

## Title 3—

Proclamation 7529 of March 5, 2002

## The President

**To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products**

By the President of the United States of America

**A Proclamation**

1. On December 19, 2001, the United States International Trade Commission (ITC) transmitted to the President a report on its investigation under section 202 of the Trade Act of 1974, as amended (the “Trade Act”) (19 U.S.C. 2252), with respect to imports of certain steel products.

2. The ITC reached affirmative determinations under section 202(b) of the Trade Act that the following products are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industries producing like or directly competitive articles: (a) certain carbon flat-rolled steel, including carbon and alloy steel slabs (“slabs”); plate (including cut-to-length plate and clad plate) (“plate”); hot-rolled steel (including plate in coils) (“hot-rolled steel”); cold-rolled steel (other than grain-oriented electrical steel) (“cold-rolled steel”); and corrosion-resistant and other coated steel (“coated steel”) (collectively, “certain flat steel”); (b) carbon and alloy hot-rolled bar and light shapes (“hot-rolled bar”); (c) carbon and alloy cold-finished bar (“cold-finished bar”); (d) carbon and alloy rebar (“rebar”); (e) carbon and alloy welded tubular products (other than oil country tubular goods) (“certain tubular products”); (f) carbon and alloy flanges, fittings, and tool joints (“carbon and alloy fittings”); (g) stainless steel bar and light shapes (“stainless steel bar”); and (h) stainless steel rod. The ITC commissioners were equally divided with respect to the determination required under section 202(b) regarding whether (i) carbon and alloy tin mill products (“tin mill products”) and (j) stainless steel wire.

3. The ITC provided detailed definitions of the products included in categories (a) through (j) of paragraph 2, and their corresponding subheadings, under the Harmonized Tariff Schedule of the United States (HTS) in Appendix A to its determination, set out at 66 Fed. Reg. 67304, 67308-67311 (December 28, 2001). By February 4, 2002, the ITC provided additional information in response to a request by the United States Trade Representative (USTR) under section 203(a)(5) of the Trade Act (19 U.S. 2253(a)(5)) (the “supplemental report”).

4. Section 330(d)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1330(d)(1)), provides that, when the ITC is required to determine under section 202(b) of the Trade Act whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by either group of commissioners may be considered by the President as the determination of the ITC. Having considered the determinations of the commissioners with regard to tin mill products and stainless steel wire, I have decided to consider the determinations of the groups of commissioners voting in the affirmative with regard to each of these products to be the determination of the ITC.

5. Pursuant to section 311(a) of the North American Free Trade Agreement Implementation Act (the “NAFTA Implementation Act”) (19 U.S.C. 3371(a)),

the ITC made findings as to whether imports from Canada and Mexico, considered individually, account for a substantial share of total imports and contribute importantly to the serious injury, or threat thereof, caused by imports. The ITC made negative findings with respect to imports from Canada of certain flat steel, tin mill products, rebar, stainless steel rod, and stainless steel wire; and the ITC also made negative findings with respect to imports from Mexico of tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, stainless steel bar, stainless steel rod, and stainless steel wire. The ITC made affirmative findings with respect to imports from Canada of hot-rolled bar, cold-finished bar, carbon and alloy fittings, and stainless steel bar; and the ITC also made affirmative findings with respect to imports from Mexico of certain flat steel, and carbon and alloy steel fittings. The ITC commissioners were equally divided with respect to imports from Canada of certain tubular products.

6. The ITC commissioners voting in the affirmative under section 202(b) of the Trade Act also transmitted to the President their recommendations made pursuant to section 202(e) of the Trade Act (19 U.S.C. 2252(e)) with respect to the actions that, in their view, would address the serious injury, or threat thereof, to the domestic industries and be most effective in facilitating the efforts of those industries to make a positive adjustment to import competition.

7. Pursuant to section 203 of the Trade Act (19 U.S.C. 2253), and after taking into account the considerations specified in section 203(a)(2) of the Trade Act and the ITC supplemental report, I have determined to implement action of a type described in section 203(a)(3) (a "safeguard measure") with regard to the following steel products:

(a) certain flat steel, consisting of: slabs provided for in the superior text to subheadings 9903.72.30 through 9903.72.48 in the Annex to this proclamation; plate provided for in the superior text to subheadings 9903.72.50 through 9903.72.62 in the Annex to this proclamation; hot-rolled steel provided for in the superior text to subheadings 9903.72.65 through 9903.72.82 in the Annex to this proclamation; cold-rolled steel provided for in the superior text to subheadings 9903.72.85 through 9903.73.04 in the Annex to this proclamation; and coated steel provided for in the superior text to subheadings 9903.73.07 through 9903.73.23 in the Annex to this proclamation;

