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Trigger Prices Under Floating Exchange Rates: A Dubious Experiment in Trade Policy

by Gerhard Rosegger*

I. INTRODUCTION

For the past three decades the negotiating framework of the General Agreement on Tariffs and Trade (GATT) has provided member nations with successive opportunities for the reduction of traditional barriers to international trade. The main target of these negotiations has been tariffs. While the governments of the industrialized nations labored toward freer trade in a series of major negotiating rounds,¹ however, the durability of the resulting arrangements was tested by a number of external shocks. Two such shocks were the collapse of the Bretton Woods system which initiated the transition from a system of pegged exchange rates to a managed float of major currencies, and the substantial increase in oil prices by the OPEC cartel.

The number of industries in the developed countries which found themselves ostensibly incapable of meeting the challenges of an invigorated world-wide competition was even more serious. This incapacity was aggravated by Japan's rapid rise as a fierce competitor in a number of industries. Not too surprisingly, governments came under increasing political pressure to aid these industries. Governments responded by experimenting with a vast array of policies, most of which fall under the heading of "non-tariff barriers."² These "non-tariff barriers" run counter to the spirit, if not the letter, of GATT. Nevertheless, non-tariff barriers have become an integral and growing factor influencing patterns of world trade.³

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¹ Of these negotiations, the Kennedy Round (1962-67) and the Tokyo Round (1973-79) resulted in the most significant tariff cuts; during the Tokyo Round efforts were also made to reduce non-tariff barriers to trade. For a complete summary *See Complex Conclusions of Tokyo Round Add Up to Framework for Future Trade*, IMF SURVEY 133-37 (May 7, 1979).

² The classic treatise is R.E. BALDWIN, *NONTARIFF DISTORTIONS OF INTERNATIONAL TRADE* (1970); *See also Ray, Tariff and Nontariff Barriers to Trade in the U.S. and Abroad*, 63 REV. OF ECON. AND STATISTICS 161-68 (1981).

³ The evolution of national policies can be traced in INTERNATIONAL MONETARY FUND, *ANNUAL REPORT ON EXCHANGE ARRANGEMENTS AND EXCHANGE RESTRICTIONS* (All vols).

The American steel industry, which has been increasingly threatened by import competition, is an illustration of this principle. The U.S. government's efforts to provide relief to the U.S. steel industry is a near perfect example of the evolution of patchwork protective measures created in an atmosphere of domestic, as well as international, bargaining and compromise.⁴ The steel industry has been vocal in its demands for special consideration on a number of grounds. Its primary demand calls for time in which to upgrade capital stock as a precondition to a return to full international competitiveness.⁵

There has been discussion elsewhere of the efficacy of a strategy of piecemeal innovation as a means for improving the performance of the frequently antiquated plants of the large integrated steel producers.⁶ A number of public and private studies have analyzed the reasons, and possible remedies for the steel industry's malaise.⁷ This article will discuss some implications of the most recent experiment in protection, the Trigger Price Mechanism (TPM). Although the workings of the TPM have been the subject of intense scrutiny,⁸ critics have paid inadequate attention to one feature of the mechanism which, if strictly applied or extended to other sectors of the economy, might have astonishing consequences for this country's role as a leader in the movement toward trade liberalization.

If one measures the success of almost a decade and a half of sundry protective policies by the most obvious yardstick, their ability to curb the penetration of American markets by foreign steel producers, the results are discouraging. In 1960, imports accounted for approximately 5 percent

⁴ The United States has not been alone, of course, in giving succor to an ailing steel industry. Indeed, the industry's case for protection has been based at least in part on the claim that governmental support in various forms gave foreign firms an "unfair" advantage. See AMERICAN IRON AND STEEL INSTITUTE, *STEEL AT THE CROSSROADS: THE AMERICAN STEEL INDUSTRY IN THE 1980's* (1980). For a review of government policies See FEDERAL TRADE COMMISSION, STAFF REPORT ON THE UNITED STATES STEEL INDUSTRY AND ITS INTERNATIONAL RIVALS: TRENDS AND FACTORS DETERMINING INTERNATIONAL COMPETITIVENESS 310-471 (1977).

⁵ See AMERICAN IRON AND STEEL INSTITUTE, *supra* note 4, at 33-38.

⁶ B. GOLD, G. ROSEGER & M.G. BOYLAN, *EVALUATING TECHNOLOGICAL INNOVATIONS* 117-209 (1980).

⁷ See, e.g., COUNCIL ON WAGE AND PRICE STABILITY, *A STUDY OF STEEL PRICES* (1975); H. Mueller and K. Kawahito, *Steel Industry Economics: A Comparative Analysis of Structure, Conduct and Performance* (Jan. 1978) (report prepared for the Japan Steel Information Center); OFFICE OF TECHNOLOGY ASSESSMENT, CONGRESS OF THE UNITED STATES, *TECHNOLOGY AND STEEL INDUSTRY COMPETITIVENESS* (1980); R.W. CRANDALL, *THE U.S. STEEL INDUSTRY IN RECURRENT CRISIS* (1981).

