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INTERNATIONAL TRADE:
Administration of Short Supply
in Steel Import Restraint Agreements

Statement of
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Before the
Congressional Steel Caucus
House of Representatives



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Mr. Chairman and members of the Congressional Steel Caucus

I would like to thank you for inviting us today to discuss our review, on behalf of Congressman Visclosky and 9 other members of the caucus, of the Department of Commerce's process for evaluating short supply requests under the President's steel program of 1984 which limits steel imports through negotiated Voluntary Restraint Agreements. Our work only focused on the process and administration of the short supply provision of the VRAs, we did not review the VRAs, their administration or enforcement.

The President's steel program of 1984 was established to provide the domestic steel industry temporary protection from steel imports to adjust to import competition. The U.S. Trade Representative negotiated 21 Voluntary Restraint Agreements (VRAs) limiting 29 countries' steel exports to 18.5 percent (excluding semifinished steel) of the U.S. market for 5 years. All VRAs will expire after September 30, 1989, but both Houses of Congress have introduced legislation to extend them for another 5 years.

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

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

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

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- 27 were withdrawn and,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

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

We concluded the following based on our work at OAC.

The Steel Import Stabilization Act, Title VIII, section 805(b)(3) of the Trade and Tariff Act of 1984, gave extensive discretion to the Secretary of Commerce to make decisions on short supply petitions. Commerce makes its short supply decisions through an informal administrative process that lacks transparency. We found no regulations or comprehensive guidance on the program's operation and petition requirements. We also found that Commerce does not

make public the reasons and results of its reviews. A process that lacks openness and clarity creates skepticism on the part of the users, who believe that decisions are made in a "black box". Commerce needs to address perceptions that the process lacks transparency by providing users the operating policies, procedures, requirements for filing petitions, decision criteria, waiting time for a decision, and publicizing the rationale and results of its reviews.

Commerce's criterion for short supply decisions is whether the steel is available domestically. Commerce does not generally consider price in making its decision, unless it deems that a price quotation is so high as to constitute a non-offer. To date Commerce has not approved a petition because a quoted price constituted a non-offer.

Steel short supply decisions were not timely from 1985 through the last part of 1987. Based on our examination of 143 short supply petitions through August of 1988 we found that Commerce reduced the time for making short supply decisions from an average of 236 days in 1986 to 81 days in 1988. We found no rationale that fully explains why the decisions took so long, but we were told that Commerce's approach was to encourage steel purchasers to buy domestically produced steel and to allow time for domestic consumers and producers to reach agreement.

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

As part of our short supply petition examinations, we assessed management internal controls in OAC's conduct of the reviews and found serious documentation deficiencies. Almost half of the 143 petition files we examined were missing one or more pieces of information; for example, original documents containing signatures and dates documenting actions at key steps in the decision process were missing. For these petitions we could not easily determine when decisions were made, the basis for them, or who made them and we had to use secondary documentation or sources for this information.

If the VRAs are extended we believe that the Secretary of Commerce should direct the Office of Agreements Compliance to

-- provide more process transparency by issuing comprehensive guidance or regulations on the program's requirements, policies (including decision criteria), procedures, and detailed filing information for petitioners' use; and, by publicizing the decisions made and reasons for them;

-- establish and publicize a standard deadline for processing short supply reviews and monitor timeliness through its tracking system on the full process from petition receipt to decision notification and

-- ensure that official short supply review files contain complete and official documentation, including a full case history and decision on each petition.

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