

Canada.<sup>47</sup> Imports of these products into the United States accounted for 44 percent of the total volume of Canadian steel exports to the United States at that time. In addition, under NAFTA, if imports from Canada were to be included in any import remedy action, any such action could not have the effect of reducing imports from Canada below recent import levels. The United States would also have to provide compensation in the event that Canada had equivalent trade effects. If the two sides cannot agree on compensation, Canada would be free to retaliate against the United States.

On December 7, 2001, the ITC, which was divided on the issues of both injury and remedy, made remedy recommendations that ranged from additional tariffs to import quotas, with respect to imports from all sources of the 16 steel products on which the ITC had made affirmative findings of injury. The ITC submitted its formal report to the President on December 19, 2001. Because the Administration subsequently asked the ITC for more information, the President, who had until February 17, 2002 to respond to the recommendations, postponed the decision to March 5, 2002.

### **President's Decision**

On March 5, 2002, President Bush imposed a safeguard action, in the form of additional tariffs, on imports of the 10 steel products found by the ITC to be seriously injuring the U.S. industry. The additional duties, which ranged from 30 percent to 8 percent, went into effect on March 20, 2002 for a period of three years. The President's decision also included a number of adjustment measures to help U.S. industry consolidate, merge and shed inefficient production capacity. No action was taken on any of six steel products from Canada.

On June 3, 2002, a WTO Dispute Settlement Panel was established to examine the consistency of the U.S. safeguard measures with the WTO. The Panel was requested by the European Communities, with Japan, Brazil, Korea, China, Norway, Switzerland, and New Zealand joining as co-complainants. The Panel concluded that the U.S. measures were inconsistent with both the WTO Agreement on Safeguards and GATT Article XIX, finding that the United States had failed to provide an adequate explanation of its conclusion that imports had increased and that a causal link existed between the increased imports and serious injury to the domestic industry. The Panel ruled that the decision to exempt imports from Canada from the measure was also WTO inconsistent. The United States appealed, and on November 19, 2003, the WTO Appellate Body issued a ruling largely upholding the initial Panel conclusions.

In September 2003, the ITC issued its mid-term review of the safeguard measure. It found that the U.S. industry had undergone major restructuring and consolidation, that overall productivity had risen sharply, that prices had stabilized, that workers' pensions had been saved, that profitability had returned to the industry, that imports were no longer depressing

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<sup>47</sup> Hot-rolled bars; cold-rolled bars; welded tubes; flanges, fittings and joints; stainless bars and light shapes; and stainless flanges and fittings.