⁸ McCormack, *The Reinstated Steel Trigger Price Mechanism: Reinforced Barrier to Import Competition*, 4 FORDHAM INT'L L.J. 289-338 (1980); J. Dirlam & H. Mueller, *Import Restraints and Reindustrialization: The Case of the U.S. Steel Industry* (1981). (Conference Paper, Business and Economic Research Center, Middle Tennessee State University); CRANDALL, *supra* note 7, at 103-15.

of apparent supply;⁹ in 1970, their share had risen to 14 percent;¹⁰ and by 1981 imports had captured in excess of 20 percent of the market.¹¹ In some product categories, import shares vastly exceed these averages for all steel mill products; and in some regions, such as the Pacific Coast states, import penetration was much greater than is suggested by the data for the economy as a whole.

This article first presents a simple model of the TPM's economic effects, followed by a summary review of the policy background and history. Finally this article will consider the inherent contradictions in the TPM concept which not only raises serious normative-theoretical questions, but which also doomed both episodes of the experiment to failure in practice.

II. THE EFFECTS OF PRICE-FIXING ON TRADE: A MODEL

The goal of any protective policy presumably is to reduce the competitiveness of foreign rivals in a country's home market or, as the industries to be protected are more likely to put it, to increase their competitiveness to the level where rivalry is "fair". The number of policy tools available to governments for this purpose is *large*, especially if administrations are not constrained by considerations of consistency in the trading game's several playing fields.

Economists generally concede that the theoretical case for completely unfettered international trade in goods and services becomes at least equivocal in a "second-best" world, one in which distortions between the private and social benefits and costs of economic activity are the rule rather than the exception.¹² Normative issues then revolve around the selection of the most efficient policy tool, the measure that achieves the desired goal of protection, while creating a minimum of additional distortions.¹³ However, economists recognize that their counsel in this respect may carry little weight in the rough and tumble of the political process, where efficiency is but a low ranking criterion for success.

Given this observation, the appeal of price-fixing as a means of curbing foreign competition is to permit imports to enter the country only at "fair" prices, above those that would prevail under freely competitive conditions. Price-fixing has the seeming virtues of simplicity, equity, determinateness, and transparency. However, price-fixing is likely to create actual distortions substantially greater than those implicit in other poli-

⁹ AMERICAN IRON AND STEEL INSTITUTE, ANNUAL STATISTICAL REPORT (1960).

¹⁰ *Id.* (1970).

¹¹ *Id.* (1981).

¹² See P.H. LINDERT AND C.P. KINDLEBERGER, INTERNATIONAL ECONOMICS 138-48 (1982).

¹³ *Id.* at 153-75.

cies. Implementation of the TPM involves price-fixing on a grand scale.

Figure 1 presents one of the standard models of international trade theory, adapted for demonstrating the effect of government mandated import prices above the world market price for a commodity.¹⁴ The figure shows United States demand for steel mill products, United States domestic supply, and the price P_f at which steel can be purchased from the rest of the world under free-trade conditions.¹⁵

By focusing initially on just these parts of the diagram, we can analyze the two extreme possibilities, *complete protection*, and *complete free trade*. Under the former condition, the price would be P_p and the quantity supplied and demanded, OQ_p . If the market were open to free trade, non-competitive domestic plants, those whose marginal costs of production are above P_f , would be forced out of business. The remaining competitive plants would supply the quantity OQ_d^1 , with the rest of the effective demand at price P_f , the quantity $Q_d^1 Q_m^1$, being satisfied by imports.

Assume now that the United States has an *ad valorem* tariff on steel imports, but that this tariff is claimed to provide inadequate protection to the domestic industry. A whole host of arguments in favor of further curbing imports may be brought to the fray, including the claim that the price P_f is "unfairly low" because it resulted from export subsidies by foreign governments or from outright dumping.¹⁶ Yielding to these arguments, the government sets a minimum import price P_t for foreign steel with appropriate sanctions for violations of the pricing rule. The tariff is now assessed on the basis of this price, yielding a total price to domestic consumers of steel mill products equal to P_t . Under these conditions, domestic production will expand to quantity OQ_d^2 , and imports will be reduced to the quantity $Q_d^2 Q_m^2$.

Total effective demand for steel mill products will be substantially lower than it would have been under free trade or with the fixed-rate tariff only. The higher price will, to a greater or lesser extent, affect all those commodities for whose production steel is an essential input material. The first of these effects is obvious and intended, the second an undesirable by-product of one industry's protection.

¹⁴ The concept of a single "world market price" is strictly a heuristic device. Prices may vary considerable from country to country, and price is not the only consideration guiding purchasing decisions. Furthermore, the model abstracts from transportation costs and other factors.

