Economic And Foreign Policy Effects Of Voluntary Restraint Agreements On Textiles And Steel

B-179342

Department of State
Department of Commerce
Department of The Treasury

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

MARCH 21, 1974

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-179342

The Honorable Sam M. Gibbons
House of Representatives

Dear Mr. Gibbons:

In response to your request of August 1, 1973, we have examined the legal authority, costs, and effects of the so-called voluntary agreements which limit the import of foreign textiles and steel into the United States. This report covers the results of our review on these matters.

As requested by your office, we have not followed our customary practice of obtaining formal agency comments but have informally discussed the report's contents with representatives of the Departments of State and Commerce and have considered their comments in the report.

You may wish to obtain the official views of these agencies and of other appropriate parties on the matters discussed in the report. We believe the information contained in this report would be of interest to committees and other Members of Congress. We will release it, however, only if you agree or publicly announce its contents.

Sincerely yours,

Comptroller General
of the United States

Contents

ABBREVIATIONS

EEC European Economic Community
GAO General Accounting Office

COMPTROLLER GENERAL'S REPORT TO
REPRESENTATIVE SAM M. GIBBONS
HOUSE OF REPRESENTATIVES

ECONOMIC AND FOREIGN POLICY EFFECTS OF VOLUNTARY RESTRAINT AGREEMENTS ON TEXTILES AND STEEL
Department of State
Department of Commerce
Department of the Treasury B-179342

D I G E S T

WHY THE REVIEW WAS MADE

Representative Gibbons asked GAO to examine the legal authority, costs, and effects to the U.S. Government and American consumers of the so-called voluntary agreements which limit the import of foreign textile and steel products into the United States.

FINDINGS AND CONCLUSIONS

This report points out a significant dilemma: the need to preserve vital industries, maintain high employment, and encourage technological advances in the United States, on the one hand, with the multilateral efforts for free and open competition and the growing interdependence among nations to trade products necessary for their well being, on the other.

Cotton, manmade fiber, and wool agreements

The United States, at the end of 1973, had 30 agreements covering cotton imports under General Agreement on Tariffs and Trade auspices and 6 restricting manmade fiber and wool imports which were negotiated on a government-to-government basis.

These agreements have enforceable provisions, and any shipment exceeding the quotas may be embargoed. During 1972 cotton, wool, and manmade fiber imports totaled almost $2.9 billion. Japan, Hong Kong, Taiwan, and Korea were the major exporters. (See pp. 5 to 7.)

Steel arrangements

The steel industries of Japan and the European Economic Community, by letters of intent, agreed to voluntarily limit their exports of certain steel products to the United States.

Unlike the textile agreements, the Government has no authority to enforce the steel arrangements against an exporting country that ships beyond its quota. In 1972 the United States imported about $2.8 billion worth of steel; Japan and West Germany were the largest exporters. (See pp. 7 and 8.)

Legal authority

Section 204 of the Agricultural Act of 1956, as amended, provides the legal authority to enter into trade restraint agreements on textile products. (See p. 9.)

State Department officials said the authority for steel arrangements was derived from the President's powers, under article 2 of the Constitution to conduct foreign relations. (See pp. 9 and 10.)

The Consumers Union of the United States challenged this authority in a suit which is before the U.S. Court of Appeals for the District

Tear Sheet. Upon removal, the report cover date should be noted hereon.

of Columbia. It would be inappropriate, therefore, for GAO to comment on the legality of the steel arrangements. (See p. 10.)

Effectiveness

Textile agreements slowed the rate of cotton imports in the early 1960s and the growth rate of manmade fiber imports in the 1970s. Because of changing competitive positions among trading nations and a declining U.S. demand, the agreements may no longer be relevant to current levels of cotton and wool imports. (See pp. 12 to 15.)

Although the restraints on steel protected the domestic industry against import competition from 1969 through 1971, they did not induce the domestic industry to expand its modernization program.

Government and industry representatives believe dollar devaluations and high demand for steel (not the voluntary restraint agreements) in Europe, Japan, and other countries have limited foreign exports to the United States. (See pp. 16 to 18.)

Because U.S. import limitations are based on quantity rather than value, foreign exporters have an incentive to shift from lower priced to higher priced products to maximize profits and export revenues. This partly counters the goal of improving the U.S. trade balance. (See p. 11 and 12.)

Costs and effects

Restraint agreements result in considerable costs to U.S. Government agencies, foreign governments, and U.S. consumers. Readily identifiable costs include:

Budgetary costs--The U.S. Government spends about $500,000 annually administering these agreements.

Loss of revenue--The Treasury exempted textile products from a general 10-percent import surcharge during 1971, resulting in a loss of about $58.8 million in revenues.

Increased consumer cost--U.S. consumers are paying higher prices for textiles and steel because of the quotas.

Consumer groups estimate the textile agreements cost U.S. consumers between $1 billion and $2.5 billion in 1972. Part of the price increase represents premiums paid or unearned income to foreign quota holders. Because the steel arrangements reduced international competition, consumer groups estimate the quotas have increased U.S. consumer prices by $500 million to $1 billion annually. The current competitiveness of domestic steel in the world market was brought about by monetary revaluations rather than by increased efficiency on the part of the domestic industry.

Concessions to foreign governments--The U.S. Government promised $375 million in additional economic assistance to compensate Korea for its expected loss in restraining textile exports.

Cost to foreign governments--Three Asian governments spend about $440,00 annually in administering the textile agreements. Japan paid its textile industry about $766 million to help it recover from the effects of the quotas imposed in 1971 and 1972. (See pp. 29 and 30.)

Offsets to these costs include U.S. avoidance of the necessity to pay adjustment assistance to workers who might have lost their jobs, the loss of tax revenues that might have occurred if the domestic industry did not operate at higher productive levels, and possible social consequences of job disruption. (See p. 20.)

Cost avoidance

Domestic textile industry representatives said the agreements supported national goals of price stability, full employment (about 2.3 million directly employed), a rising standard of living, and economic development for underdeveloped areas of our country. (See p. 31.)

Although not currently needed, steel industry representatives said the quotas may be needed in the future if world prices again become depressed. (See p. 31.)

Observations

Problems involved with textiles and steel warrant a careful assessment of the arguments for protection and the most appropriate form that protection should take. GAO did not find evidence that responsible agencies had made this assessment.

Restraints continue without regard to current or prospective conditions and, in fact, have been broadened as far as textiles are concerned. (See p. 33.)

The textile agreements primarily affect less developed countries. This poses the question of whether U.S. support of textile agreements is consistent with its commitment to aid those countries. (See p. 33.)

The import threat to the textile industry resulted from foreign wages being much lower than U.S. wages in this labor-intensive industry. This raises the traditional arguments of the free trade versus protectionist measures:

--Free trade encourages a more economical use of production resources and insures low consumer prices.

--Restrictive measures insure a high degree of self-sufficiency and protection for existing production resources.

Responsible agencies need to:

--Reassess the import quota programs in view of the major realignments in currency values, recent international trade negotiations, and changes in supply and demand conditions.

--Identify those industries vital to the economy and national defense and establish a policy on the extent domestic production capabilities should be maintained for these industries.

--Determine the appropriateness of the quotas compared with other methods of protection and Government assistance to make industries more competitive in the world market. (See pp. 33 to 35.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

GAO discussed the report with officials of the Departments of State and Commerce and considered their comments in its preparation. GAO did not follow its customary practice of obtaining formal agency comments because the Congressman did not wish to delay GAO's issuance of the report pending receipt and analysis of the agencies' comments. Therefore, it does not know the departments' official positions on or of any actions taken regarding matters discussed in the report.

