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Anawaty: The United States Legal Response to Steel Dumping
The United States Legal Response to Steel Dumping

by *William A. Anawaty**

I. INADEQUACIES OF UNITED STATES ANTIDUMPING LAW

THE UNITED STATES Antidumping Act¹ has been on the books since 1921. On the whole, it has worked reasonably well, but the particular problems of the United States steel industry in the last few years have tested the adequacy of the law in several respects. This industry has been experiencing a lengthy period of excess capacity, unemployment and low profitability caused by persistently low levels of demand and substantial increases in low priced imports. The United States steel industry and the United States Government have identified a number of difficulties in using the Antidumping Act to deal with these problems.

One objection has been that the process of filing and investigating complaints operates too slowly, and that by the time the remedies of the Act are in place, the harm has been done. The United States Department of the Treasury (Treasury) normally undertakes an antidumping investigation only after a complaint has been filed by a private party affected by alleged dumping practices. Substantial time is required for the affected industry to amass sufficient information to form a complaint adequately.

Once the complaint is filed, the statute requires Treasury to act within specified periods of time. Thirty days are allowed for examination of the complaint to determine whether it provides a sufficient basis for instituting a formal investigation.² If the complaint merits formal investigation, then six months' time is allowed for rendering a tentative determination of whether sales have been made at less than "fair value" within the meaning of the Antidumping Act.³ In unusual cases this period may be extended for up to three months.⁴ If Treasury tentatively determines that sales have been made at less than fair value, then from that moment forward, all imports covered by the complaint are subject to the possible imposition of dumping duties.⁵ Within three months after making the tentative determination, Treasury must make its final determination regarding fair value.⁶

Dumping occurs when there are sales at less than fair value and injury to a domestic industry. The injury determination must be made by the International Trade Commission (ITC).⁷ ITC usually gets the case after Treasury's

* Director of Special Programs, United States Department of the Treasury. This paper was delivered at the Canada-United States Law Institute's Conference on Steel Dumping into Canada and the United States, held September 29 & 30, 1978, at the University of Western Ontario, London.

¹ Ch. 14, 42 Stat. 11 (1921) (codified as amended at 19 U.S.C. §§ 160-71 (1976)).

² 19 U.S.C. § 160(c)(1) (1976); 19 C.F.R. § 153.29(a) (1977).

³ 19 U.S.C. § 160(a) (1976).

⁴ *Id.* § 160(b)(2).

⁵ *Id.* § 160(a).

⁶ 19 C.F.R. § 153.37(a) (1977).

⁷ 19 U.S.C. § 160(a) (1976).

final determination as to sales at fair value and has three months to make its determination. Thus, the statute contemplates that thirteen months can normally elapse between the filing of a petition and the making of the necessary determination. Treasury has tended to need all the time the statute allows.

A second complaint has been that the traditional process—oriented as it is to specific products and specific producers—merely causes any dumping import practices to shift to other products or other producers.

The United States steel industry sought to circumvent some of the limitations in the traditional antidumping process by filing a broad range of dumping complaints. Within nine months, Treasury received twenty-one dumping complaints covering about a dozen products in ten steel producing countries. The concurrent filing of all those complaints created its own set of problems.

The filing of a dumping complaint typically injects uncertainty into normal commercial relationships. This is particularly true for steel imports where orders are normally placed relatively far in advance. Thus, an importer may find that in addition to the agreed upon price, he also has to pay a dumping duty. In the *Gilmore* case⁸ involving carbon steel plate from Japan, Treasury's tentative determination of sales at less than fair value was followed by a dramatic reduction in carbon steel plate imports from Japan. Interestingly, Treasury's tentative determination of average margins of thirty-two percent was followed by a final determination of much lower margins.

The many steel dumping complaints also caused a considerable administrative problem for Treasury. Twenty-one complaints in one product area overburdened its system for handling antidumping complaints, particularly because many of the complaints alleged sales below cost of production. To determine cost of production in an antidumping case, it is generally necessary to allocate to a specific product the production costs of a company that produces several products. Moreover, the cost of production provision in the United States antidumping statute is new;⁹ consequently, there is no, or very little, precedent for solving a number of interpretive problems. For example, in the *Gilmore* case, there was no precedent for interpreting the phrase in the statute that imported merchandise be priced so as to permit recovery of all costs "in a reasonable period of time."¹⁰ After considering a variety of arguments from interested parties, Treasury ultimately interpreted the phrase to require in this context that "all costs be recovered over the course of a business cycle."¹¹ Of course, the identification of a business cycle in the United States steel industry is also a problem of some difficulty.