(b) hot-rolled bar provided for in the superior text to subheadings 9903.73.42 through 9903.73.52 in the Annex to this proclamation;

(c) cold-finished bar provided for in the superior text to subheadings 9903.73.55 through 9903.73.62 in the Annex to this proclamation;

(d) rebar provided for in the superior text to subheadings 9903.73.65 through 9903.73.71 in the Annex to this proclamation;

(e) certain tubular products provided for in the superior text to subheadings 9903.73.74 through 9903.73.86 in the Annex to this proclamation;

(f) carbon and alloy fittings provided for in the superior text to subheadings 9903.73.88 through 9903.73.95 in the Annex to this proclamation;

(g) stainless steel bar provided for in the superior text to subheadings 9903.73.97 through 9903.74.06 in the Annex to this proclamation;

(h) stainless steel rod provided for in the superior text to subheadings 9903.74.08 through 9903.74.16 in the Annex to this proclamation;

(i) tin mill products provided for in the superior text to subheadings 9903.73.26 through 9903.73.39 in the Annex to this proclamation; and

(j) stainless steel wire provided for in the superior text to subheadings 9903.74.18 through 9903.74.24 in the Annex to this proclamation. The steel products listed in clauses (i) through (ix) of subdivision (b) of U.S. Note 11 to subchapter III of chapter 99 of the HTS ("Note 11") in the Annex to this proclamation were excluded from the determinations of the ITC

described in paragraph 2, and are excluded from these safeguard measures. I have also determined to exclude from these safeguard measures the steel products listed in the subsequent clauses of subdivision (b) of Note 11 in the Annex to this proclamation.

8. Pursuant to section 312(a) of the NAFTA Implementation Act (19 U.S.C. 3372(a)), I have determined after considering the report and supplemental report of the ITC that imports from each of Canada and Mexico of certain flat steel, tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, and stainless steel wire, considered individually, do not account for a substantial share of total imports or do not contribute importantly to the serious injury or threat of serious injury found by the ITC. Accordingly, pursuant to section 312(b) of the NAFTA Implementation Act (19 U.S.C. 3372(b)), I have excluded certain flat steel, tin mill products, hot-rolled bar, cold-finished bar, rebar, certain tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, and stainless steel wire the product of Mexico or Canada from the actions I am taking under section 203 of the Trade Act.

9. Pursuant to section 203 of the Trade Act (19 U.S.C. 2253), the actions I have determined to take shall be safeguard measures in the form of:

(a) a tariff rate quota on imports of slabs described in paragraph 7, imposed for a period of 3 years plus 1 day, with annual increases in the within-quota quantities and annual reductions in the rates of duty applicable to goods entered in excess of those quantities in the second and third years; and

(b) an increase in duties on imports of certain flat steel, other than slabs (including plate, hot-rolled steel, cold-rolled steel and coated steel), hot-rolled bar, cold-finished bar, rebar, certain welded tubular products, carbon and alloy fittings, stainless steel bar, stainless steel rod, tin mill products, and stainless steel wire, as described in paragraph 7, imposed for a period of 3 years plus 1 day, with annual reductions in the rates of duty in the second and third years, as provided in the Annex to this proclamation.

10. The safeguard measures described in paragraph 9 shall not apply to the products listed in clauses following clause (ix) in subdivision (b) of Note 11 in the Annex to this proclamation.

11. These safeguard measures shall apply to imports from all countries, except for products of Canada, Israel, Jordan, and Mexico.

12. These safeguard measures shall not apply to imports of any product described in paragraph 7 of a developing country that is a member of the World Trade Organization (WTO), as long as that country's share of total imports of the product, based on imports during a recent representative period, does not exceed 3 percent, provided that imports that are the product of all such countries with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product. If I determine that a surge in imports of a product described in paragraph 7 of a developing country WTO member undermines the effectiveness of the pertinent safeguard measure, the safeguard measure shall be modified to apply to such product from such country.

13. The in-quota quantity in each year under the tariff rate quota described in paragraph 9 shall be allocated among all countries except those countries the products of which are excluded from such tariff rate quota pursuant to paragraphs 11 and 12.