CHAPTER 1

INTRODUCTION

The importation of textile and steel products into the United States is restrained both by tariffs and quantitative controls. Trade agreements with certain foreign countries limit their textile and steel exports to the United States through quota provisions and are intended to prevent uncontrolled import growth and consequent damage to U.S. industries.

The textile quantitative restraint program is government to government while the steel quantitative restraint program is government to private industry. Although the restraints on both industries are termed "voluntary," the textile agreements are enforced by the Government.

Congressman Sam Gibbons requested that we report on the legal authority for these agreements, their costs, and other effects to the U.S. Government and American consumers.

BACKGROUND

Written agreements on textiles restrict the quantity of imports according to commodity groups, exporting country, and textile fiber. The United States at the end of 1973 had 30 agreements restricting cotton imports and 6 restricting manmade fiber and wool imports. Because the agreements have enforceable provisions, any shipment exceeding the quota may be embargoed. During 1972, cotton, wool, and manmade fiber imports totaled almost $2.9 billion. Japan, Hong Kong, Taiwan, and Korea were the major exporters.

The textile agreements are regulated and monitored primarily by the Committee for the Implementation of Textile Agreements and the Office of Textiles in the Department of Commerce. The Departments of State, Labor, and the Treasury and the Council on International Economic Policy assist in either formulating or monitoring the agreements.

The steel agreements are embodied in letters of intent which the Secretary of State accepted from the steel industries in Japan and the European Economic Community (EEC) on behalf of the United States. These letters limit the quantity of exports to be sent to the United States. The

Department of State's Bureau of Economic and Business Affairs handles negotiations and other communications with the foreign steel companies. The Department of Commerce compiles statistics on performance under the agreements and periodically reports to the Departments of State and the Treasury and to the Senate Finance and House Ways and Means Committees.

Since the two programs began, currency realignments have altered competitive pressures, making many products less competitive and a few more competitive. The largest major currency change has been with Japan. In 1973, the yen had appreciated 37 percent in relation to the dollar; but in early 1974 it was lower.

Cotton agreements

Quotas on cotton textile imports were introduced in the 1930s and have existed at various times since then. The present agreements stemmed from the mid-1950s when imports of cotton textiles from Japan increased rapidly. To avoid protectionist measures' being considered by the U.S. Government, Japan announced it would restrict cotton fabric exports to the United States to 150 million square yards in 1956. A year later the U.S. Government negotiated a more formal agreement with Japan.

Because imports from other countries partly nullified export restrictions negotiated with Japan, the United States took more comprehensive steps. In 1961 the United States requested officials of the General Agreement on Tariffs and Trade[1] to call a conference of textile importing and exporting nations to solve problems of textile trade. They negotiated a short-term (1-year) cotton textile agreement in 1961. In October 1962 a long-term agreement became effective. It was initially for 5 years but was extended for 3 years in 1967 and again in 1970. The long-term agreement expired December 31, 1973, and the United States initiated negotiations under the auspices of the General Agreement on Tariffs and Trade for a new long-term agreement which became

---

[1]Formed in 1947 by the leading trading nations as a contractual framework for conducting international trade and as a forum for resolving trade difficulties and disputes.

effective January 1, 1974. Because of its recency we could not consider its effect for purposes of this report.

Manmade fiber and wool agreements

As the textile market shifted from cotton to manmade fibers during the 1960s, domestic industries and labor organizations pressed for quotas on manmade fiber and wool imports. After failing in 1969 to get an international agreement on noncottons similar to the long-term cotton agreement, the Government began direct bilateral negotiations with four major exporting countries--Japan, Hong Kong, Taiwan, and Korea. These countries opposed quota agreements on manmade fibers and wool as not being consistent with provisions of the General Agreement on Tariffs and Trade. They wanted to negotiate on a specific-item basis after the United States demonstrated that the imports had injured its textile industry. (The customary ground on which relief is granted to a domestic industry from imports is injury--present or potential.)

Strong pressure from the United States, including a threat of unilateral action, caused the Asian countries to acquiesce. The administration's determination stemmed partly from pledges to protect the textile industry against cheap foreign imports; however, there was also strong congressional pressure for quotas.

Bilateral agreements placing quotas on the quantities of exports from the four countries were concluded in late 1971.

Steel agreements

In 1968 the Department of State, acting under Presidential direction, succeeded in getting the steel industries of Japan and the European Economic Community to voluntarily limit their exports of certain steel products to the United States. Unlike the textile agreements, the Government has no authority to enforce steel arrangements against an exporting country that ships beyond its quota.

Initial agreements covered the 3 years from 1969 through 1971. A second 3-year agreement covers 1972 through 1974.

In 1972 the U.S. imported about $2.8 billion worth of steel; Japan and West Germany were the largest exporters.

SCOPE OF REVIEW

We based our data on fieldwork at various overseas locations, including West Germany, Japan, Hong Kong, Taiwan, and Korea; on interviews with importers in New York; on work in Washington, D.C., at the Departments of State, Commerce, and the Treasury; and on contacts with representatives of the domestic textile and steel industries.

CHAPTER 2

LEGAL AUTHORITY

The legal authority to enter into trade restraint agreements on textiles is in section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), which reads, in part, as follows:

> "The President may, whenever he determines such action appropriate, negotiate with representatives of foreign governments in an effort to obtain agreements limiting the export from such countries and the importation into the United States of any agricultural commodity or product manufactured therefrom or textiles or textile products, and the President is authorized to issue regulations governing the entry or withdrawal from warehouse of any such commodity, product, textiles, or textile products to carry out any such agreement. In addition, if a multilateral agreement has been or shall be concluded under the authority of this section among countries accounting for a significant part of world trade in the articles with respect to which the agreement was concluded, the President may also issue, in order to carry out such an agreement, regulations governing the entry or withdrawal from warehouse of the same articles which are the products of countries not parties to the agreement * * *"

The Department of State cited no specific legislative authority to enter into voluntary agreements restricting steel exports to the United States. It said the authority to enter into such arrangements derived from the President's powers, under article 2 of the Constitution to conduct foreign relations. This authority is being challenged in the courts by the Consumers Union of the United States, Inc., in a suit against William P. Rogers, the then Secretary of State and others. The Union contends that the Department officials, in stimulating and implementing these arrangements, have exceeded their authority and that no member of the executive branch, including the President, has power to arrange restrictions on foreign commerce in steel.

The United States Court for the District of Columbia in a Memorandum Opinion, Declaration, and Order of January 8, 1973, held that the executive branch was not preempted and could make agreements or diplomatic arrangements with private foreign steel concerns so long as these undertakings did not violate legislation regulating foreign commerce. The court further declared that the executive branch had no authority under the Constitution or acts of the Congress to exempt the voluntary restraint arrangements on steel from the antitrust laws. No injunction was issued. (See the complete Memorandum Opinion, Declaration, and Order in app. I.)

Both parties appealed the District Court's decision and the matter is before the U.S. Court of Appeals for the District of Columbia. Arguments were presented to the Court of Appeals in May 1973, and no decision had been made at December 31, 1973.

In view of the pending legal action, it would be inappropriate for us to comment on the legality of the steel arrangements.