Finally, a third kind of problem arose in connection with the steel dumping complaints. The first two major steel complaints were directed against

⁸ Final determination of less than fair value, Antidumping Investigation of Carbon Steel Plate from Japan (*Gilmore*), 43 Fed. Reg. 2032 (Jan. 13, 1978). Determination of injury, Antidumping Investigation of Carbon Steel Plate from Japan (*Gilmore*), 43 Fed. Reg. 17410 (Apr. 24, 1978).

⁹ 19 U.S.C. § 160(c)(1) (1976).

¹⁰ *Id.* § 164(b).

¹¹ 19 C.F.R. § 153.35(d) (1977).

Japan, leading to allegations that Treasury was discriminating against the Japanese, when the problems and practices in the industry were global in nature. In effect, then, the early complaints precipitated delicate foreign policy considerations.

The economic problems of the United States steel industry and a suspicion that some of the problems might be due to unfairly priced imports led to the search for an approach under the Antidumping Act which would rapidly and effectively deal with unfairly priced imports and circumvent the problems which I have sketched out. The trigger price mechanism emerged as Treasury's approach.

II. THE TRIGGER PRICE MECHANISM

The trigger price mechanism (TPM) is a method of implementing traditional antidumping remedies in an expedited fashion. It is not an alternative to vigorous enforcement of the Antidumping Act. It is, instead, a benchmark for quickly focusing Treasury resources on antidumping investigations of steel mill products when the situation warrants. The trigger prices are an objective standard against which Treasury can measure entries and spot those which are likely to indicate sales at less than fair value. After a preliminary investigation, Treasury may initiate a formal dumping investigation regarding imports of that product originating from the same country as the triggered entries.

The trigger price system centers on Treasury's initiation of dumping investigations. Although Treasury has authority to initiate investigations under the statute, it has not exercised that power in recent years. Treasury's willingness to initiate investigations does not limit the traditional right of a steel company to file a petition against dumping.

Once Treasury decides to initiate a formal investigation, the investigation will be carried out in accordance with the Antidumping Act and the Treasury regulations issued thereunder.¹² All of the traditional defenses under the Act remain applicable.

Dumping, of course, consists of two elements; sales at less than fair value and a resulting injury to the domestic industry.¹³ The United States steel industry has consistently claimed that it could meet competition from the most efficient steel producers if those producers did not sell in the United States below their cost of production plus the cost of landing the steel in the United States. This claim indicates that injury would be eliminated if sales below the costs of the most efficient steel producer could be discouraged, which is precisely what the trigger price is designed to do. Therefore, if the trigger price mechanism functions properly, it also will do precisely what the antidumping statute is intended to do—eliminate injury to domestic industry.

Trigger prices are based on the average cost of Japanese steel production. Information for calculating these prices was obtained from the six major

¹² 42 Fed. Reg. 65215 (1977); 19 C.F.R. § 153.27 (1977).

¹³ 19 U.S.C. §§ 160(b)(1)(A), 161(a) (1976).

Japanese steel companies and some minor Japanese steel companies through the Japanese Ministry of International Trade and Industry (MITI). Based on this data, Treasury and the Council of Wage and Price Stability (COWPS) calculated trigger prices for most products within the American Iron and Steel Institute's (AISI) thirty-two categories of steel mill products.

In May 1978, Treasury sent a task force to Japan to visit Japanese steel mills, gather further information, and conduct further intensive discussions with MITI. Based on this review of costs, Treasury published in July 1978, certain adjustments in the original trigger prices. In addition, each quarter Treasury publishes a trigger price revision to reflect changes in basic costs of production and dollar-yen exchange rates.

Sales below these trigger prices do not prove that dumping has occurred and will not automatically cause the initiation of a formal dumping investigation. Rather, sales prices below trigger prices attract the attention of Customs officials who monitor imports of steel mill products. Customs headquarters then makes preliminary investigations to ascertain whether there is cause to initiate a formal "fast track" antidumping investigation.

When Treasury does initiate a formal investigation, it expects to be able to proceed more rapidly than in the ordinary case because of the continuous collection of data on home market prices and costs of steel production abroad. In the ordinary case, Treasury hopes to make a tentative determination of injury within ninety days of launching the formal investigation (formerly 180 days).

