cuts in Plants, Staff" (Jan. 16, 2004); "Arneault Offers Plan to Ease Weirton Cash, Coke Troubles" (Jan. 29, 2004); and, "Weirton, Union Applaud $255M Proposal by ISG" (Feb. 19, 2004).

[75] Sun Coke, a merchant supplier, is building a new plant in Haverhill, OH, while Wheeling-Pittsburgh is modernizing and expanding its coke plant in Follansbee, WV. On the other hand flooding and lock problems on the Ohio River system drastically cut coking coal supplies for some key plants early in 2005. See the following articles from *AMM.com*: "More Demand Attracts More Supply?" (Jul. 23, 2004); "Wheeling-Pitt Mulling Post-BF Coke Strategy" (Aug. 9, 2004), and "Some Coke Batteries at 50% as Woes Continue" (Jan. 21, 2005).

[76] *AMM.com*, "Mills Face Coke Quandary as Chinese Prices Soar" (May 16, 2003).

used in domestic steel production, exports flattened out.[77] Wayne Atwell in his testimony before the House Small Business Committee noted that the Chinese coke export price had risen from $55 per ton to between $200-300 per ton by early 2004, and that in February 2004, China was actually a net importer of coking coal versus typical net exports of one million tons per month.[78]

As a consequence, China sought to tighten its allocation system, and to substantially reduce exports by reducing export quotas and raising the price of export licenses. The EU brought a WTO case against China, which then agreed that the amount of coal exported to the EU would not decline in 2004. This led to an unhappy reaction by USTR, which had initiated its own consultations with China on this subject. The administrative result of this situation is not clear, but apparently there are no continuing quota, licensing, or other government-imposed export restraints on Chinese coke as of early 2005.[79]

Steel Profit Recovery Issues

Notwithstanding the higher cost of inputs, the bottom line profitability of the American steel industry in 2004 reflected the rapid rise in steel prices. As shown in **Table 2**, steel-making companies across the board, representing integrated steel mills, minimills, and the stainless and specialty side of the industry, over the past year have reversed losses, or substantially increased profits, as revenues have increased in the range of 50% to 100%. Moreover, this was widely reflected in stock market share values, which have generally doubled or even tripled over the twelve months prior to announcements of steel companies' annual results, as shown in the table.

However, the market apparently continues to value steel shares as cyclical stocks. Thus, reported price-to-earnings ratios for steel shares have generally remained in single digits near the February 2005 peak, while for the Dow Jones Industrial Average (30 stocks), the P/E ratio was more than 18.[80] The one-year run-up in share values was partially reversed for most steel company shares, as the market may have reacted to a cooling of steel prices. U.S. Steel and AK Steel, for example, had given back most of the increase in their share values by the end of May 2005. Among the leading minimills and specialty producers, stock prices were holding up better.

---

[77] A Chinese official has stated that, "China would limit coal exports in 2004 to meet the increasing domestic demand;" "China Coal Policy," *China Business News On-Line* (Jan. 29, 2004). See also "China Coke Exports Seen Even Lower," *Platts International Coal Report* (December 8, 2003).

[78] House Small Business Comm. hearing (March 10, 2004), Atwell statement, p. 2.

[79] *Europe Energy 2004*, "EU and China End Their Coke Trade Battle" (June 4, 2004); Kemp interview (Jan. 27, 2005).

[80] *Wall St. Journal* (Feb. 11, 2005).

Table 2. Financial Results for Steel-Making Companies

Companies	Sales ($bil.)		Net Income ($mil.)		Stock Price ($)			
	2004	2003	2004	2003	2/10/05	5/25/05	2004 Low	P/E
Integrated Mills								
U.S. Steel	14.1	9.5	1,085	-463	52.28	38.64	25.22	6
International Steel Group (merged with Mittal Steel, April 2005)	9.0	4.1	1,027	-97	40.68	---	25.45	n/a
AK Steel	5.2	4.0	238	-560	15.72	7.02	3.65	7
Minimills								
Nucor	11.4	6.3	1,121	63	56.53	51.10	27.93	8
Gerdau AmeriSteel	3.0	1.8	338	-27	4.42	4.54	5.98	n/a
Ipsco	2.5	1.3	439	17	46.74	46.26	15.84	n/a
Steel Dynamics	2.4*	1.2*	330*	65*	38.61[a]	26.40[a]	16.01[a]	7[a]
Stainless/Specialty Steels								
Allegheny Tech.	2.7	1.9	20	-315	22.85	20.63	9.17	[cc]
Carpenter Tech.	1.2**	0.9**	105**	16**	63.15	52.74	25.75	20

