

OUTLINE
OF
STATEMENT
ON BEHALF OF THE EUROPEAN COMMUNITY
BEFORE
UNITED STATES INTERNATIONAL TRADE COMMISSION
IN CARBON AND CERTAIN ALLOY STEEL PRODUCTS
INVESTIGATION TA-201-51

WASHINGTON, D.C.

JUNE 22, 1984

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Madam Chairman:

I. Introduction

1. The European Community welcomes the opportunity to present its views on the petition for import relief by Bethlehem Steel Corporation and the United Steelworkers of America.

2. The European Community regrets that it is necessary to appear once again in a procedure for import relief before the ITC. We had sincerely hoped that Steel Arrangement of October 1982 between the Community and the U.S. had put an end to tensions and controversies concerning the imports of steel from the EC into the U.S. We have seen a dispute over the trigger price mechanism. We have had litigation over antidumping and anti-subsidy petitions. The Steel Arrangement of October 1982 was intended to provide a comprehensive solution to these frictions. European Community institutions cannot avoid feeling of frustration that less than two years later we find ourselves

again in a situation which jeopardizes the existence of the Arrangement, in a situation which might give rise to requests for compensation and - eventually - retaliation, according to the rules of GATT.

3. In addition, unilateral restrictions on imports from the European Community would upset the balanced international framework established by the 1977 OECD Consensus on trade in steel products. You should recall that according to Consensus "Traditional trade flows established under normal conditions of competition [should] not be severely disrupted" and that "domestic policies to sustain steel firms during crisis period should not shift the burden of adjustment to other countries and thus increase the likelihood of restrictive trade actions by other countries." The European Community's own internal and external steel policy is part of this coherent framework. World steel industry is inter-dependent and U.S. import measures cannot be looked at in isolation.

II. Bethlehem and United Steelworkers petition jeopardize the existence of the Arrangement.

1. The European Community is extremely preoccupied by the petition for import relief under Article 201 of the Trade Act. The Arrangement was conditioned upon an undertaking by all major U.S. steel producers, including Bethlehem, not to file any petition seeking import relief under the U.S. trade laws. Bethlehem gave such an undertaking in its letter of October 21, 1982 to Secretary of Commerce Malcolm Baldrige. Bethlehem violated its undertaking when it filed its petition for relief under section 201.

2. Bethlehem's petition jeopardizes the existence of the October 1982 Steel Arrangement between the European Community and the U.S.

Let me quote from Article 2 of the Arrangement:

"If, during the period in which this Arrangement is in effect,.... or investigations under Section 201 of the Trade Act of 1974,.... are initiated or petitions filed or litigation

(including antitrust litigation) instituted with respect to the Arrangement products, and the petitioner or litigant is one of those referred to in Article 2(a), the ECSC shall be entitled to terminate the Arrangement with respect to some or all of the Arrangement products, after consultations with the U.S., at the earliest 15 days after such consultation."

3. The European Community has opened consultations with the U.S. under Article 2 of the Arrangement. These consultations are still going on. That means: we have not yet exercised our rights to terminate the Arrangement. Instead, we have chosen to participate in these proceedings in order to demonstrate that additional restrictions on steel imports from the Community to the U.S. are not justified.

4. In spite of preoccupations about petition, European Community is convinced that ITC will recognize the success of the Arrangement in addressing any injury that might have been attributable to EC imports. The European

Community is therefore convinced that the ITC will not recommend any additional measure in order to restrict imports from the European Community further than already restricted under the Arrangement.

5. As mentioned before, the European Community already has a right to terminate the Arrangement, because of Bethlehem's petition. A fortiori, European Community can terminate Arrangement if Bethlehem's petition leads to additional restrictions for European imports, i.e. if it leads to an additional burden on the European Community and its steel producers. Additional measures would affect the very objective, the very purpose of the Arrangement. Additional restrictions would seriously damage the interests of the European Community. The European Community would therefore immediately examine all its options under the Arrangement and under GATT. It would have to consider both the termination of the Agreement and compensation and eventually

retaliation according to Article XIX of GATT.

III. The Arrangement

1. Today, we tend to take the Arrangement for granted.

However useful to remember that the Arrangement was final stage of extremely difficult and delicate negotiations. The Arrangement was a major achievement of diplomacy, involving not only the U.S. and the EC administrations, but also the U.S. and the EC industries. The Arrangement was a major element of pacification putting an end to years of tensions and frictions between the U.S. and the European Community.

