

108TH CONGRESS
1ST SESSION

H. RES. 445

Expressing the disapproval of the House of Representatives with respect to the report issued on November 10, 2003, by the World Trade Organization (WTO) Appellate Body which concluded that United States safeguard measures applied to the importation of certain steel products were in violation of certain WTO agreements, calling for reforms in the WTO dispute settlement system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2003

Mr. CARDIN (for himself, Mr. VISCLOSKY, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Ways and Means

RESOLUTION

Expressing the disapproval of the House of Representatives with respect to the report issued on November 10, 2003, by the World Trade Organization (WTO) Appellate Body which concluded that United States safeguard measures applied to the importation of certain steel products were in violation of certain WTO agreements, calling for reforms in the WTO dispute settlement system, and for other purposes.

Whereas beginning in 1998, steel imports began surging into the United States market at record levels and steel imports continued at historically high levels for several years thereafter;

Whereas as a result of the surge of steel imports, thousands of United States steel workers lost their jobs, more than 30 United States steel firms were forced into bankruptcy, accounting for one-third of all United States steel production, and the health and pension benefits of tens of thousands of retirees from steel mills were put into jeopardy;

Whereas after an intensive, months-long investigation, the independent United States International Trade Commission (ITC) unanimously found that increased imports of certain steel products were a substantial cause and threat of serious injury to the United States steel industry and recommended that the President impose appropriate safeguard measures;

Whereas on March 5, 2002, the President imposed safeguard measures on the imports of such steel products for a term of three years and one day;

Whereas the safeguard measures have been a success, as the International Trade Commission noted: “Since imposition of the safeguard measures, the industries producing steel products have undergone major restructuring and consolidation . . . steel producers and the United Steelworkers of America (USWA), the principal union representing steelworkers in the United States, have negotiated groundbreaking collective bargaining agreements since imposition of the safeguard measures”;

Whereas removing or weakening the safeguard measures prior to the expiration of their full term would disrupt the restructuring efforts by the United States steel industry to date and threaten the ability of the United States steel industry to undertake further restructuring and investments;

Whereas the European Union (EU) and other countries challenged the safeguard measures under the World Trade Organization dispute settlement system;

Whereas on November 10, 2003, the WTO Appellate Body issued a report on the proceeding that was adverse to the United States;

Whereas the WTO dispute settlement system has shown a clear bias against trade remedies explicitly allowed by WTO agreements;

Whereas no safeguard measure challenged in the WTO dispute settlement system has ever been upheld;

Whereas Articles 3.2 and 19.2 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (as described in Section 101(d)(16) of the Uruguay Round Agreements Act) expressly provide that the WTO Dispute Settlement Body, WTO dispute settlement panels, and the WTO Appellate Body “cannot add to or diminish the rights and obligations” provided in the Agreement on Safeguards (as described in section 101(d)(13) of the Uruguay Round Agreements Act) or in any of the other agreements referred to in section 101(d) of the Uruguay Round Agreements Act;

Whereas in direct contravention of Articles 3.2 and 19.2 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, the WTO Dispute Settlement Body, dispute settlement panels, and the Appellate Body have repeatedly diminished the rights of the United States to apply trade remedy laws, including safeguard measures, by imposing new obligations on the United States in the application of those agreements;

Whereas the WTO Appellate Body's decision contained in the report issued on November 10, 2003, is one such decision that has added to United States obligations and diminished United States rights under the Safeguards Agreement;

Whereas prior and subsequent to the issuance of such report, the European Union and others have threatened immediate retaliation against the United States in the form of counter import restrictions which are contrary to the requirements and policy of the Understanding on Rules and Procedures Governing the Settlement of Disputes and the Agreement on Safeguards;

Whereas, in addition, the decision of the WTO Appellate Body does not require repeal of the safeguard relief by the United States, but only modification of the measures to conform with the Appellate Body's interpretation of the Agreement on Safeguards; and

Whereas United States law provides only limited bases for the President to withdraw or modify safeguard measures, and any action by the President to respond to a report of the WTO that is adverse to the United States may only be taken pursuant to the requirements of section 204(b)(3) of the Trade Act of 1974 and section 129 of the Uruguay Round Agreements Act, including referral to the International Trade Commission, the issuance of a report by the Commission, and consultation with Congress: Now, therefore, be it

- 1 *Resolved*, That the House of Representatives—
- 2 (1) disapproves the adverse decision of the
- 3 World Trade Organization (WTO) Appellate Body
- 4 contained in the report issued on November 10,

1 2003, with respect to the March 5, 2002, imposition
2 by the United States of safeguard measures on the
3 importation of certain steel products as having
4 added to United States obligations and diminished
5 United States rights under the WTO agreements;

6 (2) calls upon the United States Trade Rep-
7 resentative to immediately request the United States
8 International Trade Commission to issue an advisory
9 report with respect to the Appellate Body decision in
10 accordance with section 129(a)(1) of the Uruguay
11 Round Agreements Act and calls upon the Inter-
12 national Trade Commission to expeditiously issue its
13 report under such section;

14 (3) as appropriate, calls upon the United States
15 Trade Representative to make a request under sec-
16 tion 129(a)(4) of the Uruguay Round Agreements
17 Act immediately after receiving the report under sec-
18 tion 129(a)(1) of such the Act and calls upon the
19 International Trade Commission to expeditiously
20 issue a determination in connection with Appellate
21 Body report that would render the Commission's ac-
22 tion described in section 129(a)(1) of such Act not
23 inconsistent with the findings of the Appellate Body;

24 (4) calls upon the President to immediately re-
25 peal all exclusions to the safeguard measures which

1 were given for the benefit of European Union (EU)
2 steelmakers should the EU retaliate against the
3 safeguard measures in the form of counter import
4 restrictions;

5 (5) calls upon the United States Trade Rep-
6 resentative to pursue vigorously within the WTO ne-
7 gotiations to reform the WTO dispute settlement
8 process to increase its transparency and to ensure
9 that it does not act outside its authority under the
10 WTO agreements to limit trade remedy laws, create
11 new obligations, or undermine legitimate trade ac-
12 tions brought by the United States or other member
13 countries of the WTO; and

14 (6) calls for the establishment of a commission
15 of distinguished jurists to advise Congress on the re-
16 ports issued through the WTO dispute settlement
17 system and, in particular, on whether such reports
18 are consistent with Articles 3.2 and 19.2 of the Un-
19 derstanding on Rules and Procedures Governing the
20 Settlement of Disputes (as described in Section
21 101(d)(16) of the Uruguay Round Agreements Act).

○