U.S. Steel Tariffs Gave Safeguards a Bad Name

By Claude E. Barfield

President Bush's decision to revoke tariffs on imported steel products may lead the European Union to challenge other U.S. trade policies. Any such steps are likely to meet with stiff U.S. resistance, however, because the mechanism for resolving such disputes in the World Trade Organization is widely seen in the United States as lacking legitimacy.

On December 4, President George W. Bush rescinded tariffs on imported steel goods. The duties, ranging from 8 percent to 30 percent, had been levied since March 2002 under the so-called safeguards provisions of U.S. and WTO law that allow nations to provide temporary protection for industries under stress.

The U.S. decision had been expected for some time. Some weeks ago the WTO ruled, in effect, that the administration had stretched and abused the WTO rules; eight WTO nations, led by the European Union, stood ready to apply billions of dollars' worth of sanctions against U.S. exports if the United States did not back down by December 15. Thus the structured protection that had been slated to run for thirty-six months was cut short after twenty-one months—to howls from steel executives and steel union leaders, as well as from the many Democratic presidential aspirants.

Implications

What does this action over steel mean for U.S. trade politics and for the WTO?

First, from beginning to end, political calculations dominated the Bush administration's thinking. This has been the case in all past administrations forced to decide among competing special interests on trade. But what distinguished the events of the past twenty-one months was the emergence of a powerful counter-movement of steel users—manufacturers of vehicles and vehicle parts, construction equipment, tool and dye works, and appliances—that coalesced in the Consuming Industries Trade Action Coalition. This produced a more complex political calculus, and the administration decided loss of support in steel-producing states such as West Virginia, Pennsylvania, and Ohio would be offset by gains in industrial states such as Michigan, Illinois, Indiana, and Wisconsin.

While the CITAC is an important phenomenon, it remains to be seen whether similar coalitions will emerge over other products such as textiles, clothing, and orange juice. Will Wal-Mart, Sears, and other retailers, for example, put together a lobby touting the benefits of lower-cost dresses, suits, bras, and other lingerie to low-wage consumers?

Second, and of even greater importance, a still developing story revolves round the role of the WTO and the shifting power balance between the United States and the European Union in dictating world trade policy. Some observers proclaimed that the "180-degree turn" by the Bush administration represented an extraordinary triumph of the WTO over rogue unilateralism and protectionism. Asserted David Sanger of the *New York Times*:

Claude E. Barfield is a resident scholar at AEI and author of *High-Tech Protectionism: The Irrationality of Antidumping Laws* (AEI Press, 2003). A version of this article appeared in the *Financial Times* on December 8, 2003.

"This case was the equivalent of *Marbury v. Madison*, [which] established the Supreme Court as the final arbiter of the constitution, able to force Congress and the executive branch to comply with its rulings."

EU officials have even opined that the Bush retreat signaled that the "power balance in global trade had shifted in Europe's favor." Pascal Lamy, EU trade commissioner, stated that the outcome proved that "Europe punches its weight. It's a basic message: union equals might and strength." He has promised equally tough retaliation if the United States does not amend its tax laws for U.S. exporters, also ruled illegal by the WTO. This is heady and dangerous stuff, and the WTO and the EU may come to rue their "triumphalist" reaction to the U.S. removal of steel tariffs.

The WTO is not the world trade equivalent of the U.S. Supreme Court. Rather, its dispute settlement mechanism is a system on trial and has already been attacked as an "unelected bureaucracy" that tramples on national sovereignty. Further, following the Iraq war, U.S. public opinion on Europe has a decidedly negative cast.

Critics of the steel decision have quickly and fervently focused on what they see as the illegitimacy of the WTO and the perfidy of Europe. Richard Gephardt, Democrat congressman, stated: "America needs a president who will not back down when American jobs are on the line," and vowed not to bow to the WTO or Europe were he president. The steelworkers' union denounced Mr. Bush for "capitulating to European blackmail." Even a Republican argued that "this whole process reveals just how broken the WTO dispute settlement resolution mechanism really is."

Much of this can be ascribed to political grandstanding. Nevertheless, two years ago, almost two-thirds of the U.S. Senate and more than four hundred members of the House backed resolutions warning the Bush administration not to allow the WTO to weaken U.S. trade remedy laws. Even before the White House ended the tariffs, many in Congress had argued that the WTO's dispute settlement system was doing just that.

Safeguards vs. Antidumping Actions

Whatever the facts of the steel safeguards case, even free traders must face the fact that the world trading system needs credible and politically viable safety valves that allow countries and industries time to adjust to changing competition. Of the two possible WTO remedies—safeguards and antidumping actions—safeguards are preferable. Unlike antidumping actions, which must be defended by dishonest calculations and inflammatory allegations of "unfair" trade, safeguards actions are more honest and straightforward. A WTO member asks for a breather, with the explicit admission that temporarily a domestic industry cannot compete.

In the end the greatest damage the Bush administration may have inflicted on the WTO is in giving safeguards a bad name by its abuse of the system in the case of steel.