*2004Q4/2003Q4, annual rate **Jul.-Dec. '04/'03, annual rate [a]NASDAQ [cc]P/E >99

Sources: Corporate results from *AMM*, Jan. 24, 26, 28 and Feb. 1, 2, 4, 11, and 15, 2005; stock price information from *Washington Post* (Feb. 11, 2005).

A report by economist Peter Morici, released in February 2005 and co-sponsored by AISI and SMA, states that the steel industry has not been inordinately profitable, and that higher steel prices have had negligible impact on steel-consuming industries' profits and employment.[81] The Morici paper pointed out that by comparison with manufacturing in general and specific steel-consuming industry sectors, the steel industry has lost money on an average annual basis since 2000, while all the other sectors have been profitable. Only in 2004, according to his figures, did the steel industry's turn after-tax profits that allowed it to catch up to the positive gains of other sectors (although it should be pointed out that his figures stop

[81] An article summarizing the release of this report is in *AMM*, "Study Finds Steel Prices Not Top Cause of Consumers' Ills" (Feb. 16, 2005), p. 1.

after the third quarter of 2004, and steel industry profits were generally highest in the last quarter of the year).[82]

Morici notes that manufacturing output has generally been performing as well as U.S. gross domestic product in general, and that U.S. metal fabricating and other major steel-purchasing industries have had higher employment levels than general manufacturing employment, both since the 2001 recession and over the longer term. He further states that job loss trends in manufacturing are not due to high costs for steel, but rather to general conditions such as the impact of the 2001 recession, productivity gains that allowed output to increase without new hiring, and, in particular, the loss of 650,000 steel-consuming jobs, according to his calculations, through foreign currency manipulation and the resulting increase in the U.S. trade deficit.[83]

Morici's analysis stresses that in any case, steel is generally too small a part of the total costs of most steel-consuming industries to have any significant impact on job loss or total profitability. He notes, in particular, that for the motor vehicle industry, which directly purchases more than 13% of all steel in the United States, steel accounts for less than 3% of industry costs. He adds that foreign steel prices have been as high or higher than in the United States, and therefore for U.S. automotive companies' overseas competitors. Finally, he notes that the contract purchasing system, used by motor vehicle producers and described above, has significantly ameliorated the actual "transaction price" for steel paid by automotive consuming industries.

This part of Morici's analysis may be somewhat disingenuous. Examining Chart 5 in his report, one finds that while steel is only 2.7% of the motor vehicle industry costs, it is a higher share (7.8%) of the costs of the bodies and parts side of the business — and those are frequently the smaller "Tier 2" suppliers not included in Big Three contract agreements. Rising steel costs of up to double the levels of 2002-03 have apparently been enough to affect the profitability of such companies, who have testified that they are generally unable to pass their costs on to automotive customers, on pain of losing their supply contracts.[84] A Commerce Department report on the automotive parts industry noted, for example, that:

> General Motors has continued its push for price cuts. GM asked its Tier 1 suppliers to develop Tier 2 and Tier 3 suppliers outside the United States in low-cost areas like Mexico, China and South Korea, and to aggressively cut costs in their supply chain.[85]

---

[82] Peter Morici, "Manufacturing and Steel Prices " (Feb. 2005), p. 3 and Chart 2.

[83] *Ibid.*,pp. 5-6, 13-15.

[84] *Ibid.*, pp. 7-10 and Charts 5-7.

[85] U.S. Dept. of Commerce. International Trade Administration, Office of Aerospace and Automotive Industries. *U.S. Automotive Parts Industry — 2004 Annual Assessment* (May 2004), p. 19.

