

USTR ASKED TO REVOKE INDIA STEEL EXEMPTION IN TEST OF SURGE MECHANISM

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An Indiana mini-mill has asked the Office of U.S. Trade Representative to revoke the exemption from Section 201 tariffs for stainless steel bar from India, in what could be the first test of a mechanism proposed by the Bush Administration to protect against import surges from developing countries exempted from the safeguard measure.

Imports of stainless steel bar from India more than doubled in the first five months of 2002 compared to the same period in the previous year, and imports of stainless steel angle in that same period grew to 15 times the previous year's figures, according to a July 30 letter to USTR Robert Zoellick from the Washington counsel of the mini-mill, Slater Steels Corp.

The letter urges USTR and Commerce to cover three tariff lines encompassing stainless steel bar and angle from India under the safeguard. This would subject Indian imports to a 15 percent tariff until March, after which the tariff drops to 12 percent.

The Commerce Dept. has not yet finalized an import licensing system for products covered by the Section 201 safeguard, aimed at ensuring that imports from countries excluded from the remedy do not undermine it. Comments from the private sector regarding the operation of that import licensing system are due August 21.

But sources familiar with the thinking of Administration officials said the fact that the full import monitoring system is not yet in place would not prevent the Administration from bringing the Indian steel under the safeguard tariffs, if officials determined it was necessary to do so.

Commerce and USTR officials were scheduled to meet with company counsel this week to discuss the request.

Under procedures outlined in President Bush's March 5 announcement on the steel safeguard, the first step would be for USTR to initiate consultations with India if it determined that imports had increased by "a material amount." According to the president's memo to USTR and the Secretaries of Commerce and Treasury, those consultations should take into account "the circumstances under which the increase occurred and whether the country plans to take action to reduce imports to historical levels."

If based on those consultations, and other factors such as "data on imports, domestic steel demand, growth in the U.S. economy, and shifts in other countries' trade patterns," USTR determines that an increase in imports "undermines the effectiveness of the pertinent safeguard measure," it may amend the Section 201 measure to include that product from the country at issue, according to the presidential memo.

Part of the difficulty in determining whether there has been a "material increase" in imports is that trade levels immediately before the safeguard was imposed were, in many cases, already significantly above the period used by the Bush Administration to determine whether or not to exclude developing countries.

WTO safeguard rules provide that a developing country should be exempted from import restrictions if trade from that country represents less than 3 percent of total imports of a given product, and if all trade from excluded developing countries is less than 9 percent of total imports of that product. But the Bush Administration used data from 1996-1997 to determine whether countries qualified for the exemption, and imports from many developing countries have risen sharply since that time.

This point is highlighted in the letters to Zoellick and Commerce Secretary Don Evans on behalf of Slater Steels Corp. "The relief package assumed a level of participation in these markets by India that is far below their actual participation during the time period in which the serious injury occurred," the letter states.

Some industry officials had urged Commerce and USTR to set a numeric threshold for "material increase" which, when breached, would automatically trigger consultations with a country (*Inside U.S. Trade*, April 5, p. 1). But the Administration is likely to reject that approach in favor of case-by-case consideration of import spikes from developing countries, informed sources said this week.

According to the letter from Slater Steels, imports of stainless angle from India reached 45 percent of total imports for the first five months of 2002, and stainless steel bar other than angle from India reached nearly 10 percent.

"This domestic industry, which was found by the International Trade Commission to be suffering serious injury by reason of imports, should not have to wait until the relief program is undermined completely before having India included in the remedy," according to the letter.

Indian imports of stainless steel bar are also subject to U.S. antidumping duties, but imports of stainless steel angle are not. An attorney on the case said it made sense to test the surge protection measures included in the president's Section 201 safeguard rather than to file an antidumping case right away.