¹⁵ The assumption of a perfectly price-elastic world supply of steel mill products to a market as large as the United States may be unrealistic, but it does no violence to the substance of my argument. Indeed, the same assumption has been made even in an attempt to derive empirical estimates of the cost of protection. See FEDERAL TRADE COMMISSION, *supra* note 4, at 567.

¹⁶ For the record of the American steel industry's antidumping complaints, see McCormack, *supra* note 8, at 293-302.

Reliance on the dual policy tools, tariff *cum* trigger price, has an additional undesirable consequence; foreign producers receive a rent equal to the cross-hatched rectangle R, as a result of the trigger price; tariff revenues of the government are limited to the amount represented by rectangle T.¹⁷ The economist asks: if an industry is to be protected, why give away potential tariff revenues to foreigners in the form of additional profits? An "equivalent tariff" in the amount $P_f P'_t$ would have the same protective effect, but revenues equal to the sum of the two rectangles, R and T, would accrue to the government.

The answer to this question must be sought in the realities of international political relations. The spirit of GATT frowns upon tariff increases, while it seems to wink at the imposition of less traditional protective measures. In fact, one of the reasons the U.S. government opted for the TPM was that any other form of restrictive policy, including the imposition of countervailing duties under the anti-dumping provisions, would have been more harmful to this country's position in the Tokyo Round of GATT negotiations.

One final point, not directly deducible from the diagram but crucial to further discussion, must be made: under a regime of floating exchange rates the effectiveness of protection provided by the trigger price, denominated in U.S. dollars, will change as the value of the dollar in terms of foreign currencies changes. A rise in the dollar's value, equivalent to a decline of the dollar price of foreign currencies, and therefore of foreign commodities, will make imports more attractive, and vice versa.

The causes of exchange-rate fluctuations are manifold and need not concern us here. Nor is it important that intervention by national monetary authorities in the exchange market, "management" of the float, may mitigate the actual behavior of rates. The existence, at any given point in time, of a single spot exchange rate enables private decision-makers to make international comparisons among commodity prices, denominated in their respective national currencies. This condition is a *sine qua non* if patterns of international trade are to reflect approximately the competitive advantages of the countries participating in trade.¹⁸

III. THE TWO TPM EPISODES — A BRIEF HISTORY

After a brief period of prosperity during 1973 and 1974, marked by

¹⁷ The respective magnitudes of these effects depend on the price elasticities of the supply and demand schedules. Thus, for example, if domestic supply were highly price-elastic, even a small increase in the effective price would draw a large increment of domestically-produced steel into the market, and vice versa.

¹⁸ Indeed, the enforcement of multiple exchange-rate systems by countries is generally regarded as the form of distortion that results in the greatest misallocation of world resources. See M.E. KREININ, *INTERNATIONAL ECONOMICS: A POLICY APPROACH* 155-56 (1979).

high rates of capacity utilization and respectable profitability, the American steel industry relapsed into stagnation. Imports continued to expand, and by 1977 the industry's condition had become thoroughly depressed; closings of marginal facilities and near-zero profits signaled trouble for the large integrated producers. Import competition had a twofold effect: it captured increasing proportions of the total tonnages sold, and it caused domestic producers to engage in defensive discounting from their posted price quotations.¹⁹

The plant closings and concomitant lay-offs served as a catalyst for the industry and the United Steel Workers' efforts to obtain governmental relief. The formation of a "Steel Caucus" in Congress, involving approximately 200 legislators from impacted districts, put additional pressure on the Administration to take some form of action.²⁰ The international situation was delicate, however; the Tokyo Round of negotiations was at a critical stage, and resort to tariff increases, under whatever guise, was out of the question.²¹ Renewal of the strategy of persuading foreign steel producers to restrict their sales in the United States by setting "voluntary" quotas would have seriously undermined the bargaining position of the United States. Unilateral imposition of quantitative restraints on steel imports would have been even more damaging.²²

The Carter Administration, avoiding any overt commitment, took what appeared to be the innocuous step of encouraging the American firms to make full use of the opportunities to submit anti-dumping complaints. The response was anything but innocuous. In the fall of 1977, 16 separate complaints were filed involving producers in seven countries, with further actions threatened.²³ Even if only a portion of these petitions were successful, relations with the countries involved, which included some of the United States' staunchest European allies, would have been severely strained. Recognizing this danger, President Carter appointed an interagency task force chaired by Anthony M. Solomon, the Under Secretary of the Treasury for Monetary Affairs.²⁴ The group was charged with the task of analyzing the steel industry's competitive position and with making recommendations for remedial action.

The Solomon Committee, established in October 1977, set what is probably a record for swift work by a bureaucratic body by submitting its

¹⁹ A comparison of the price quotations summarized in METAL STATISTICS (1959-80) with the statistics on average *realized* prices for various product categories. [CRANDALL, *supra* note 7, at 159] gives an approximate indication of the extent of discounting in any given year.