The trigger price mechanism is not meant to keep out low cost imports, but merely imports priced below fair value which cause or threaten injury to the domestic industry. Firms which can export steel mill products to the United States at prices below the trigger prices and still cover their costs of production may do so—assuming, of course, that the firm's United States prices are at or above its home market prices. Some Canadian firms, in particular, are regularly shipping steel to the United States at prices below trigger levels; these companies have opened their books to Customs investigators to demonstrate their actual costs of production. These firms take advantage of their technical efficiency and their low transportation costs to the northern United States market.

European producers are alleged by many to be less efficient producers of most steel mill products than the Japanese. Therefore, the Europeans could presumably comply with the trigger price although their steel shipped to the United States would be below fair value. Such shipments would not be subject to investigation by Treasury. However, as I have indicated, those European producers are not shielded by the TPM from initiation of antidumping complaints by private parties.

In this brief description of the trigger price mechanism, one thing should stand out. The trigger price mechanism is *not* a minimum price system, nor is it a quota system in disguise. It is simply a method of implementing the traditional antidumping remedy in an expedited fashion. It was designed to meet the specific problems faced by the United States steel industry in the mid-1970's.

III. LEGAL TEST OF THE TRIGGER PRICE MECHANISM

The TPM has faced (and survived) one challenge in the courts. In a case styled *Davis Walker Corp. v. Blumenthal*,¹⁴ the senior officials of the Treasury were sued by a producer of wire and wire products. The wire producer saw the TPM as effectively raising the price of an important raw material, wire rod, but not providing a similar price protection for the sales of wire products which, to a substantial extent, were not covered by the TPM. Moreover, the producer also was concerned about competition from integrated United States producers who could manufacture the higher margin wire products from wire rod they produced without being subject to the trigger price.

The plaintiffs in *Davis Walker* argued that the trigger price mechanism (1) was in violation the United States Antidumping Act;¹⁵ (2) was adopted in a manner which violated the Administrative Procedure Act;¹⁶ and (3) was implemented in an arbitrary and capricious manner.¹⁷ The court rejected all three arguments.

The plaintiffs asserted that the trigger price mechanism is a means of setting minimum import prices for basic steel mill products, thereby avoiding entirely the statutory procedures of the Antidumping Act. Treasury established that the mechanism does not exclude the entry of goods at prices below trigger, and hence, is not a minimum price system, but only a benchmark to facilitate enforcement of the Act by means of Treasury-initiated antidumping investigations.

Regarding the second allegation, Treasury established that creation of the TPM did not require promulgation of a formal rule subject to comment. The TPM is merely a guideline for organizing Treasury resources to administer the Antidumping Act.

In countering the allegation that the trigger prices were derived in an arbitrary manner, the Treasury and COWPS economists explained in considerable detail the methodology used to calculate trigger prices. By determining from Japanese input the aggregate cost of raw materials, labor, other expenses, depreciation, interest, and profit, and then adjusting for the yield factor and value of scrap, the cost of producing an average ton of finished Japanese steel mill products was estimated. This base figure was multiplied by coefficients expressing the average experience of Japanese firms in producing the various products covered by the TPM. "Extras" for surface preparation, dimensional differences, and the like, were then calculated on the basis of Japanese experience to achieve the complete material component of the trigger prices. To that was added the Japanese freight, insurance and handling

¹⁴ No. 78-0421 (D.D.C. May 25, 1978), reprinted in 17 INT'L LEGAL MATERIALS 992 (1978), appeal dismissed, No. 78-1467 (D.C. Cir. July 14, 1978).

¹⁵ Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction at 4. *Davis Walker Corp. v. Blumenthal*, No. 78-0421 (D.D.C. May 25, 1978), appeal dismissed, No. 78-1467 (D.C. Cir. July 14, 1978).

¹⁶ *Id.* at 6.

¹⁷ *Id.* at 29.

charge to the four principal import regions of the country to derive the complete trigger price. The court, after extensive examination, found this methodology reasonable.

The *Davis Walker* plaintiffs argued also that the products included under the trigger price system were arbitrarily selected. The plaintiffs felt that wire rod and wire products should be covered either in tandem or not at all, because covering only wire rod under the trigger price mechanism would result in wire fabricators paying higher prices for inputs but would not provide price protection for finished products. The product coverage for the TPM was designed to respond to problems being experienced by the basic steel mill industry. It was limited to the thirty-two basic steel mill products as defined by the AISI. The President had created a Task Force, headed by Under Secretary Solomon, to analyze the problems of the basic steel industry and to propose a solution.¹⁸ The TPM was part of an overall program to solve those problems. The court found that limiting coverage of products to those manufactured by the basic steel industry was a reasonable choice.