CHAPTER 3

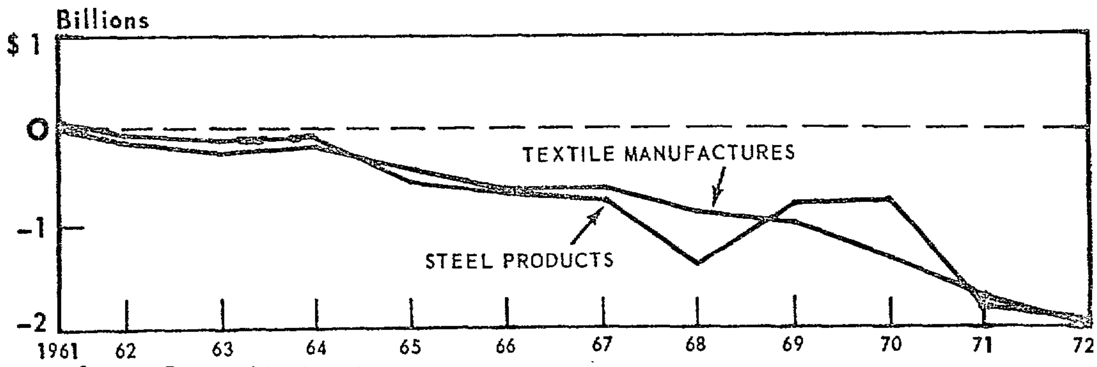
EFFECTIVENESS OF AGREEMENTS

The textile agreements slowed the quantitative growth rate of cotton imports in the early 1960s and the growth rate of manmade fiber imports in the 1970s. However, the agreements may no longer apply to current levels of cotton and wool imports because of provisions for import growth and a declining U.S. demand for these products. The restraints on steel, although having limited imports, have not provided the intended impetus for the domestic industry to expand its modernization programs.

Because U.S. import limitations are based on quantity (not value), foreign exporters have an incentive to shift from lower to higher priced products to maximize profits and export revenues. The effect is to partly counter the goal of improving the U.S. trade balance.

The chart below shows the increasing imbalance of U.S. trade in these products.

Trade Balance in Textiles and Steel



Source: Prepared by GAO from information obtained from Department of Commerce and International Economic Report of The President, March 1973.

Economists point out that, in the case of textiles, the burden of the shift falls most heavily on low-income consumers. As exporters shift to more profitable lines, low-income consumers find that the goods they would have bought, if imports were not restrained, are either more expensive or simply not available.

The shift in the steel industry contributes to a competitive squeeze on domestic firms that produce specialty and higher priced steel products.

TEXTILES

The following table shows that, during 1958 to 1972, imports increased faster than domestic production.

Year	Domestic production	Exports	Imports Cotton	Imports Wool	Imports Manmade	Apparent domestic market (note a)	Percent of imports to domestic market
	(millions of pounds)						
1958[b]	4,184	252	112	32	-	4,076	3.5
1962	6,967	314	310	80	31	7,074	6.0
1966	8,851	335	510	98	137	9,261	8.0
1970	9,308	353	472	96	455	9,978	10.3
1971	10,252	382	493	73	696	11,132	11.3
1972	11,193	501	611	59	721	12,083	11.5

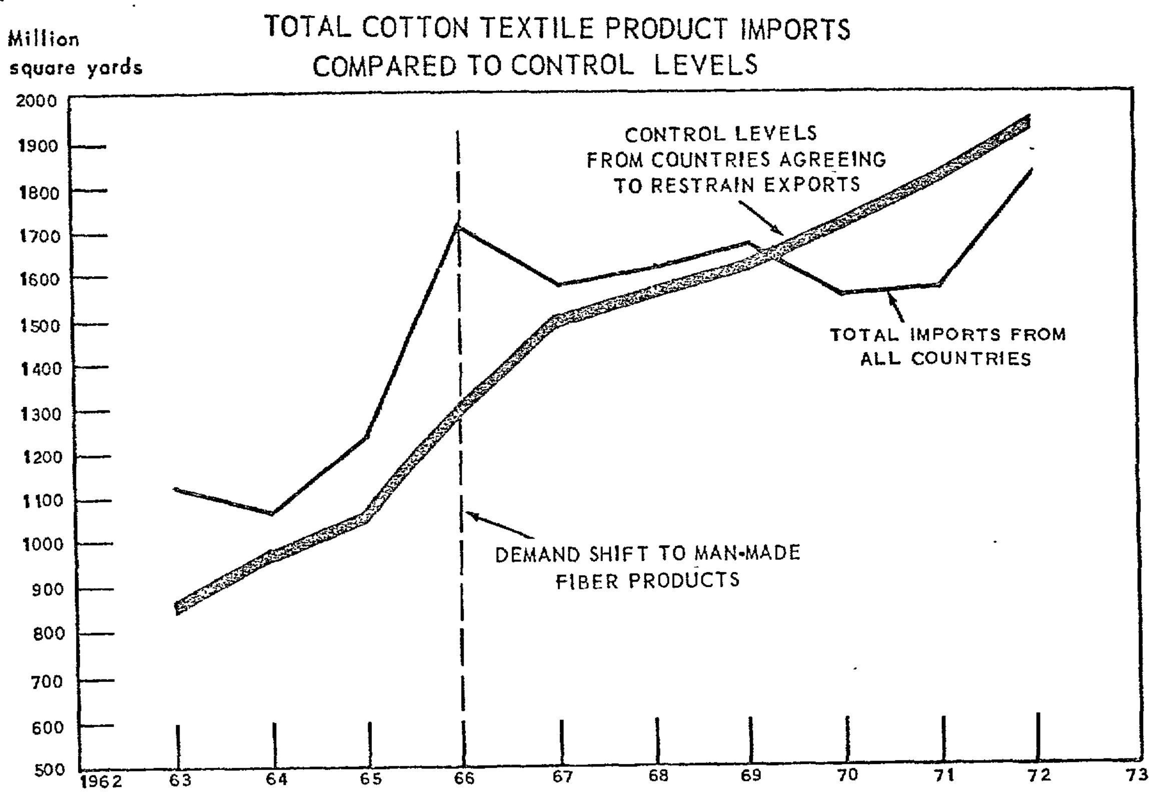
[a]Domestic production minus exports plus imports.

[b]Does not include data on manmade fibers.

Cotton imports

The United States has 30 bilateral agreements to restrain cotton imports, and the countries with quotas account for about 90 percent of our total cotton imports. An exporting country's quota is negotiated on the basis of its trade pattern with the United States before the first agreement. All agreements provide the exporting country a 5-percent annual quota growth. Quotas can be placed either on all 64 categories used to restrain U.S. cotton imports or on several categories.

As manmade fibers became popular during the 1960s, domestic demand for cotton products declined from a peak in 1966 of 5 billion pounds to 4.2 billion pounds in 1972. Notwithstanding the decline, the agreements provide for import growth through steadily increasing quotas. The following graph shows that, since 1969, the total imports of cotton textiles from all nations have been substantially less than the limits for countries agreeing to restrain imports (controlled countries).



Source: Prepared by GAO from information obtained from
Department of Commerce, Office of Textiles

Since cotton quotas are based on past trade patterns as adjusted for annual growth allowances, many do not apply to the current market situation. Japan, for example, because of its once dominant position in U.S. imports, receives the second largest quota; however, according to Government of Japan statistics, it used only 37 percent of its quota in 1972 and expected to use less than 30 percent in 1973. Japan's lessening competitiveness in the U.S. market is the major factor limiting its exports.

On the other hand, Korea apparently could export much more than its quota. Because the quotas were negotiated when Korea had no finishing plants, exports are mainly limited to cotton cloth. Korea now has the capacity and could develop additional capacity to export finished cotton products.

Manmade fiber and wool imports

In 1972 the United States began limiting imports of manmade fiber and wool products through bilateral quota agreements with major exporting countries--Japan, Hong Kong, Taiwan, and Korea. These countries have provided over 50 percent of U.S. imports of manmade fiber products during recent years. The agreements limit the annual rate of import growth to between 5 percent and 7.5 percent on manmade textiles and to 1 percent on wool products.