²⁰ CRANDALL, *supra* note 7, at 42.

²¹ McCormack, *supra* note 8, at 303.

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 304.

final report to the President on December 6, 1977.²⁵ Not too surprisingly, in view of this haste, the document was somewhat short on analysis. Nevertheless, the report provided "reasons for the Administration's program" and recommended a host of policies, "relief from unfair trade practices" being the centerpiece.²⁶

The basic underlying rationale for the report's recommendations was a criticism of procedures under the Antidumping Act. These procedures were labeled as "too cumbersome to provide prompt relief from sudden surges of imports that might cause injury to an American industry."²⁷ On the other hand, it was contended that, if a dumping finding is in fact made, "its effect may be to staunch all imports of the product concerned."²⁸ Therefore, the report recommended that the Department of the Treasury set up a system of trigger prices, based on the full costs of production including appropriate capital charges of steel mill products by the most efficient foreign steel producers (currently the Japanese steel industry) which would be used as a basis for monitoring imports of steel into the United States and for initiating accelerated antidumping investigations with respect to imports priced below the trigger prices.²⁹

The most significant rule for determining trigger prices provided that "trigger prices will be adjusted quarterly to reflect intervening changes in costs of production components *and* in currency values."³⁰ Were it not for this provision, the whole mechanism could have been claimed to be a temporary procedural device for removing the initiative for antidumping complaints from individual firms and placing it in the hands of government. The transitory nature of the TPM was emphasized by the statement that, "when conditions warrant, the system will be terminated and the more traditional procedures restored."³¹ The acceleration of proceedings was to result from the expectation that if imports below the trigger price entered the country, the Commerce Department would initiate a formal investigation "within a matter of weeks,"³² and conclude action within 60 to 90 days, as contrasted with the more than 13 months typically required under normal procedure.³³

²⁵ The full text can be found in Report to the President: A Comprehensive Program for the Steel Industry, reprinted in *Hearings on the Administration's Comprehensive Program for the Steel Industry before the Subcommittee on Trade of the Committee on Ways and Means, 95th Cong., 2nd Sess. 3-38 (1978)* [hereinafter cited as *Hearings*].

²⁶ *Id.* at 12.

²⁷ *Id.* at 15.

²⁸ *Id.*

²⁹ *Id.* at 16 (parentheses in original).

³⁰ *Id.* at 18 (italics supplied).

³¹ *Id.* at 23.

³² *Id.* at 19.

³³ *Id.*

In exchange for the protection afforded by the TPM, U.S. producers agreed to drop their pending antidumping complaints and to refrain from filing new petitions.³⁴ The mechanism was formally installed in January 1978 and became fully operative during the second quarter of the same year. The extent to which TPM was a political compromise was demonstrated in Congressional hearings held on January 25 and 26, 1978. None of the affected parties, whether domestic producers or importers, regarded it as a solution to the steel problem.³⁵

In practice, the TPM rapidly transcended its suggested role of providing a set of "reference prices." To no economist's surprise, these reference prices became the *de facto* minimum prices. If foreign sellers wanted to avoid the risks of government intervention, they did not do business at or below these prices. As a result, during the first year of TPM's operation, overall import prices rose by about 10 per cent while defensive discounting by domestic producers slowed down considerably.³⁶

Throughout 1978 and 1979, the mechanism appeared to work as intended. By early 1980, however, its effectiveness weakened, for reasons suggested in Section IV. In March 1980, U.S. Steel Corporation broke ranks and filed an antidumping complaint against producers in five European countries. Thereafter the Administration suspended the TPM on the grounds that it could not simultaneously enforce trigger prices and prosecute individual complaints.³⁷ When it became apparent that the International Trade Commission might find injury because of sales at less than "fair value," the European Economic Community threatened retaliatory action if the United States imposed antidumping duties.³⁸

After protracted domestic and international negotiations, a revised version of the TPM was re-instituted in October of 1978, and U.S. Steel once again agreed to withdraw its complaints.³⁹ Aside from some tightening of rules and operating procedures, the mechanism remained unchanged in terms of its economic impact. However, re-institution was accompanied by a substantial increase in the mandated trigger prices. This increase seems to have been the result of bargaining rather than of any

³⁴ McCormack, *supra* note 8, at 310.

³⁵ See testimony in *Hearings*, *supra* note 22, at 43-290.

³⁶ CRANDALL, *supra* note 7, at 109-10; H. MUELLER, THE COMPETITIVENESS OF THE U.S. STEEL INDUSTRY AFTER THE NEW TRIGGER PRICE MECHANISM 1-3 (December 1980). (Monograph Series, No. 25, Business and Economic Research Center, Middle Tennessee State University); see also the data on domestic prices and trigger prices in Figure 2, below.

