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STEEL: UNIONS, INDUSTRY, GOVERNMENTS, AND TRIBUNALS

Troy Cribb
Introduction

PROFESSOR KING: I want to thank Troy Cribb for substituting for Dick Cunningham, whose mother broke her leg. He is very close to his mother, so he had to stay in New Jersey. But she is a very close associate. She is from Steptoe & Johnson, and will be our moderator today.

So will turn it over to you, Troy. And we appreciate your coming. Thank you very much.

MS. CRIBB: Thank you. It is great for me to be here. Dick does send his regrets. He attends, I think, every year, and speaks very highly of the Institute. I know that he regrets not being able to be here today. He is kind of like the Dean of Trade Law in Washington, D.C., so I am a poor substitute, but I shall do my best. I feel very lucky, because it’s, I think, not often that a lawyer gets a distinguished international forum like this to rehash the case that they have been working on. So this will be a lot of fun.

And we have a good one to talk about today. I have spent most of the last couple of years at Steptoe working on steel issues. As I am sure, most of you know we had a big steel case going on in the United States. President Bush decided to impose extra tariffs on steel imports, and so we are going to have a discussion of that today.

Moreover, I think it is a great topic not only to talk about how it affected Canada, even though Canada was exempt from the ultimate remedy, it nonetheless had effects on the Canadian steel industry. I think it provides really an excellent case study for kind of a comparison of how these actions might take place both in the United States and Canada, and what kind of interest groups get involved, who’s involved in the private sector, who’s involved in the government. I think it will be kind of an interesting comparative government exercise here.

We have a very distinguished panel starting with my good friend here, Charlie Blum, who shares the battle scars from the steel effort in the U.S. If there is anyone in Washington who knows every facet of the steel trade inside and out, it is Charlie. He had a very distinguished career in Government working for the State Department, and then served as the Assistant U.S. Trade Representative for Industry, and then for multi-lateral negotiations. And so he has a long, long history both in dealing with steel issues and multi-lateral trade frameworks. So it is my pleasure to be here with him today.
I have just met Barry Lacombe, but I think just from our meeting last night, both Charlie and I were just saying we are very happy to have made his acquaintance, and look forward to working with you in the future on framing some of these issues. Barry is the President of the Canadian Steel Producers Association. Prior to assuming that position, he also had served in many distinguished positions in the Canadian Government, including Assistant Deputy Minister for Revenue Canada, and Deputy Secretary for the Treasury Board Secretariat, and Senior Vice President for Policy and Research for the Canada Mortgage and Housing Corporation, and the Atlantic Canada Opportunities Agency.

I thought that since not everyone here is a trade lawyer, I would just give a very, very short introduction to what the safeguard action was in the United States that was undertaken, and then turn it over to Charlie and Barry for more detail and to get into the discussion.

The rules of the World Trade Organization allow for what we call a safeguard action. Actually, the rules that exist within the WTO framework are really modeled on the U.S. Statute that dates back to 1974. And the idea behind a safeguard is when there is a surge in imports that harms or threatens your domestic industry, which you should be allowed to place temporary restraints on imports, and allow your industry to restructure so that in the long-term that industry can be better prepared to face global competition. We call it Section 201.

Therefore, I thought it would be helpful, though, to even back up and give a little history of steel trade dating back to 1998, when there was a big surge in steel imports. This surge can be attributed to the fact that many of the newly independent states from the former Soviet Union were just starting to export to the United States. You had some new entrants like China and Brazil increasing their trade with huge increase in imports in 1998, but the economy was better then. There was some talk of perhaps a trade action being taken at that time, but it did not happen. I think Charlie can speak better to why it did not happen. Then imports fell off as the economy cooled. Simultaneously, domestic production in some categories went down as well, reflecting what was happening with the economy. This all became a big issue with the last Presidential election.

One interesting factor to take into regards was that Bush won West Virginia in the 2000 election. That may be attributed, in large part to the fact that he had made commitments to undertake a big steel safeguard.

Fast-forwarding to 2001, when President Bush is in office, this case was initiated in a very unusual way. Usually, safeguard actions are initiated by the industry filing a petition. This one was initiated by the President asking the U.S. International Trade Commission to undertake this investigation. Which, as you can imagine, you know, frames this in a hugely political way and raises the profile of the case, not to mention that I think this is the biggest
safeguard ever undertaken, covering, you know, just the biggest volume in trade and broadest scope of products. Therefore, another interesting aspect of it was that, I think, everyone agreed that the U.S. industry needed restructuring. Indeed, the President in initiating, and then in placing the remedy, talked a lot about the need for restructuring.

Before the International Trade Commission, there was much debate over whether import relief was really needed for that or not, because it was already ongoing, there was already consolidation within the industry. A lot of restructuring did take place after the remedy went into place. So people will be arguing for a long time about whether it was the result of import protection or not.

This background sets up an examination of who the players were, the role of foreign governments, the role of consumers, the many different players within the industry, and the lawyers and consultants.

And, with that, I turn it over to Charlie.