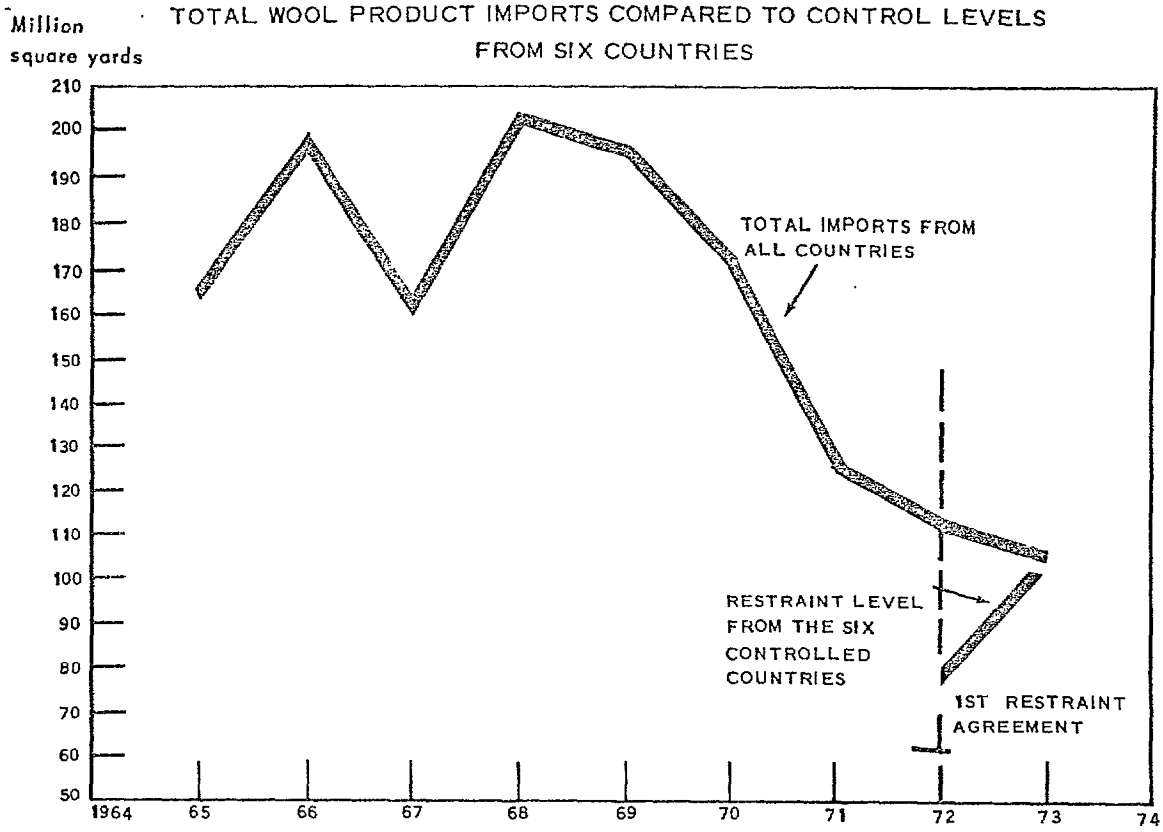
The following table shows that import growth in 1972, the first year of the agreements, was only 3.6 percent, a sharp drop from the over 50-percent growth in the previous 2 years. This was partly attributable, however, to countries' shipping heavily in 1970 and 1971 to build larger quota bases for future exports.

	Imports	Percent of import growth	Apparent domestic market	Percent of imports to domestic market
	(millions of pounds)		(millions of pounds)	
1966	137	-	3,853	3.6
1967	162	18.2	4,108	3.9
1968	240	48.1	5,191	4.6
1969	292	21.7	5,524	5.3
1970	455	55.8	5,547	8.2
1971	696	53.0	6,658	10.5
1972[a]	721	3.6	7,675	9.4

[a]Quota agreements negotiated.

Unlike that on manmade fiber products, the domestic demand and import levels for wool textiles have declined in recent years. The restraint level for the six controlled countries is rapidly approaching the total imports from all countries. Therefore, there seems to be little need for quota agreements that provide for increased levels of wool imports in view of the decline indicated below:

TOTAL WOOL PRODUCT IMPORTS COMPARED TO CONTROL LEVELS FROM SIX COUNTRIES



Source: Prepared by GAO from information obtained from Department of Commerce, Office of Textiles

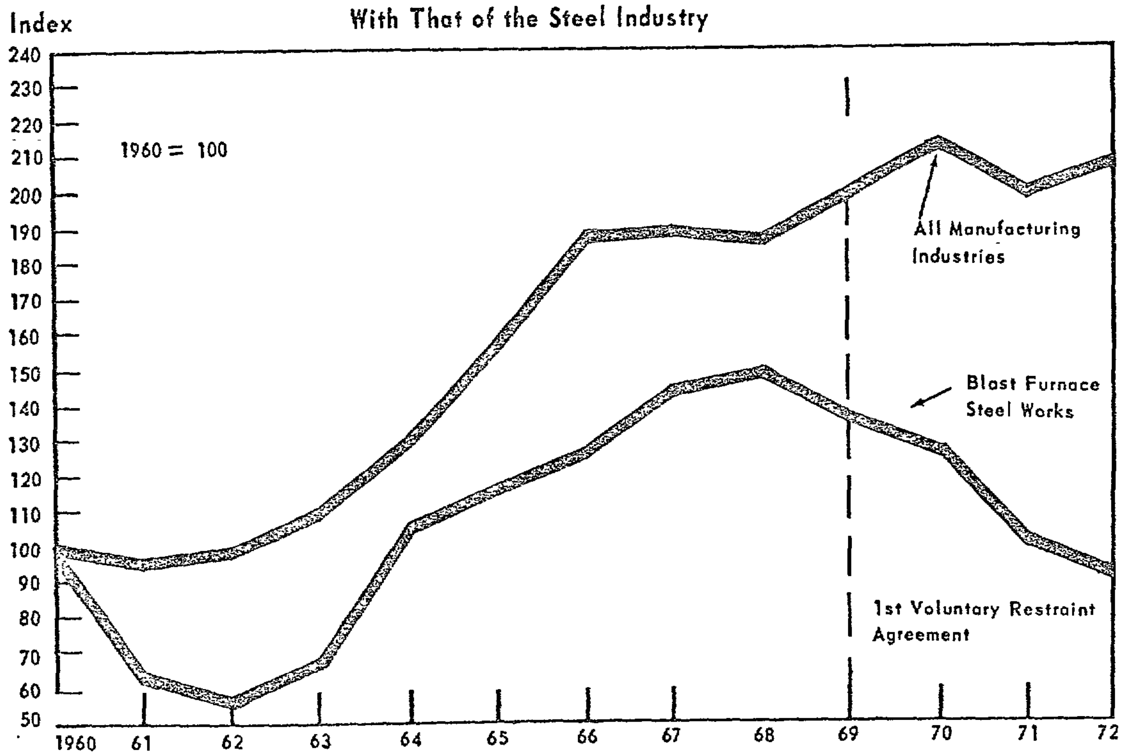
Department of Commerce officials said that, while the cotton and wool agreements do not limit the overall levels of cotton and wool imports, they are needed to prevent the excessive import growth in certain product lines.

STEEL

According to the Department of State, the Government's objective in negotiating the arrangements was to give the domestic steel industry an interim period in which to invest capital to improve its competitiveness with foreign producers, and thus avoid an inordinate U.S. dependence on foreign steel.