³⁷ CRANDALL, *supra* note 7, at 43. He also attributes the temporary "success" of the first TPM episode to the fact that during 1978-80 "the Japanese were limiting their exports to the United States to about 6 million tons a year per an apparently informal agreement with U.S. trade officials." *Id.*

³⁸ Dirlam and Mueller, *supra* note 8, at 9.

³⁹ *Id.*; See also McCormack, *supra* note 8, at 336-39.

sudden upward leap in the reference base, the Japanese costs of production.

Once more there followed a year of relative tranquility, though from the U.S. producers' viewpoint, there was no abatement of the import threat. With a worldwide slump in steel sales and widespread unemployment in many traditional steel-producing countries, this period was marked by a virtual suspension of free trade in steel throughout the industrialized world.⁴⁰ Recurrent "surges" in imports, precisely the phenomenon the TPM was supposed to prevent, kept the American industry restless. Early in November 1981, U.S. Steel again rattled the system by announcing that it would file antidumping complaints against producers in nine foreign countries.⁴¹

In an apparent effort to save the TPM and forestall individual company initiatives, the Commerce Department itself instituted antidumping investigations against five foreign countries.⁴² The effort was for naught, because in January 1982, seven American steel producers filed complaints against firms in twelve different countries. Once again the government was forced to suspend operation of the TPM, and the second episode came to an end.⁴³

IV. THE ECONOMICS AND POLITICS OF INCOMPATIBLE OBJECTIVES

The TPM, a *de facto* price-fixing scheme, was an inefficient policy tool on theoretical grounds. TPM not only failed to achieve its ultimate objective of curbing imports, but it also broke down on two separate occasions.

Given the persistence of other demonstrably inefficient government programs,⁴⁴ we may well ask why the TPM failed so dismally. A contention that the government could not both enforce an across-the-board system for assuring steel imports at "fair" prices *and* accommodate the right of individual firms to submit antidumping complaints may or may not be valid. Further McCormack⁴⁵ claims that the whole arrangement was incompatible with existing trade law. But even without discussing the specific legal implications of this particular case, ample historical evidence of the fragility of "informal" agreements, such as the steel companies' con-

⁴⁰ S.A.B. Page, *The Revival of Protectionism and Its Consequences for Europe*, 20 JOURNAL OF COMMON MARKET STUDIES 17-40 (1981).

⁴¹ No.2 *U.S. Steel to Sue 9 Nations Over Imports, Considers Billion-Dollar-Plus Purchase*, WALL ST. J., Nov. 10, 1981, at 4, col. 2.

⁴² *Complaints on Imports of Steel*, N.Y. TIMES, Nov. 5, 1981, at 3, col. 1.

⁴³ *7 Steel Firms Open War on Dumpers*, PLAIN DEALER, Jan. 12, 1982, at 1, col. 1; *Lawsuits Escalate Steel War*, PLAIN DEALER, Jan. 19, 1982, at 1.

⁴⁴ See W.S. PEIRCE, BUREAUCRATIC FAILURE AND PUBLIC EXPENDITURE 271-93 (1981).

⁴⁵ McCormack, *supra* note 8, at 329-31.

sent to abstain from antidumping action in exchange for the institution of the TPM, exists.

From the economist's perspective another interesting question remains: Why did the scheme operate with the support of the domestic firms for some period and then break down? Given the general climate of give-and-take in which the TPM seems to have been designed, it would be difficult to argue that a sudden burst of malice or frustration caused its ostensible beneficiaries to sabotage the policy.⁴⁶

One answer can be found in the inherent contradiction of the TPM's avowed objectives: to establish a floor under import prices based on the most efficient foreign producers' costs of production *and* to adjust this floor for fluctuations in the value of the U.S. dollar. The contradiction derives primarily from a simple theoretical consideration. *If* pursuit of both these objectives were taken seriously, *if* the regulating agency were able to calculate foreign costs of production accurately,⁴⁷ and *if* the regulating agency made fully compensatory adjustments for changes in the exchange rate, then the very bases for trade would be undermined. Applied to all commodities across the board, implementation of the two principles would eliminate any reasons for private parties to engage in transactions with private parties in other countries.⁴⁸

Real-life trade policy is not formulated with undue regard for simple theoretical considerations, particularly not when it comes to protecting import-competing industries.⁴⁹ The economic implications of a policy are mitigated and obscured when it is applied only to select groups of commodities. A second aspect of the TPM's inherent contradictions is the selective adjustment of import prices to compensate for exchange-rate fluctuations which lead, *ipso facto*, to a system of well-concealed multiple exchange rates. Thus, for example, an increase in the trigger price caused by the dollar's rise in the world's free exchange market is equivalent to a devaluation of the "steel-import dollar," which, however, leaves the value of the dollar unchanged for purposes of other imports. Should the princi-

⁴⁶ As I hope to show below, explanation of the steel firms' behavior also does not seem to require the assumption of a (conspiratorial?) "protectionist game plan." J. Dirlam & H. Mueller, *supra* note 8, at 10.