The views of the steel industry have been most aggressively challenged by the automotive parts industry's Motor & Equipment Manufacturers Association (MEMA). They claim, for example, that the price of U.S. hot-rolled steel in January 2005 was $695/T, compared to a world spot-market price of $575/T and the price in China of $510/T.[86] Writing in a report funded by MEMA, Brian Becker and Kevin Hassett contrasted the strong profit and stock value performance of the American steel industry with recent economic difficulties of much of the domestic auto parts industry. While the Dow Jones Steel Index increased by 76% between the end of 2003 and February 2005, the Dow Jones Auto Parts Index fell by 5.4%, and the two largest U.S. auto parts suppliers, Delphi and Visteon, saw their share values decline by 27% and 32%, respectively.[87] They noted that much of the steel industry's recent recovery has been enabled by the offloading of pension obligations of bankrupt firms onto PBGC, with its implied federal guarantee, while the automotive supplier industry has not had this advantage.[88] These authors cite the 2004 Commerce Department report noted above in stating that the U.S. automotive industry "may lose half of its domestic suppliers to bankruptcies, mergers or migration to other industries by 2010."[89]

Policy Issues

Many Members of Congress have concerns about volatile steel price swings' effect on steel-consuming businesses. Because of the way steel contracts are structured, the smallest companies may typically bear the brunt of higher spot market prices. Spot prices tend to overshoot actual cost increases, because spot prices must cover lower margins earned by steel producers on less flexible contract steel. In such an environment, some policymakers argue that even temporary steel price increases to present levels or beyond are forcing steel consuming industries offshore, a development that could ultimately undercut the domestic market base served by the North American steel industry.

Other Members of Congress are concerned that the American steel industry, though earning profits while prices are high, remains a highly cyclical business. As steel demand cools, domestically and globally, and with no agreement reached on an international ban on steel subsidies, they are worried that the industry could fall back into its earlier pattern of global surplus, low prices, and imports seeking the United States as the market of last resort under conditions of global overcapacity. Between these two sets of concerns, a number of new or revived issues have already risen during the 109th Congress.

---

[86] MEMA press release, "New Report Finds Government Support for Steel Damages Automotive Suppliers" (Feb. 16, 2005).

[87] Becker and Hassett, p. 20. Stories on release of the MEMA report are in *Washington Post*, "Steel Prices Hurt Auto-Parts Business" (Feb. 16, 2005), p.E3; *AMM*, "MEMA Takes Shot at Steel's Profits, Wants Duties Nixed" (Feb. 17, 2005), p. 1.

[88] Becker and Hassett, pp. 10-12.

[89] *Ibid.*, p. 15.

Continued Efforts to Achieve a Steel Subsidies Agreement

In recognition of the global nature of steel industry issues, President Bush proposed international negotiations on the elimination of excess steel capacity and restrictions on future domestic industry subsidies, as part of his steel policy announcement of 2001. Other governments agreed to join representatives of the Bush Administration in discussing overcapacity and trade issues under the auspices of the Organization for Economic Cooperation and Development (OECD), in a process that started in mid-September 2001, despite the terrorist attack on the World Trade Center and other U.S. targets just a few days earlier. The industrial, steel-producing members of the OECD were joined by major non-OECD steel producers, such as India, Russia, and, during later stages of the talks, China. The early stages of negotiations produced indications by participating governments of capacity reductions totaling about 140 million MT of crude steelmaking capacity that could be made in their countries by the end of 2005.[90] But this was not followed by definitive commitments to close capacity, nor have the participants agreed on the basis for an international agreement to end domestic subsidies to the steel industry. Negotiations were suspended indefinitely in 2004, though the parties agreed to continued future meetings.