This objective has not been achieved because the steel industry has not used this period to expand its modernization programs. In fact, capital expenditures for new plant and equipment have declined since 1968 as shown in the following chart.[1]

Index of Expenditure for New Plant and Equipment by All Manufacturing With That of the Steel Industry



SOURCE: Prepared by GAO from information obtained from the Department of Commerce

---

[1]A growing percentage of the capital expenditures each year is for pollution control equipment required by law rather than modernization.

The extent to which the arrangements have limited imports is difficult to measure because of volatile market conditions. Government and industry representatives, for example, believe the agreements had no practical effect in the 1973 world steel market because U.S. steel industries were producing at maximum capacity and prices of imported steel were higher than domestic steel in several categories. The shift in competitiveness was brought about by devaluation of the dollar, which made U.S. steel prices more attractive, and by the worldwide boom in steel use.

Although domestic industry representatives cautioned that steel import restraints might be needed in the future, they felt that the quota arrangements had not yet been seriously tested. The following table shows the voluntary limits compared with actual shipments from 1969 through 1971.

	1969			1970			1971		
	Voluntary limit	Actual imports	Percentage over or under(-) limit	Voluntary limit	Actual imports	Percentage over or under(-) limit	Voluntary limit	Actual imports	Percentage over or under(-) limit
	(millions of tons)			(millions of tons)			(millions of tons)		
Japan	5.8	6.3	8.6	5.9	5.9	-	6.3	6.9	9.5
EEC	5.8	5.2	-10.3	6.0	4.6	-23.3	6.3	7.2	14.3
Nonquota (note a)	2.5	2.6	4.0	2.6	2.9	11.5	2.8	4.2	50.0
Total	14.1	14.1		14.5	13.4	-7.6	15.4	18.3	18.8

[a]Assumed limits for nonquota countries; limits contained in agreements.

A combination of the voluntary limits, a world steel boom, and inventory reductions decreased imports of foreign steel from 18 million tons in 1968 to 13.4 million tons in 1970.

During 1971 the arrangements played a minor role in relation to supply and demand in the marketplace. As world steel demand declined, foreign producers focused on the U.S. market. Consequently, the 15.4 million-ton figure, which was to be the year's full allotment, was shipped into the United States by October 1971. The shipments from nonquota countries, for the same reason, also contributed to the problem of restraining imports. The 4.2 million tons from nonquota countries represented a 50-percent increase in shipments over the anticipated quantity of 2.8 million tons. Major nonquota suppliers during 1971 were:

	Net tons (thousands)
United Kingdom	1,357
Canada	1,273
Mexico	349
Poland	232
Spain	197
Argentina	147
Korea	133

Negotiations of revised restraint arrangements for 1972 to 1974 were completed in May 1972. They provided for firmer commitments regarding the shipment of different products, lowered the foreign growth rate for shipments from 5 percent to 2.5 percent a year, and added the United Kingdom as a participant.

Steel exports to the United States during 1972 and 1973 were less than the quotas; Government, domestic, and foreign industry representatives believed dollar devaluations and the high demand for steel in Europe, Japan, and other countries--not the voluntary restraint arrangements--limited foreign exports to the United States. The tight supply situation is expected to continue into 1974, but this outlook may be affected by an energy shortage.

CHAPTER 4

COSTS AND EFFECTS

As shown below, the restraint agreements result in considerable administrative costs for U.S. Government agencies and foreign governments.

Budgetary cost	--The U.S. Government spends about $500,000 annually administering these agreements, excluding some costs for which estimates are not yet available.
Loss of revenue	--The Secretary of the Treasury exempted textiles from a general 10-percent import surcharge during 1971 because of the restraint agreements. The loss of Government revenue from this action was about $58.8 million.
Increased consumer cost	--U.S. consumers are paying higher prices for steel and textiles because of the quotas, and these agreements can allow unearned income to accrue to foreign quota holders. The amounts, however, are uncertain.
Concessions to foreign governments	--The U.S. Government promised $375 million in concessional Public Law 480 sales and development loans to compensate Korea for its expected loss in restraining textile exports.
Cost to foreign governments	--Three Asian Governments spend about $440,000 annually in administering the textile agreements. Japan also paid its textile industry about $766 million to help it recover from the effects of the quotas imposed in 1971 and 1972.

Administrative problems	--The agreements have caused problems relating to classification of textile goods and the proper amounts of duty.

The costs presented are not a complete assessment of all the costs involved. We have not fully weighed estimated costs, such as those associated with the Government's not having to pay adjustment assistance to textile and steel workers who might have lost their jobs, the loss of tax revenues that might have occurred if the domestic industry did not operate at higher productive levels, and the possible social consequences of job disruption. Such costs could be positive effects stemming from the agreements and could offset any increase in consumer and administration costs.

BUDGETARY COSTS

The cost of administering the textile and steel agreements is borne mostly by the Departments of Commerce and State. Since neither agency has a budget item specifically for the agreements nor a division whose sole function is to monitor them, the budgetary costs presented below are estimates from the divisions involved.

Annual Administrative Costs of Textile and Steel Agreements

	Textiles	Steel
Department of Commerce:		
Office of Textiles	$366,000	
Office of Import Programs		$14,000
Department of State:		
Fibers and Textiles Division	81,354	
U.S. Embassies	22,000	
Industrial and Strategic Materials Division		9,958
Department of the Treasury:		
Bureau of Customs	Not available	
Interagency:		
Negotiating teams	Not available	Not available
Legal defense of steel agreements	Not applicable	Not available
Total	$469,354	$23,958

The Office of Textiles has 27 professional and 10 clerical workers. They prepare and distribute statistics on imports, exports, consumption, and domestic production of textiles and apparel and analyze foreign textile markets and production capabilities. This office, guided by the Committee for the Implementation of Textile Agreements, is responsible for implementing and monitoring the agreements, and an estimated 65 percent of their effort is directed toward that end.

The Office of Import Programs monitors import statistics for several commodities, one of which is steel. A separate computer program was developed at a cost of $15,000 to provide statistical data for monitoring the agreements. Annual recurring costs are estimated at $8,400 for computer time and printing and $5,600 for allocable salary costs.

The Fibers and Textiles Division has four professional and two clerical workers who draft the bilateral agreements after they are negotiated. They also contact the embassies of foreign nations, at the request of the Department of Commerce, when a country is violating an agreement.

U.S. Embassies play a minor role in monitoring the agreements. The $22,000 estimate covers allocable salary cost at three embassies.

The Industrial and Strategic Materials Division monitors steel import statistics and domestic industry trends. The State Department estimated that one-third of the time of one professional and one secretary is devoted to the steel agreements.

The Bureau of Customs processes quota goods through nine ports of entry.

Negotiating teams represent the United States in negotiating the agreements with other countries.

Legal defense of steel agreements is the cost allocable to defending the legality of agreements in the suit brought against the Government by the Consumers Union.

LOSS OF REVENUE

Under authority granted by the President, the Secretary of the Treasury twice exempted textiles from a 10-percent supplemental duty imposed on all dutiable articles imported into the United States between August 16 and December 20, 1971. The products were exempted supposedly because the quotas accomplished the purpose of the special surcharge.

The first exemption provided that the duty surcharge would not be levied on cotton product imports. The loss of revenue associated with this exemption amounted to an estimated $19.3 million based on total cotton imports of about $193 million. The second exemption from October 1 through December 20, 1971, was to encourage Asian countries to agree to quotas on manmade and wool fibers; agreement was reached in October 1971. This exemption differed from the one on cotton products in that the supplemental duty was charged on manmade and wool imports during the entire surcharge period; however, importers were entitled to a refund on imports received between October 1 and December 20, 1971. Although the Bureau of Customs has not provided precise data on the status of refunds, an estimated $39.5 million was subject to refund on the basis of imports received during the duty period.