14. Pursuant to section 203(a)(1)(A) of the Trade Act (19 U.S.C. 2253(a)(1)(A)), I have further determined that these safeguard measures will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs. If I determine that further action is appropriate and feasible to facilitate efforts by the pertinent domestic industry to make a positive adjustment to import competition and to provide greater economic and social benefits than costs, or

if I determine that the conditions under section 204(b)(1) of the Trade Act are met, I shall reduce, modify, or terminate the action established in this proclamation accordingly. In addition, if I determine within 30 days of the date of this proclamation, as a result of consultations between the United States and other WTO members pursuant to Article 12.3 of the WTO Agreement on Safeguards that it is necessary to reduce, modify, or terminate a safeguard measure, I shall proclaim the corresponding reduction, modification, or termination of the safeguard measure within 40 days.

15. Section 604 of the Trade Act, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to sections 203 and 604 of the Trade Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to establish increases in duty and a tariff rate quota on imports of the certain steel products described in paragraph 7 (other than excluded products), subchapter III of chapter 99 of the HTS is modified as provided in the Annex to this proclamation. Any merchandise subject to a safeguard measure that is admitted into U.S. foreign trade zones on or after March 20, 2002, must be admitted as "privileged foreign status" as defined in 19 CFR 146.41, and will be subject upon entry to any quantitative restrictions or tariffs related to the classification under the applicable HTS subheading.

(2) Such imports of certain steel that are the product of Canada, Israel, Jordan, or Mexico shall be excluded from the safeguard measures established by this proclamation, and such imports shall not be counted toward the tariff rate quota limits that trigger the over-quota rates of duty.

(3) Except as provided in clause (4) below, imports of certain steel that are the product of WTO member developing countries, as provided in subdivision (d)(i) of Note 11 in the Annex to this proclamation, shall be excluded from the safeguard measures established by this proclamation, and such imports shall not be counted toward the tariff rate quota limits that trigger the over-quota rates of duties.

(4) Clause (3) above shall not apply to imports of a product that is the product of a country listed in subdivision (d)(i) of Note 11 in the Annex to this proclamation if subdivision (d)(ii) of such Note indicates that such country's share of total imports of the product exceeds 3 percent, or that imports of the product from all listed countries with less than 3 percent import share collectively account for more than 9 percent of total imports of the product. The USTR is authorized to determine whether a surge in imports of a product that is the product of a country listed in subdivision (d)(i) undermines the effectiveness of the pertinent safeguard measure and, if so, upon publication of a notice in the **Federal Register**, to revise subdivision (d) of Note 11 in the Annex to this proclamation to indicate that such product from such country is not excluded from such safeguard measure.

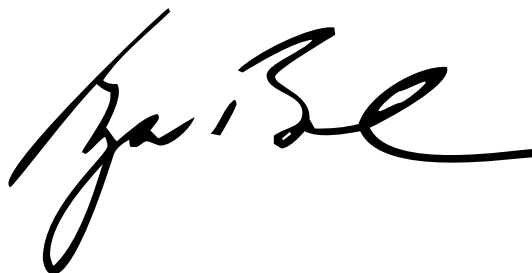
(5) Within 120 days after the date of this proclamation, the USTR is authorized to further consider any request for exclusion of a particular product submitted in accordance with the procedures set out in 66 Fed. Reg. 54321, 54322-54323 (October 26, 2001) and, upon publication in the **Federal Register** of a notice of his finding that a particular product should be excluded, to modify the HTS provisions created by the Annex to this proclamation to exclude such particular product from the pertinent safeguard measure established by this proclamation.

(6) In March of each year in which any safeguard measure established by this proclamation remains in effect, the USTR is authorized, upon publication in the **Federal Register** of a notice of his finding that a particular product should be excluded, to modify the HTS provisions created by the Annex to this proclamation to exclude such particular product from the pertinent safeguard measure established by this proclamation.

(7) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency.

(8) The modifications to the HTS made by this proclamation, including the Annex hereto, shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m., EST, on March 20, 2002, and shall continue in effect as provided in the Annex to this proclamation, unless such actions are earlier expressly reduced, modified, or terminated. Effective at the close of March 21, 2006, or such other date that is 1 year from the close of the safeguard measures established in this proclamation, the U.S. note and tariff provisions established in the Annex to this proclamation shall be deleted from the HTS.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of March, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.

A handwritten signature in black ink, appearing to read "George W. Bush". The signature is written in a cursive style with a large, sweeping initial "G".

The annex and a related memo in connection with this notice are not included. To find these documents, go to:

<http://www.gpoaccess.gov/fr/retrieve.html>

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