⁴⁷ These calculations were to be based on data supplied periodically by the Japanese Ministry of Trade and Industry. McCormack, *supra* note 8, at 304. Anyone who has attempted such calculations, especially for products with pervasive joint-cost characteristics, will view the accuracy of published figures with some sense of skepticism.

⁴⁸ The analogy with proposals for a "scientific tariff," aimed at eliminating wage differentials among countries, is striking. See KREININ, *supra* note 16, at 303-06.

⁴⁹ I want to reaffirm that I am not making an argument against protection *per se*, for which there may exist good and convincing reasons. See P. LINDERT & C. KINDLEBERGER, *supra* note 10.

ple also be applied to automobiles, machine tools, or television sets?⁵⁰ In view of virtually universal governmental interferences with steel trade, the question may appear no more than rhetorical. While the setting of an implicitly different rate for steel mill products might be shrugged off, extension of this type of protection to other import-competing industries surely would invite retaliation and perhaps even provoke economic warfare.⁵¹

Anyone familiar with patterns of governmental response to conflicting special-interest groups such as domestic producers, foreign producers and their governments, and importers, might venture some hypotheses. First, the setting of actual trigger prices soon became divorced from fluctuations in foreign costs of production and in exchange rates, and at least partially sensitive to the need to pacify vocal domestic interests while at the same time not unduly antagonizing foreign governments.⁵² Secondly, an asymmetry in the application of the TPM's dual adjustment rules was likely to develop. The steel industry would no doubt find it possible to "live with" trigger prices as long as the value of the dollar declined. Domestic producers probably would chafe under the mechanism's strictures whenever the dollar appreciated and feel that increases in trigger prices were insufficient to offset this cheapening of steel imports.

Only the record of actual price-setting deliberations could provide some clues as to how far such considerations influenced the process. Short of conducting a massive econometric test which might reveal some clear-cut patterns of behavior, one has to settle for suggestive evidence. Figure 2 shows the relevant information for one product category, hot rolled sheets in the West Coast market, one of the four differentiated regions established for purposes of setting prices under the TPM.⁵³ The diagram shows, on a quarterly basis, the evolution of U.S. quoted domestic prices and the corresponding trigger prices.⁵⁴ In addition Figure 2 also shows an "exchange-rate-adjusted trigger price," calculated to answer the question:

⁵⁰ Multiple exchange rates, whether mandated overtly or concealed in other measures, have a long-standing history as tools of economic exploitation; the system was brought to perfection by Nazi Germany, before World War II. See Y. Wu, *ECONOMIC WARFARE* 120-31 (1952).

⁵¹ The proposition has an analog on the export side: subsidies or other aids to exporting industries are equivalent to a lowering of the price of a country's currency for the commodities involved. *Id.* at 131-39.

⁵² Dirlam and Mueller, *supra* note 8, at 10-11; CRANDALL, *supra* note 7, at 1-3.

⁵³ Hot-rolled sheets are among the major product categories imported. In recent years, their volume of imports was exceeded only by that of cold-rolled sheets. See AMERICAN IRON AND STEEL INSTITUTE, *supra* note 9.

⁵⁴ Calculation of the final trigger price involves a "base price," to which import duty, transportation charges, brokerage fees, and certain other "extras" are added. For examples see, *Hearings*, *supra* note 22, at 132-36.

how would the initial trigger price, announced in January 1978,⁵⁵ have behaved over the next four years if it had been affected only by the exchange-fluctuation component of the TPM rule, by changes in the dollar/yen exchange rate?

That trigger prices and quoted domestic prices moved upward more or less in lock-step is not surprising,⁵⁶ though the direction of causation is arguable.⁵⁷ We may note parenthetically that only once, during the third quarter of 1979, was the trigger price reduced by a small amount. It probably can't be concluded that increases in the Japanese costs of production always outweighed appreciations of the dollar.

The behavior of the exchange-rate-adjusted trigger price supports this thesis. The price reflects a sharp decline of the dollar in the second half of 1978. From then until the first quarter of 1980, the dollar appreciated substantially, reducing the hypothetical trigger price to its original level. At this time, in March 1978, U.S. Steel filed the antidumping complaints that terminated the first TPM episode.

By the third quarter of 1978, the dollar had deteriorated once again, and in October of that year the TPM was re-instituted with a massive increase in the official trigger price for hot-rolled sheets, (as well as for other products). Another sharp rise followed in the second quarter of 1981. In the meantime, however, a renewed appreciation of the dollar had begun to drive the adjusted trigger price down to another low, barely above the actual trigger price of the third quarter of 1978. One more time, this was followed by the threat and then the actuality of antidumping actions that ended the second episode.