INCREASED CONSUMER COST

Although the quota restrictions have undoubtedly caused U.S. consumers to pay higher prices for textile and steel products, Government agencies have not studied these price increases in detail nor attempted to project them. Economists' overall cost estimates have ranged from very little to billions of dollars annually.

Steel

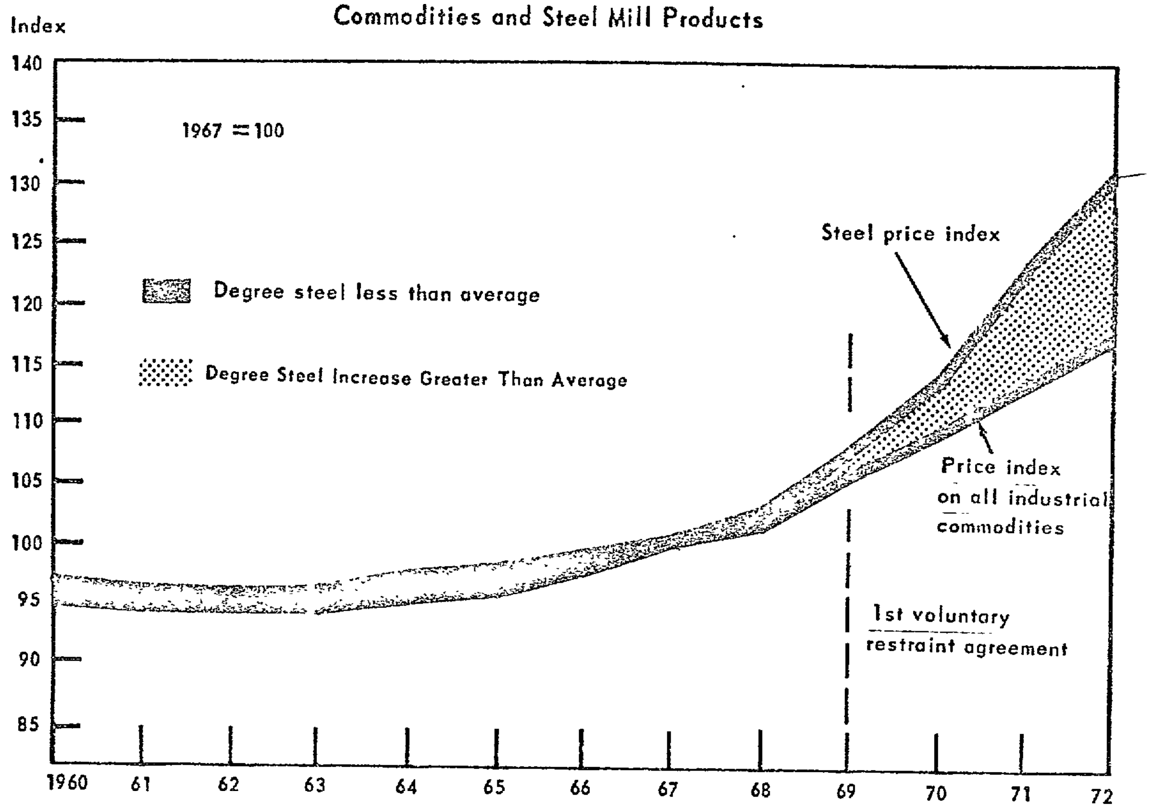
Consumer groups estimate that the voluntary steel restraint arrangements have increased U.S. consumer prices by $500 million to $1 billion annually. An economic consulting firm estimated in 1971 that, theoretically, quotas increased domestic prices 10 percent compared with world prices. The total value of domestic production in 1971 was about $20 billion.

Opponents of quotas point to price trends since 1968 as proof that the agreements allowed domestic prices to increase rapidly. On May 8, 1973, one such critic said the following before the Consumer Economics Subcommittee of the Joint Economic Committee:

> "* * * between January 1960 and December 1968, a period of nine years, the composite steel price index increased 4.1 points--or 0.45 points per year. * * * In the four years between January 1969 and December 1972, the steel price index rose 26.7 points--or 6.67 points per year. Put differently, steel prices increased at an annual rate 14 times greater since the import quotas went into effect than in the nine years prior thereto * * *."

The wholesale price index of steel compared to total manufacturing is shown on the following graph.

Comparison of Wholesale Price Index for Industrial Commodities and Steel Mill Products



Source: Prepared by GAO from information obtained from the Department of Labor Bureau of Labor Statistics

According to domestic industry representatives, price increases are based on increased costs and are essential to profitable operations. They point to the low profit margins in the steel industry to justify the increases. Since 1968, steel industry profits have returned a 6-percent average on equity compared to an 11-percent average return for all manufacturing industries.

We could not estimate what the price of domestic steel would have been without the agreements, but we did find that 1969 arrangements reduced competition among Japanese steel companies and led to higher export prices to the U.S. market.

Japanese industry representatives stated that an exporters' association was functioning as a cartel, in some ways, before 1969 but was ineffective because of the competition for the U.S. market among Japanese steel companies. These representatives told us Japanese steel was selling between 20 percent and 25 percent lower than U.S. domestic producers' price. The 1969 quota arrangement ended this competition.

According to the U.S. Embassy and Japanese private sector, the price for Japanese steel as a result of the arrangement was pegged at only 10 percent below the U.S. price. Thus, the price increased to the U.S. market during the first agreement year. On the basis of 1969 Japanese exports valued at $833 million, we estimate a price increase of between $109 million and $139 million to U.S. importers.

The average price per metric ton of Japanese steel exported to the United States increased from $127 in 1968 to $194 in 1972--about 53 percent. It was not practicable to determine how much of this price rise was attributable to the restraint arrangements and how much was caused by other factors, such as yen revaluation and increased wage and raw material costs. Therefore, we did not estimate the added costs to the United States from 1970 to 1972.

A Japanese industry representative told us that, at present, prices charged to the U.S. market are among the lowest in any Japanese export market. Japanese domestic prices are still significantly below export prices because the Government of Japan encourages steel companies to satisfy domestic needs at relatively low prices.

Textiles

Consumer groups and economists who support free trade estimated that the textile agreements in 1972 raised consumer prices from between $1 billion and $2.5 billion. These estimates were made on the basis that textiles in the United States were between 2 percent and 5 percent higher than they would have been without quotas. These percentages were derived from the difference in price between foreign and domestic products and represented estimated weighted averages for all textiles.

Although domestic industry representatives agree that foreign and domestic prices differ on many products, they contend that domestic goods have the lowest possible prices. The representatives point out that some 32,000 textile and apparel plants make a highly competitive industry which insures quality textiles at reasonable prices. Wholesale price indexes show that textile prices have risen more slowly than the average for industrial commodities. The index price increase between 1967 and June 1973 was 23.7 percent for textiles compared with 26.9 percent for all industrial commodities.

In Hong Kong, Taiwan, and Korea the right to export textiles to the United States is an economic gain to many foreign businessmen. These rights (export certificates) are routinely bought and sold among producers and exporters. On high-demand products, such as knit shirts, the costs for these certificates may range from 15 percent to 30 percent of the product value; these costs represent increased profits to the foreign quota holders. For example, many quota holders in Hong Kong are no longer active in the textile business but continue to receive quota allocations from the Hong Kong Government. These businessmen sell their quotas to active manufacturers and exporters. Exporters then include in the cost to the importer the price paid for the right to export. The importers pass these "quota charges" on to the buyer and ultimately to the consumer.