IV. EFFECT OF THE TRIGGER PRICE MECHANISM

As noted, the trigger price mechanism is designed to deter dumping, which is the injurious sale of products in the United States below their fair value within the meaning of the Antidumping Act. The trigger price mechanism is certainly having a major effect toward that goal, as evidenced by (1) the health of the domestic industry; (2) the import figures and import penetration during the TPM's effective period; and (3) the fact that steel companies in the United States have withdrawn their antidumping cases that were pending at the time the trigger price mechanism was initiated.

A significant indicator of the TPM's effect is the health of the domestic industry. The industry in late 1978 and early 1979 has been operating at about ninety percent of capability (near economic peak efficiency) compared with seventy-eight percent capacity-utilization during 1977. Some plants are operating at nearly 100% of capability. Domestic shipments of steel mill products in the United States reached their highest levels since the very strong year of 1974. In addition, employment in the basic steel industry has increased by 14,000 workers from 1977 levels.

With the removal of the threat of dumping, domestic steel prices have firmed and profits in the third and fourth quarters of 1978 were up very sharply for almost all domestic steel companies. (At the same time, a sustained period of profitable operation is probably necessary to permit the companies to reinvest and modernize as the Solomon Report envisaged.¹⁹)

¹⁸ On September 27, 1977, the Carter Administration formed an Interagency Steel Task Force, headed by Under Secretary of the Treasury for Monetary Affairs, Anthony A. Solomon, to study the effectiveness of the antidumping law with respect to steel imports. See The President's News Conference, 13 WEEKLY COMP. OF PRES. DOC. 1438, 1444 (Sept. 29, 1977).

¹⁹ See Report to the President: A Comprehensive Program for the Steel Industry (Dec. 6, 1977), reprinted in 17 INT'L LEGAL MATERIALS 955 (1978) [hereinafter cited as Solomon Report].

Because the trigger price mechanism is designed to deter dumping rather than to deter imports *per se*, import statistics are not in themselves a correct measure of the success of the system. Yet, many people measure the system's effectiveness by the monthly data on steel imports and steel import penetration (the proportion of United States steel consumption accounted for by imports).

Import penetration from May 1978 through December 1978 (the effective period of the trigger price mechanism) was seventeen percent. This figure is almost three percentage points lower than the import penetration during the same months of 1977 (19.9%).

With respect to monthly import tonnage figures, beginning in late 1978, steel import levels decreased rather sharply. For example, in December 1978 steel imports dropped to 1.37 million net tons from 2.02 million net tons the previous month (and from 2.09 million net tons in December 1977). Before TPM, the monthly total had not been as low as December's since April 1977. Import penetration in December 1978 was 14.7%.

The downward import trend continued in January 1979, when steel imports totalled 1.26 million net tons. Import penetration in January 1979 was 13.6%.

With respect to steel trade patterns generally, some shift seems to have taken place in the relative market shares of our foreign suppliers. Whereas in 1977, Japan accounted for forty-one percent of total United States imports of steel mill products, Japan has accounted for only 28.5% during the period May 1978 to December 1978. The share taken by the EEC countries has remained almost constant, increasing from 35.4% in 1977 to 35.8% in the period May 1978 to December 1978.

Canada, which accounted for ten percent of United States imports of steel mill products in 1977, accounted for twelve percent during the May 1978 to December 1978 period. Among other countries, Spain, South Africa and Poland have increased their respective market shares over previous years.

Over the course of several months of operation of the trigger price mechanism, all of the antidumping cases that had been filed by steel companies in the United States during 1977 have been withdrawn. The Treasury Department has expressed its concerns about the administrative difficulty of dealing with the dumping problem for basic steel mill products simultaneously by (1) investigating company-initiated petitions against narrowly defined product from companies in one country at a time; and (2) monitoring a broad range of basic steel mill products regardless of country of origin and then initiating formal dumping investigations when this monitoring signals likely injurious sales below fair value. The withdrawal of pending antidumping cases by United States steel companies seems to indicate the domestic industry's measure of confidence in the trigger price mechanism.