Let me recall three reactions on this side of the Atlantic: On 21 October, 1982 President Reagan said:

"Reaching this agreement was a long and arduous process, and I want to commend both Secretary Baldrige and his European counterparts for their outstanding efforts. They have resulted in a mutual understanding that is reassuring evidence that America and her allies and trading partners can work together for the amicable

settlement of differences in the atmosphere of cooperation and understanding".

On the same day, Secretary of Commerce Malcolm Baldrige referred to the Arrangement as follows:

"[The Arrangement] removes one of the most severe trade frictions between the United States and the European Community and demonstrates that we can work together for an amicable settlement of difficult disputes in an atmosphere of cooperation, understanding and friendship."

and on October 25, 1982, Senator John Heinz described the Arrangement to Senate Steel Caucus. He said:

"Most of us who have been alarmed by rapidly growing steel imports welcome this agreement. Its broad product coverage and fixed percentage limits will cut imports from Europe. It will also improve the diplomatic climate by heading off a difficult and lengthy trade dispute at a time when a number of other major

disagreements between the United States and Western Europe are already on the table. Finally, by injecting some certainty into the market during a period of retrenchment everywhere, it should better enable steel producers on both sides of the Atlantic to plan and invest for the future".

2. The statement by Senator Heinz reflects faithfully the basis of the Arrangement and its objective.

Let me quote the first paragraph of the Arrangement:

"Recognizing the policy of the ECSC of restructuring its steel industry including the progressive elimination of State aids pursuant to the ECSC State Aids Code; recognizing also the process of modernization and structural change in the United States of America ... recognizing the importance as concluded by the OECD of restoring the competitiveness of OECD steel industries; and recognizing, therefore, the importance of stability in trade in certain steel products between the European Community and the U.S.A."

"The objective of the Arrangement is to give time to permit restructuring and therefore to create a period of trade stability".

3. The Arrangement covers virtually all imports of steel products into the U.S. Its product coverage is therefore much wider than present proceedings. This is important in view of the risk that Arrangement might be terminated.
4. The Arrangement subjects most important steel products to export quotas, negotiated on the basis of a three year reference period: 1979-1981.

IV. Effects of the Arrangement

1. The Arrangement has drastically reduced imports of steel products from the European Community to the U.S. The effects are best illustrated by a comparison of steel imports into the U.S. from the EC in 1982 and 1983. Total imports of steel were 5.6 million tons in 1982. They fell to 4.1 million tons in 1983. This is a reduction of 26.5%.

2. Illustration in form of graphs.

Five charts.

Chart 1. EC import share and other country import share of total apparent domestic consumption of products subject to affirmative determination.

Chart 2. EC import and other country import share of apparent domestic consumption of plates.

Chart 3. EC import share and other country import share of apparent domestic consumption of sheet and strip.

Chart 4. EC import share and other country import share of apparent domestic consumption of wire and wire products.

Chart 5. EC import share and other country import share of apparent domestic consumption of structural shapes and units.

Common features:

- European Community imports declined drastically after 1982 - the entry into force of Arrangement.
- Other foreign countries' imports surged: They not only filled the gap left by the European Community, but they caused total import penetration levels to increase.

3. Our conclusions from these data are:

First

Additional import relief for imports from the European Communities is not necessary. To the extent that injury can be attributed to imports, it has not been caused by imports from the European Communities but by imports from other countries.

Second

As the Arrangement has been effective in resolving U.S.-EC trade problems and as the injury found by the Commission can only have been caused by imports from other countries, the ITC might want to consider restraints on imports from these other countries similar to those contained in the Arrangement as the most appropriate form of Section 201 relief.

4. The Arrangement limits exports from the European Community to the U.S. only until 31 December 1985.

What will happen after that date?

Let me refer to the last paragraph of letters exchanged between Secretary of Commerce Baldrige and Vice President Davignon: "Consultation between the EC and the US will be held in 1985 to review the desirability of extending and possibly modifying the Arrangement".

V. The attitude of the U.S. Steel Industry and the petitioners to the Arrangement.

1. The Arrangement is of great economic and political importance for the relationship
 - between European Community and U.S. and
 - between European steel industry and U.S. steel industry.