Although we have not evaluated the effects of quotas on the price of domestic goods, we have made some preliminary estimates on the amount of quota charges included in the cost of imports from these countries. We based these estimates on the assumption that, without quota charges, the consumer's price would be commensurately lower.

We estimated that the 1972 quota restrictions increased consumer prices from $276 million to $632 million for textile products imported from Hong Kong, Taiwan, Japan, and Korea. An estimated $92 million to $105 million of this is premiums paid for quotas, or unearned income to foreign quota holders; the remainder is increased costs and profits to U.S. importers and retailers.

The following cost estimates were based on interviews with U.S. Embassy, foreign government, and foreign industry representatives and other available documentation. (These estimates could be refined with more sophisticated analysis but should suffice for rough approximations of the costs involved.)

Estimated Increased Cost of 1972 Imports

	Increased cost range	
	From	To
	(millions)	
Hong Kong (note a)	$41.3	$ 41.3
Taiwan (note a)	28.6	28.6
Japan (note b)	12.0	23.0
Korea (note b)	10.0	12.5
	$91.9	$105.4

[a]Estimates based on a projected 10-percent increase in 1972 export values to the United States.

[b]Estimates based on average increased cost by quota category.

To determine the effect of the increased cost at the retail level, we visited nine importers in New York City who showed us invoices on which quota charges were identified separately. On 16 examples, quotas ranged from 7.1 percent to 25.3 percent of the total price. According to several importers, the normal markup on imported textiles is six times the first cost of the item. The quota cost rises proportionately with the price of the item, as shown in the following table, when the exporter charges $2 for quota.

		Cost of goods with quota	
	Cost of goods without quota	Quota charge	Total cost
Cost of goods overseas (first cost)	$ 5	$ 2	$ 7
Cost when goods arrive	10	4	14
Cost to retailer	15	6	21
Cost to consumer	30	12	42

If importers also retail merchandise, the markup to the consumer is less--about three times the first cost.

Most importers told us that consumer prices would decline in proportion to the quota charge if the quota restrictions were removed. A competitive market would not allow the present quota charges to be buried elsewhere in the total price.

CONCESSIONS TO FOREIGN GOVERNMENTS

Although the quotas result from U.S. initiatives to protect its domestic industry, we are unaware of any direct retaliatory trade actions by foreign governments against the United States. The United States did make a special commitment to Korea in negotiating the manmade fiber and wool agreement.

On October 16, 1971, the same date that Korea agreed to the manmade fiber and wool restraints, the Korean Government was advised that the United States was prepared to make available $100 million in development loans and increase the value of U.S. food assistance programs (Public Law 480, 7 U.S.C. 1691 et seq.) to Korea by $275 million over the next several years.

A U.S. Embassy official told us this $375 million increase was planned to offset an estimated 5-year $325 million net trade loss to Korea based on an anticipated loss in exports of between $600 and $700 million attributable to the quota restraints. This anticipated loss was reduced by 50 percent to account for a related reduction of imports.

As of October 1, 1973, the United States had fulfilled $104.5 million of the special $375 million commitment.

COST TO FOREIGN GOVERNMENTS

To implement the textile agreements, foreign governments must administer quota distribution and export controls. Foreign governments do not incur any special costs under the steel agreements because the quota allocation and export controls are administered by the foreign trade associations or cartels.

Japan, Hong Kong, and Korea spend an estimated $440,000 annually administering the textile agreements. Japan spends the largest amount, about $375,000 according to our estimates, at its Ministry of Foreign Trade and Industry where 50 people are assigned to manage quota agreements.

The Japanese Government also has given its textile industry about $766 million in grants and interest-free loans to compensate for losses and to help restructure the industry. These payments were associated with the hardships caused by the 1971 agreement limiting manmade fiber exports to the United States.

ADMINISTRATIVE PROBLEMS

The quota agreements have created many problems for the Bureau of Customs in processing textile imports. Questions arise continuously concerning the proper classification of quota goods. For example, a man's suit could be classified as one item, or the pants and jacket could be classified separately. These problems sometimes result in goods' being embargoed because the U.S. quota classification differs from that of the exporting country.

At ports of entry importers do not receive uniform treatment on the duty that must be paid on quota charges. Headquarters' policy is not to assess duty on these charges; however, because of different documentation requirements, importers pay a different amount of duty, depending on the port they process their goods through. Customs officials at Baltimore exempt the quota charge if it is shown separately on the invoice. Customs officials at New York require the following proof from the importer.

1. An affidavit from the manufacturer saying it purchased the quota from another manufacturer.

2. An affidavit from the seller of the quota stating the individual or firm to which it transferred the quota.

3. Proof of the amount paid for quota.

Customs officials at New York noted that this documentation is quite difficult to obtain and that duty is usually paid on quota charges. We found no instance where it was not.

CHAPTER 5

COST AVOIDANCE

The possible "avoided costs" and positive effects of the agreements must be considered along with assessing any of the added costs and adverse effects.

TEXTILES

Domestic industry representatives said the agreements supported national goals of price stability, full employment, a rising standard of living for all citizens, and economic development for the country's underdeveloped areas. They pointed out that the textile industry directly employs about 2.3 million men and women in a broad range of occupations and geographic areas.

An economic consultant for the apparel industry told us that, although textile prices might drop slightly if the quota restrictions were removed, prices would eventually rise as domestic competition was reduced. He said the "avoided costs" related to the quotas greatly outweighed any shortrun price savings.

The consultant estimated that 600,000 to 800,000 employees would lose their jobs if the quota restraints were removed. The U.S. consumer and/or taxpayer would pay for increased unemployment and welfare costs, the loss of buying power of those people, the loss of taxes paid by domestic manufacturers, and the cost of the economic measures necessary for an even larger balance-of-payments deficit.

STEEL

Domestic steel industry representatives told us the quota restraints were not a factor in the current steel market and there would be little or no effect if the agreements for 1972 to 1974 were terminated. They did say, however, that quotas may be needed in the future if world steel prices again become depressed. The steel representatives note that most foreign governments either own or subsidize their steel industries and this provides more price flexibility than U.S. corporations can have.

Domestic representatives also claim that foreign producers are willing to accept profit levels which U.S. producers will not. Representatives of the German Iron and Steel Producers Association said this was true for German and other European producers because of social considerations. Rather than close a steel plant in difficult years, a European producer would continue production to avoid employee layoffs because the tight labor market in Europe makes it difficult to rehire employees.

CHAPTER 6

OBSERVATIONS

Developing appropriate measures for protecting domestic industries from imports is a formidable challenge. Problems with textile and steel warrant a careful assessment of the arguments for protection and of the most appropriate form that protection should take. The need to preserve vital industries, maintain high employment, and encourage technological advances in the United States must be counterbalanced against efforts to foster free and open competition and a growing interdependence among nations to trade products necessary for their well-being.

We did not find evidence that responsible agencies had made this assessment. Restraints continue without regard to current or prospective conditions and, in fact, have been broadened as far as textiles are concerned.

The textile agreements primarily affect less developed countries; the steel, highly industralized countries. This poses the question of whether U.S. support of textile agreements is consistent with its commitment to aid less developed countries.

The import threat to the textile industry resulted from foreign wages being one-fifth to one-eighth of U.S. wages in this labor-intensive industry. A comparative advantage in labor costs caused the U.S. textile industry to shift from northeastern to southern States. The traditional arguments of free trade versus protectionist measures need to be considered; that is, free trade encourages a more economical use of production resources and insures low consumer prices, while restrictive measures insure a high degree of self-sufficiency and protection for existing production resources.