With respect to one product in particular—carbon steel plate—the Lukens Steel Company (which produces only plate) filed an antidumping action in December 1978 with respect to imports from five European countries. The Treasury Department is currently processing that case as a normal antidump-

ing investigation. Carbon plate production is the area of greatest overcapacity in world steel supply at the present time. In addition, there is an outstanding dumping finding on carbon steel plate from Japan, as determined in the *Gilmore* case;²⁰ thus, there is the possibility of injury from plate imports priced at trigger price—a fact which distinguishes plate from other product categories covered by trigger prices.

With the exception of this single-product case by Lukens, domestic steel companies have indicated that they wish to evaluate import results for the full first quarter of 1979 before deciding whether to re-initiate their earlier antidumping complaints against a broad range of products and producers.

On the whole, then, the Treasury Department is strongly of the opinion that the trigger price mechanism has succeeded in its goal of deterring the injurious sale of imported steel at below fair value in the United States.

V. ENFORCEMENT

The Treasury Department has initiated three antidumping cases because of sales below trigger price. In the case concerning plate exported by the China Steel Corporation of Taiwan, the final determination was made within approximately ninety days that dumping of carbon steel plate was occurring at margins averaging thirty-four percent below fair value. In the case against Stahlexport of Poland, a tentative finding of dumping margins averaging twenty percent below fair value was reached within ninety days. The third case, against a Spanish company, was terminated when the Spanish company came forward with documentation indicating that all sales since the inception of TPM had been at or above trigger, except for one shipment which narrowly missed the May 1, 1978 effective date and another shipment which narrowly missed the July 1, 1978 effective date of third quarter trigger prices.

In another situation, a preliminary investigation of sales below trigger price revealed that 38,000 tons of steel had entered below trigger price in May 1978. The importer voluntarily removed that entire tonnage from the United States market by re-exporting it at great expense after it had already been stored in warehouses in the United States.

In the course of several other preliminary investigations, importers have renegotiated contracts so that the sale price is at or above trigger. In a few investigations, satisfactory proof has been submitted that sales, though below trigger price, were made at or above the producer's fair value.

Finally, Treasury has made numerous telephone inquiries and has sent over 500 telexes regarding products entering below trigger price. Most of these inquiries have uncovered reasons for the below trigger entries other than dumping. Many of the transactions were between related parties where the importer was not the ultimate consumer of the product and eventually resold the product above the trigger price. When the Customs Service investigates

²⁰ Final determination of less than fair value, Antidumping Investigation of Carbon Steel Plate from Japan (*Gilmore*), 43 Fed. Reg. 2032 (Jan. 13, 1978). Determination of injury, Antidumping Investigation of Carbon Steel Plate from Japan (*Gilmore*), 43 Fed. Reg. 17410 (Apr. 24, 1978).

related party sales, the importers must submit extensive documentation of the resale, including actual invoices. If the resale is proved to be above trigger by enough margin to cover the costs of any storage, processing, or shipping prior to resale, the investigation is terminated.

The question of evasion of the system is often raised. It is hard to think of any program of this type that does not offer some potential for cheating, but experience indicates that it is not a widespread problem. In any event, I can assure you that Treasury is policing vigorously to detect attempts to evade the system, and has commenced a series of audits of major importing companies to assure the accuracy of what is being reported to Customs. Moreover, if fraudulent invoices or fraudulent entry documentation are found, either through periodic audits or other investigative leads, Treasury will seek to impose the maximum penalties available under the law.

An example of possible evasion is a sale to an importer related by corporate ownership to the overseas seller. However, I have already stated what documentation Customs requires in that situation and how all expenses of the related party are supported, thereby arriving at a price that is appropriate for comparison with the trigger price.

Another possible related party evasion is offshore purchases. For example, a United States end user may have or establish a subsidiary in a foreign country which purchases the basic steel product below the producer's fair value and below trigger. Although the subsidiary may ship this merchandise into the United States at or above trigger, the original purchase price—defined by United States law as the price paid to the manufacturer—is below fair value. The consumer of steel may import the foreign steel at or above trigger price but is able to offset against the price of that steel the profits of its foreign buying subsidiary in the export sales transaction. The result of this practice is the effective evasion of the intended relief of the TPM, since in this instance imported steel, even at prices identical to or above comparable United States products, enjoys an unfair competitive advantage over domestic steel. However, this advantage is clearly remedied by the Antidumping Act because, in an antidumping proceeding, the purchase price comparison would be used to compare the mill transaction price to home country prices above the cost of production. The Treasury Department has stated that if in the course of its monitoring (including audits) it finds that a United States consumer of steel is using a foreign buying agent to avoid a direct sale from the foreign mill to that consumer so that the related firms, viewed as a whole, are acquiring steel below applicable trigger prices, the Treasury Department will consider the foreign mill price as the proper basis for comparison to the trigger price. This policy is consistent with prior practice in antidumping cases.