By June 2003, the OECD's staff had reportedly constructed a draft proposal that outlined compromise proposals on "six elements negotiators believe are crucial in forming the framework of an agreement."[91] But the negotiating parties deadlocked beyond that point, as the recovery of global steel markets and the subsequent end of the U.S. safeguard tariffs seemed to reduce the impetus for compromise. Countries such as Brazil and India want a recognized right to continue to subsidize certain aspects of their steel industries, and rejected any offer to accept a phase-in period to full elimination of subsidies. There was also a related issue as to whether subsidies should be countervailable, even if they are notified by signatories and are considered legitimate under exceptions to an agreement. The United States, on the one side, and Japan and the EU on the other, differed as to whether subsidies should be allowed for R&D activities and environmental upgrades, as might be required, for example, by the Kyoto Treaty on Climate Change. The U.S. steel industry itself consistently lobbied the U.S. Administration to oppose any international acceptance of steel industry subsidies, except as related to a plant closure.[92]

While the basic principle of far-reaching subsidies discipline was apparently accepted, no agreement could be reached by mid-2004. At that point negotiators agreed that, while the OECD would continue to monitor developments in steel

---

[90] This estimate was cited in Bureau of National Affairs. *Daily Report for Executives*, "Major Steel-Producing Countries Launch Talks on Banning Subsidies at OECD Meeting" (Dec. 20, 2002).

[91] Nancy E. Kelly, "Steel Talks to Kick Off in Paris, Six Issues Seen Hot for Debate," *AMM* (June 10, 2003).

[92] The major issues and course of the talks were reviewed in detail in the archived CRS Report RL31842, *Steel: Section 201 Safeguard Action and International Negotiations*, pp. 35-40.

markets, further negotiations would be suspended pending a review in early 2005.[93] But a January 2005 meeting at the OECD produced no further evident progress in the discussions. A number of private sector U.S. representatives of the steel industry at the discussions stated that many governments were further subsidizing new steelmaking capacity as the global market for steel boomed. The OECD members present did agree to continue the operations of the Steel Committee, and set a future meeting for November 2005.[94]

To further preparations for this meeting, OECD staff drafted a proposed "blueprint" for a steel subsidies agreement. OECD Deputy Secretary General Herwig Schlögl circulated the blueprint with a letter to government representatives and requested their comments by July 2005. On May 17, 2005, another OECD representative met with U.S. steel companies and their trade associations in Washington, to explain the blueprint in detail. The blueprint is generally designed to ban a broad range of steel industry subsidies across the board, and in commentaries on the blueprint, OECD officials have noted that 90% or more of historical subsidies would be prohibited.

The blueprint would allow subsidies in support of research and development activities, but only up to a *de minimis* level of 0.5% ad valorem of steel production (proposed Article 3). It would also allow tax abatements or reductions of other charges associated with programs to reduce CO_2 emissions, even if they might have been challengeable under WTO rules, provided that abatements were generally available to other energy-intensive industries (Article 6). To encourage transfer of ownership of steel producers still controlled by governments to the private sector, subsidies to facilitate "financial restructuring" would be allowed, provided that they were not used to increase capacity (Article 5). Neither of the types of subsidies in Articles 5 and 6 would be subject to the *de minimis* cap provided for R&D subsidies in Article 3. The blueprint would also allow "preferential treatment" for Argentina, Brazil, China, Egypt and India, by allowing them to continue some types of subsidies for several years, although generally the subsidies would be covered by the 0.5% *de minimis* cap (Article 4). The blueprint also would allow subsidies for capacity closures (Article 3).

A major issue discussed in the blueprint is "actionability," e.g., subjection of subsidies to trade remedy laws. If a proposed subsidy is notified to the review committee that is to be formed, and is duly "approved" by that committee by "consensus" (unanimity), then subsidies should not be countervailable under trade laws of participating countries (Articles 8-9). The OECD staff claims that "all subsidies that are actionable, remain actionable," and that the proposed *de minimis* standards actually reduce the levels that apply today under U.S. trade law.[95]

---

[93] The official paper describing the state of negotiations in addressing key issues is OECD SG/STEEL (2004)3. "Steel Agreement Issues" (June 29, 2004). Reports on the stalemate include *DER*, "OECD Steel Subsidy Talks Suspended Until 2005" (June 30, 2004), p. A-1; *Inside U.S. Trade*, "Countries Agree to Shelve Formal OECD Steel Talks" (June 28, 2004).

[94] *AMM*, "High Steel Demand Cited for Killing Global Subsidy Deal" (Jan. 19, 2005), p. 1.