This exercise lends plausibility to the proposition that the TPM failed because it could not withstand the contradiction of its dual rules in the face of politico-economic realities. Even if all the normative arguments that can be advanced against price-fixing as a policy tool are set to one side, the conclusion that the TPM collapsed on its own terms is inevitable. The mechanism proved inadequate to the task set for it; rigid adherence to its price-setting criteria was politically unacceptable, and the actual price-setting failed to satisfy at least one of the parties. What may have looked like a workable political compromise at the outset fell down precisely because it was a compromise, in conception as well as in execution.

⁵⁵ *Id.* at 135.

⁵⁶ It has been claimed that imported steel mill products must have a price advantage of 10 per cent or better in order to be attractive to American buyers. See STATEMENT OF KURT ORBAN ON BEHALF OF AMERICAN INSTITUTE FOR IMPORTED STEEL, *Id.* at 129.

⁵⁷ If one wanted to attack the steel producers for behaving like traditional oligopolists, one would contend that they adjusted their prices so as to stay ahead of the triggers. If one wanted to attack the government for being a political pawn of the steel industry, one would suggest that triggers were adjusted upward so as to keep pace with domestic price increases.

V. CONCLUSION

Steel is an essential input for many of America's manufacturing industries. In addition, the fortunes of the integrated large-scale producers, whose plants are heavily concentrated in a few of the country's regions, are not a matter of political indifference to an elected government and its bureaucracy. Thus, the special attention steel has received over the past decade and a half is understandable, in economic as well as political terms.

Of the various policy tools developed to protect the industry against import competition, the TPM proved shortest-lived and least effective. Its failure may be attributed to the fact that the TPM depended on the consensus of one of the affected parties, who had legal access to alternative forms of redress. When the inherent contradictions in TPM's key rule, the price-adjustment rule, forced the government to walk a thin line between allaying domestic interests and not antagonizing foreign governments, compromise solutions to the pricing problem resulted. When the compromise solutions failed to satisfy the domestic producers, the system broke down. A truly effective policy for sheltering the industry without stifling all competition and innovative effort has yet to be found.⁵⁸

⁵⁸ The steel industry, through its trade association, has offered a rationale for its decision once again to rely on traditional antidumping action instead of the TPM. The American Iron and Steel Institute cites "the 'intolerable' increase in U.S. imports of dumped and subsidized steel," which are the result of foreign countries' attempts at "exporting their own unemployment to the United States." Furthermore, it is claimed that efforts of U.S. government officials to receive assurances from the European Economic Community of "efforts to restrain U.S. trade law violations by their steel industries . . . were thought by U.S. industry leaders to be unreliable in view of the history of European steel trade practices." See *Steel Companies File Trade Complaints*, 1 STEEL '82 1-2 (February 1982). This statement, which reached me after I had written my paper, reinforces my conclusions.

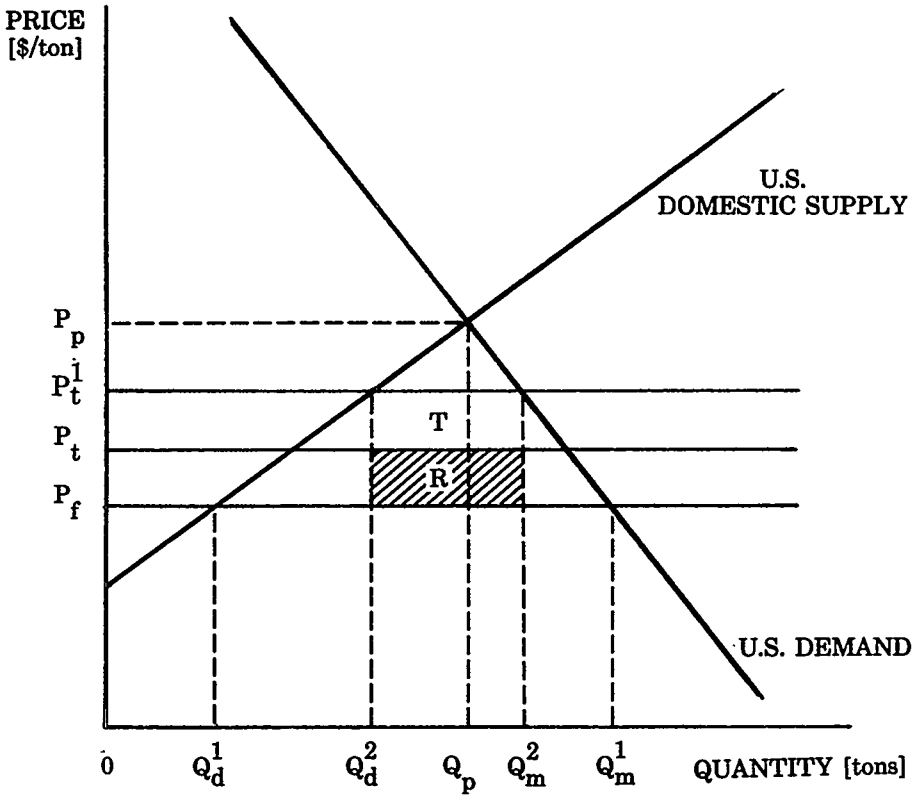


FIGURE 1. ECONOMIC EFFECTS OF A TRIGGER PRICE AND TARIFF ON THE DOMESTIC MARKET.