Treasury has amended the steel import entry forms (Special Summary Steel Invoice) to require related party importers to report their resale price in all instances when that price is known at the time of customs entry. Otherwise, a transaction price between related parties, if below trigger, will itself be deemed sufficient basis for Treasury's commencing an antidumping case

for sales below trigger. In this way, the task of tracking down resale prices after entry is made is greatly reduced.

VI. COMPARISON WITH THE CANADIAN FAST TRACK SYSTEM

As I understand the Canadian fast track system, it is very similar to TPM in concept. Both countries have determined prices for steel mill products which act as "benchmarks" or "triggers" to draw enforcement attention to imports whose prices and costs should be examined more closely. Both countries are monitoring all steel imports carefully and are collecting data to allow expeditious investigation of possible instances of dumping detected by the benchmarks.

However, there is a major difference in the two systems. The United States system provides for detailed disclosure of the methodology for determining trigger prices and publication of actual trigger prices substantially in advance of use. For example, there have been two public hearings regarding the system—one on the propriety of covering wire rod while not including all wire products made from rod, and one on the freight rates for steel products entering the Great Lakes area—and quarterly revisions published over two months in advance of their effective date.

We believe the openness of the United States trigger price system promotes confidence in the fairness and accuracy of the trigger price levels and relieves some of the uncertainty that is a strong disincentive to trade.

VII. CONCLUSION

I believe the trigger price mechanism accomplishes several things. First, it reintroduces into the steel trade a certain degree of predictability. The exporter knows that, at least insofar as Treasury's initiation of action is concerned, sales above the trigger price are likely to be safe from dumping investigation. Of course, that does not give complete assurance because an affected company which feels itself injured can still file a dumping complaint against any particular source of steel. Second, the TPM, by covering a broad spectrum of steel mill products, makes the shifting of dumping practices from one product to another more difficult. Third, the system speeds up the investigation process by (1) eliminating, in most cases, the need for companies to gather information and file complaints; and (2) reducing the period of time it will take Treasury to reach that critical tentative determination. Finally, TPM provides protection against dumping, without insulating the domestic industry from price competition. That feature is of major importance to President Carter's effort to control inflation. Because the TPM fosters the discipline of price competition, it is, we believe, a far superior approach than quotas which would accompany a Voluntary Restraining Agreement or an Orderly Marketing Agreement.

Concerning major problem areas, Treasury is trying to ascertain whether steel imports are shifting to products not covered by trigger prices. Treasury specifically is monitoring imports of fabricated products to see whether such a switch is occurring.

A final important question is whether the TPM will make the steel industry healthy. Alone, it cannot do so. The TPM was first suggested in the Solomon Report.²¹ The Solomon Report addressed a number of issues regarding the condition of the United States steel industry. It discussed measures to encourage the modernization of the steel industry—help for workers, firms and communities in adjusting to necessary changes in the industry; rationalization of environmental regulations without relaxing the basic environmental goals; speeding up of antitrust evaluations of possible steel company mergers and joint ventures; consideration of possible reforms to improve the efficiency and lower the costs in the transportation system serving the steel industry; and consideration of whether the useful life of certain steel assets should be reduced for tax purposes, thereby allowing them to be depreciated at a more rapid rate.²²

These specific measures suggested by the Solomon Report comprise the United States Government's effort to create a sympathetic environment in which the United States steel industry can address the problems besetting it. For the industry's part, it will take a major effort by the steel companies themselves to modernize, adjust to changing technology, anticipate the changing demand for its products, and consider alternatives where steel production has become redundant or inefficient. Prosperity and health in that sense depend very much on those who have the active role in running and working in the industry. What we in the government can try to do is to be sympathetic, open-minded and constructive. TPM reflects a major governmental effort to be constructive.

²¹ The Solomon Report recommended that the Treasury devise a system of trigger (or reference) prices. The trigger prices would provide a basis for monitoring the importation of steel into the United States, as well as a means for initiating and expediting proceedings under the Antidumping Act. Solomon Report, *supra* note 19, at 13.

²² *Id.* at 9-20.