Responsible agencies need to

--reassess the quota program in view of the major realignments in currency values and recent international negotiations on textile trade,

--determine whether imports threaten all domestic textiles or only a few product lines,

--review other countries' methods of controlling trade in textiles, and

--evaluate the appropriateness of quotas compared with other methods of protection.

The import threat to the steel industry resulted from an inefficient U.S. industry compared to its foreign competitors. As a result of reconstruction of war-damaged plants and establishment of new large-scale facilities in Western Europe and Japan, U.S. steelmaking facilities are considerably older. Productivity has increased very little in the U.S. industry during recent years but unit labor costs have increased sharply with higher wages.

Presently, there appears to be no import threat to the domestic steel industry because of a boom and the increased cost of foreign-made steel due to monetary revaluations. Because profit margins have been depressed over the last decade, a basic problem facing the domestic steel industry is how to attract the needed capital for modernization, expansion, and pollution control.

Although quota agreements allowed increased prices for domestic steel, they did not appear to result in increased profits for capital reinvestment because price increases over the past 5 years were mostly offset by increased costs. Some basic questions which need to be answered are:

--Since the steel industry is vital to the economy and national defense, what is the Government's policy on the extent to which domestic production must be maintained?

--Considering the major realignment in currency values, can the U.S. industry now effectively compete with foreign producers?

--How do other countries assist their steel industries?

--How appropriate are the quota agreements compared with other methods of Government assistance?

The restraints involve considerable cost and administrative problems for the Government and the exporting countries.

It appears that consumer costs have been increased due to quota charges from certain foreign countries.

Also, the raw data on steel imports and exports appears to indicate that restraints have had little effect in limiting imports; but more information on the subject from industry and Government officials is needed.

MEMORANDUM OPINION, DECLARATION, AND ORDER

Consumers Union of U.S. Inc., by amended complaint filed October 5, 1972, has challenged the legality of so-called Voluntary Restraint Arrangements on Steel which were mutually made between certain foreign steel companies as a result of negotiations initiated by the Secretary of State at the direction of the President. Under these arrangements, nine Japanese steel companies, British Steel Corp., and various Western European steel manufacturers belonging to the European Coal and Steel Community by detailed agreements undertook to reduce substantially the amounts of steel they would import into the United States for domestic sale. These arrangements, which have been monitored and assisted by the Secretary, were consummated in May, 1972, and are to continue through the calendar year 1974. They affect 85 percent of United States steel imports and were widely publicized through press releases and transmittals to appropriate congressional committees.

Plaintiff, a recognized consumer organization, contends that the actions of the State Department officials in stimulating and implementing these arrangements are, in effect, ultra vires, and that no member of the Executive Department, including the President, has power under the Constitution and laws of the United States to enter into or to arrange the resulting restrictions on foreign commerce in steel. A declaratory judgment and injunction are sought. The matter comes before the Court on cross-motions for summary judgment, on agreed documents and statements of fact, and the admittedly novel issues have been very thoroughly briefed and extensively argued.*

It was initially alleged that the steel arrangements violate the Sherman Act but this contention was dismissed by plaintiff, with prejudice, although the contention

---

*Standing is not seriously challenged and is well established by the cases and considerations reviewed in National Association of Railroad Passengers v. Central of Georgia Ry., ______ U.S. App. D.C.______, ______ F.2d______ (No. 71-1546, decided January 5, 1973).

of government. It is only when a distinct aspect of the struggle surfaces into a clearly justifiable controversy that a court must act. When this occurs, the Court should apply well-settled legal principles to the limited dispute presented, leaving ultimate solutions to our democratic processes.

All parties recognize that if in fact Congress has preempted the relevant field of foreign trade and commerce, then the President lacks authority to act in a manner inconsistent with the requirements of the preempting legislation. The steel arrangements were made although a specific trade agreement as to steel was in effect. Plaintiff points to the failure to ventilate the arrangements in advance under the procedures contemplated by the Trade Expansion Act of 1962 and contends that in view of the breadth of antitrust regulation it is only in this fashion that the President could have proceeded. This goes too far. To be sure, if the avenue chartered in the Trade Expansion Act of 1962 had been available and had been pursued, there would be no question of the legality of the Executive action taken and even immunity under the Sherman Act might well be implied. Although this was not done, there is nothing in the Trade Expansion Act of 1962 that makes its processes exclusive. Nor can it be said that a general statute of uncertain application like the Sherman Act was intended to preempt from the President his independent authority over foreign commerce. Compare the legislation and facts involved in Youngstown Sheet and Tube Co. v. Sawyer, 343 U.S. 579 (1952). While the legislative pattern is indeed comprehensive and the President's authority has been narrowed, these acts cannot be read as a congressional direction to the President prohibiting him from negotiating in any manner with private foreign companies as to commercial matters. Far more explicit legislation would be required to deprive the President of this authority in foreign affairs where his preeminent role has quite properly long had firm constitutional recognition.

On the other hand, the Government's argument also overreaches. The President clearly has no authority to give binding assurances that a particular course of conduct, even if encouraged by his representatives, does not violate the Sherman Act or other related congressional enactments any more than he can grant immunity under such laws. A were legal under American law and presumably immune from Sherman Act scrutiny. While official assurances to this effect may or may not have been given, there is no doubt that the companies proceeded in the belief the arrangements were legal under our law and the quiescence of all public authorities of the United States on this score was notable. Because of the Amended Complaint, the question of whether or not a violation of the Sherman Act is present is not before the Court to decide. However, it is apparent on this limited record that very serious questions can and should be raised as to the legality of the arrangements under the Act and that the undertakings of the foreign steel companies were made on a mistaken assumption which at least was encouraged, albeit in good faith, by the Secretary.

The parties are urged to re-examine their positions and premises in the light of this memorandum and the declarations made.

No injunction is appropriate. To the extent the respective motions for summary judgment are inconsistent with the above declarations they are denied. No further proceedings are required. No costs will be awarded.

So ordered.

PRINCIPAL U.S. OFFICIALS RESPONSIBLE FOR ADMINISTERING ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office From	To
DEPARTMENT OF STATE		
SECRETARY OF STATE:		
Henry A. Kissinger	Sept. 1973	Present
William P. Rogers	Jan. 1969	Sept. 1973
Dean Rusk	Jan. 1961	Jan. 1969
DEPUTY ASSISTANT FOR INTERNATIONAL RESOURCES AND FOOD POLICY:		
Julius L. Katz	Oct. 1968	Present
DEPARTMENT OF COMMERCE		
SECRETARY OF COMMERCE:		
Frederick B. Dent	Feb. 1973	Present
Peter G. Peterson	Feb. 1972	Jan. 1973
Maurice H. Stans	Jan. 1969	Feb. 1972
ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS:		
Tilton H. Dobbin	June 1973	Present
Lawrence A. Fox (acting)	Jan. 1973	June 1973
Andrew E. Gibson	July 1972	Dec. 1972
Lawrence A. Fox (acting)	June 1972	July 1972
Harold B. Scott	Oct. 1971	June 1972
William R. McLellan	Sept. 1970	Aug. 1971
Kenneth N. Davis, Jr.	Mar. 1969	July 1970
DEPARTMENT OF THE TREASURY		
SECRETARY OF THE TREASURY:		
George P. Shultz	June 1972	Present
John B. Connally	Feb. 1971	June 1972
David M. Kennedy	Jan. 1969	Feb. 1971

	Tenure of office	
	From	To
COMMISSIONER OF CUSTOMS:		
Vernon D. Acree	May 1972	Present
Edwin F. Rains (acting)	Feb. 1972	May 1972
Myles J. Ambrose	Aug. 1969	Feb. 1972