Its value and beneficial effect is clearly recognized by part of the U.S. steel industry.

In its statement to Commission in these proceedings, United States Steel Corporation said:

"U.S. Steel believes that the Agreement is very important to it, to the domestic steel industry, to the United States, and indeed to the ECSC.

For the most part, the ECSC has faithfully adhered to the Agreement; and the Government of the United States has worked diligently to assure that the Agreement functions within both the spirit and the letter of the arrangement.

U.S. Steel in turn has honoured its commitment and does not want any actions to be taken that would jeopardize the Agreement's continued existence". "Its continuation, undiminished and rigorously adhered to, is a matter of paramount importance and concern to U.S. Steel".

2. Unfortunately, position of petitioners toward Arrangement is less clear.

According to petition, Bethlehem Steel and United Steelworkers seem to recognize that additional restrictions for imports from the European Communities are not necessary. Let me quote from their petition:

"If all steel imports can be controlled, as they have been from the E.E.C., the domestic steel producers would benefit from increased demand through higher and more profitable operating rates and prices ...

The relief being sought need not alter the relative participation in the U.S. market by European and Japanese producers who have traded during 1983 under an inter-government agreement limiting exports or who have exported less steel to the United States in the very recent past."

Also, petitioners prehearing brief on remedy uses language which indicates that petitioners do not want to interfere with Arrangement.

However, the prehearing brief on remedy contains also passages which seem to go in the opposite direction.

3. In order to avoid any misunderstandings, European Community wants to be absolutely clear about possible consequences under GATT, if the remedy in this case interferes with Arrangement. The European Community disagrees with statement of petitioners that as the EC has already limited their imports of steel products to the United States, Article XIX would not permit to retaliate against US steel exporters. (page 83 prehearing brief on remedy).

Also, European Community disagrees with the view that a market share quota would not invite authorized retaliation by the Community because the market shares of the European Community would remain at roughly their present level (pg. 83 prehearing brief on remedy).

European Community is convinced that one has to distinguish between two situations which are fundamentally different:

First situation: The Arrangement remains unaffected; all import restrictions result from the Arrangement. In this case, the Community will not ask for compensation or eventually retaliate, as it has agreed to forego its rights under Article XIX of the GATT.

Second situation: Additional import restrictions are imposed. In this case the Community is clearly entitled to compensation and eventually to retaliate for all additional restrictions, i.e. restrictions which go beyond the terms of the Arrangement

- either with respect to product coverage,
- or with respect to quantities,
- or with respect to flexibility,
- or with respect to consultations,
- or with respect to duration.

The same is obviously true for measures other than quantitative restrictions, like tariffs.

There is no doubt that the Community will make use of these rights. If the European Community decides to terminate the Arrangement, it will recover its rights under Article XIX of the GATT not only for the additional restrictions, but also for those

which flow today - without any compensation - from the Arrangement.

The EC contests the petitioners' assertion that "negative ramifications are unlikely". Indeed, in this context, the specialty steels case of 1983 provides a recent and concrete example of what can happen when unilateral measures are taken. There is also the danger that unavoidable retaliatory action may damage the interests of innocent bystanders.

4. According to petitioners "of the total 212.3 billion in U.S. exports only some 31 billion would be subject to retaliation or withdrawal of concessions" (page 85 prehearing briefing remedy.) From the point of view of the European Community, our most important exports to the U.S. are at stake:
In 1983, EC exported 4.1 million tons of steel products; with a 1.6 billion dollar value.
To put this into perspective: Steel exports to the U.S. have for the European Community a significance similar to that for the U.S. of exports of soyabeans to Europe (U.S. soyabean exports to the EC in 1983 were 2.4 billion dollars).

5. The European Community therefore repeats conclusion of page 41 of its prehearing brief:

"The Arrangement provides the domestic industries with all the protection they require from imports from EC countries. Import relief within the meaning of the escape clause is, therefore, already in effect with regard to imports from the EC, and no further action against EC imports is "necessary". Any additional restrictions would be contrary to the express language and intent of the statute. Even if the Commission feels that it cannot recommend an OMA to the President under section 201(d)(1)(A), it can nevertheless recommend that insofar as imports from the EC are concerned, the terms of the Arrangement provide appropriate relief for purposes of this investigation and exclude imports from the EC from its relief recommendation".