[95] OECD. "Blueprint for a Steel Subsidies Agreement," attachment to letter from Herwig (continued...)

Representatives of the American steel industry have reacted negatively to the blueprint. Most discussion has focused on "exceptions" that would be permitted, and types of payments that would constitute allowable subsidies. An executive of U.S. Steel, for example, was especially concerned about the question of "actionability," that is, subsidies allowed under the agreement could not be subject to U.S. trade remedy laws. The general view of the industry, as reported in trade journal articles, is that an agreement designed to ban subsidies should not instead focus on carving out exceptions to subsidy discipline.[96]

Review of AD/CVD Orders

As noted in a March 2004 Congressional Budget Office analysis, the steel industry is by far the largest user of U.S. antidumping and countervailing duty (AD/CVD) orders. The CBO counted 131 AD/CVD orders against imports of steel mill products then in place, plus a further 30 orders against imported iron and steel pipe products, and 30 orders against assorted other iron and steel products.[97] Consequently, if the Commerce Department or the ITC undertook a fundamental review of these orders with a view to their termination, the result could have a major impact on U.S. steel imports and the domestic steel market. Under U.S. trade law, in compliance with World Trade Organization rules, AD/CVD actions are reviewed systematically after five years, to determine if penalized foreign action — dumping or subsidization — is not occurring or not likely to recur, with respect to the products subject to the order. The Commerce Department must determine if the dumping or subsidization is likely to recur, while the ITC decides if such recurrence would cause material injury to the U.S. producing industry.[98]

On February 10, 2005, Representative Joseph Knollenberg of Michigan introduced H.Res. 84, which stated that the Department of Commerce and the ITC, in conducting these sunset reviews, should "take into account and report on, the impact of such duties on steel-consuming manufacturers and the overall economy." By May 25, 2005, the resolution had 44 cosponsors. It has been referred to the Ways and Means Committee, where there has been no further action.

In introducing the resolution, Representative Knollenberg stated that Commerce and the ITC "have the discretion to take into account the impact of these duties on steel consumers, and they should. But traditionally they have not ... Removing some

---

[95] (...continued)
Schlögl (Mar. 31, 2005); and, "Steel Subsidies Agreement: Blueprint," presentation by Wolfgang Hübner to AISI/SMA (May 17, 2005). Reports on development and release of the blueprint are in *AMM*, "Steel Subsidy Talks Get Another Chance to Work" (Mar. 24, 2005); and, "OECD Delivers Blueprint for Steel Subsidies Pact" (Apr. 4, 2005).

[96] *AMM*, "Pre-Agreed OECD Subsidies Dubbed a 'Deal-Killer' for U.S." (Apr. 8, 2005); and, "OECD's Blueprint Bites into Steel Subsidy Limits" (May 18, 2005).

[97] Congressional Budget Office. "Economic Analysis of the Continued Dumping and Subsidy Offset Act of 2000," attachment to letter from Director Douglas Holtz-Eakin to Rep. Bill Thomas, Chairman, House Ways and Means Committee (March 2, 2004), p.3.

[98] Sunset reviews of AD/CVD orders are discussed in CRS Report RL32371.

specific duties will not harm domestic steel producers, who are doing quite well."[99] His resolution was supported by MEMA, as well as by the Precision Metalforming Association and the Consuming Industries Trade Action Coalition (CITAC), organizations that had also supported an early end to the steel safeguard tariffs. The steel industry is reportedly against giving formal standing to steel consumers in trade cases, and believe that the resolution would substantively change antidumping law, in which the goal is to determine if material damage was caused to the petitioning industry.[100]

In March-April 2005, the ITC held sunset review hearings on three sets of products currently under duty orders. They were hot-rolled, flat-rolled carbon steel imports from Brazil, Japan and Russia, stainless steel plate from six countries, and stainless steel sheet and strip from eight countries. Numerous members of Congress testified, most of them in favor of maintaining the AD/CVD orders. On April 14, 2005, the ITC in a 4-2 vote decided to retain the measures on hot-rolled steel imports, the product of broadest significance to steel consumers.[101] Senator Jay Rockefeller was quoted as saying, in reaction, "This decision is a victory for our steel industry. It will help protect the livelihood of our steelworkers, their families and their communities." By contrast, a statement from Ford Motor Company, which testified against maintaining the duties, noted that the decision "seriously impacts steel-consuming industries as well as the entire economy."[102] Decisions on the stainless steel cases are pending later in 2005.