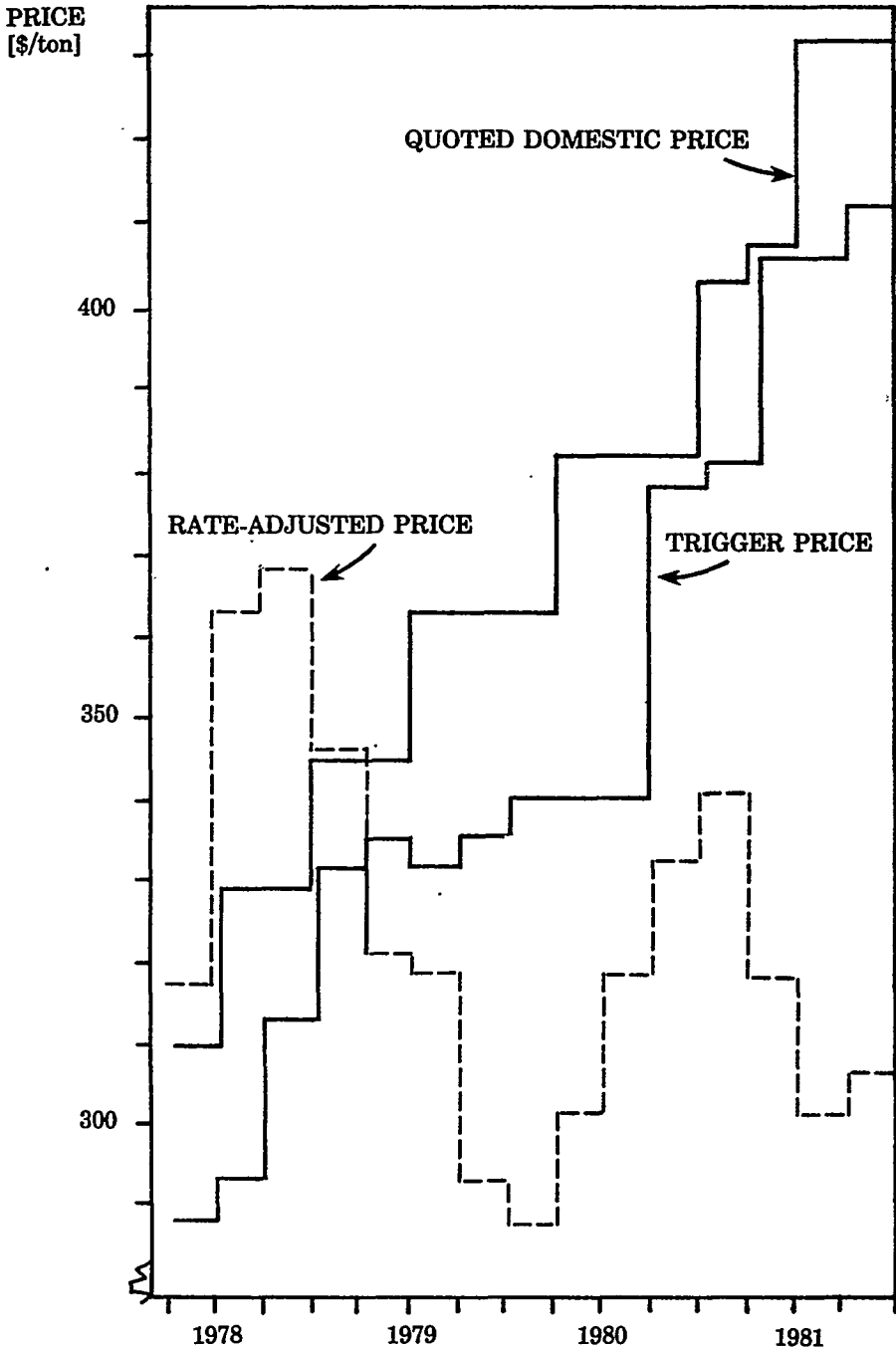


FIGURE 2. QUOTED DOMESTIC PRICES, TRIGGER PRICES, AND EXCHANGE-RATE-ADJUSTED TRIGGER PRICES FOR HOT-ROLLED SHEETS (WEST COAST), 1978-1981.

[QUARTERLY AVERAGES]

Sources: METAL STATISTICS 187 (1981); FEDERAL RESERVE BULLETIN (var. issues); STEEL INDUSTRY QUARTERLY (var. issues); *Hearings, supra* note 22,