Repeal of the Byrd Amendment

Related in part to the financial difficulties of the U.S. steel industry in the late 1990s, the Continued Dumping and Subsidy Offset Act (CDSOA), was signed into law in October, 2000. The CDSOA is known as the "Byrd Amendment," because the West Virginia Senator added it to the FY2001 Agriculture appropriations bill (P.L. 106-387).[103] It requires antidumping and countervailing duties to be deposited in a special account and distributed annually to domestic industry petitioners, who meet eligibility criteria, to offset expenses incurred as a result of the dumped or subsidized imports. Steel companies have benefitted from distributions under this law, which has now been successfully challenged in the WTO. The U.S. government has lost its appeal and has said that it will comply with the WTO finding, but the law remains

---

[99] *Congressional Record* (Feb. 10, 2005), E16.

[100] MEMA press release, "Auto Suppliers Applaud Congressional Resolution on Steel Hearings" (Feb. 10, 2005); *AMM*, "MEMA ... Wants Duties Nixed," p. 4.

[101] Technically, the decision was to retain the duties on imports from Japan and Brazil, while also maintaining the agreement with Russia, under which penalty duties are suspended as long as Russia maintains other engagements related to exports; USITC. "ITC Determines to Retain Antidumping and Countervailing Duty Measures on Certain Hot-Rolled ... Steel Products from Brazil, Japan and Russia," News release 05-039 (Apr. 14, 2005);

[102] Both quoted in *Detroit Free Press*, "Trade Panel: Retain Steel Import Tariffs for 5 Years" (Apr. 15, 2005); see also *AMM*, "4-2 Vote by ITC Extends Hot-Rolled Duties 5 Years" (Apr. 15, 2005).

[103] Included as Title X; codified at 19 USC §1671a.

in force and is still being applied.[104] It is administered by the Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security.

The U.S. steel industry has generally been a major recipient of the customs duties distributed under the Byrd Amendment. For Fiscal Year 2004, steel companies received disbursement checks reportedly totaling $58 million out of a total of $284 million.[105] The leading steel company recipient was the International Steel Group ($10.4 million), followed by U.S. Steel ($7.1 million), AK Steel ($6.8 million), and North American Stainless ($4.7 million). As has usually been the case, the leading beneficiary of Byrd Amendment disbursements for 2004 was the Timken Co., a major manufacturer of roller bearings, which received $66 million.[106]

The Bush Administration has proposed repeal of the Byrd Amendment in its FY2004 and FY2005 budgets, on the grounds not only of the need to comply with WTO rulings, but also because it argued that the law represented a form of "double-dipping" and corporate welfare. No explicit reference to the law was made in the FY2006 budget request. Legislation to modify the law in a way that would make it WTO-compliant was introduced in the Senate in the 108th Congress, and a bill to repeal it altogether was introduced in the House. But no action was taken on these measures.[107] In the 109th Congress, H.R. 1121, a measure to repeal the Byrd Amendment, was introduced on March 3, 2005, by Representative Jim Ramstad, a majority member of the Ways and Means Committee, and co-sponsored by Representative Clay Shaw, chairman of that committee's Trade subcommittee. CITAC, which has consistently opposed steel industry trade policy efforts, has announced that it is making repeal of the law a top priority in the 109th Congress.[108]

---

[104] For a summary history of the measure, see CRS Report RL32371.

[105] *AMM*, "U.S. Steelmakers Land $58 Million in Byrd Duty Money for '04" (Jan. 31, 2005), p. 1.

[106] U.S. Dept. of Homeland Security. Customs and Border Protection. *Continued Dumping and Subsidy Offset Act: Disbursement Report for 2004*, by state (Dec. 1, 2004).

[107] CRS Report RL32371, p. 16.

[108] *AMM*, "CITAC Adds Muscle to Push Repeal of Byrd Amendment" (Feb. 18, 2005), p.1.