THE WALL STREET JOURNAL. ONLINE

April 6, 2005

REVIEW & OUTLOOK

The Byrd Boomerang

April 6, 2005

To his many other achievements in 46 Senate years, West Virginia's Robert C. Byrd can now add one more: He is responsible for hammering U.S. exports with higher prices in Europe and Canada. Those nations announced last week that they will soon smack thousands of American products with a 15% tariff in retaliation for the U.S. protectionist rule known as the Byrd Amendment.

That's the law that lets domestic businesses collect the tariffs that the U.S. government imposes on foreign competitors. The World Trade Organization has ruled it illegal, and so the European Union and our neighbors to the north have every right to retaliate against American goods until Congress repeals this Byrd brainstorm. The problem is that the Amendment has become a giant cash transfer program for American business.

Take the Timken Company, the ball-bearing maker that raked in some $52.7 million last year as the Amendment's biggest corporate beneficiary. This gives Timken every incentive to hire trade lawyers to file anti-"dumping" suits in order to receive protectionist winnings. We suppose that qualifies as a return on investment, of a kind, but it doesn't say much for corporate competitiveness.

Protectionist Windfall

Top 10 Byrd Amendment Distributions, Fiscal Year 2004

COMPANY	INDUSTRY	DISTRIBUTION (In millons)
The Timken Company	Bearings	$52.7
Lancaster Colony Corp.	Candies	26.2
MPB Corporation	Bearings	13.2
Micron Technology	DRAMS	12.0
Emerson Power Transmission Corp.	Bearings	11.6
International Steel Group	Steel products	10.4
Home Fragrance Holdings	Candles	8.4
Wellman	Polyester staple fibers	7.9
United States Steel Corp.	Steel products	7.1
AK Steel	Steel products	6.8

Top 10 Byrd Amendment Categories, Fiscal Year 2004

DISTRIBUTION

As the nearby table shows, plenty of companies in numerous industries are getting in on this act. Forty-four companies collected at least $1 million in Byrd duties last year, and the total corporate take was $284.1 million. From 2001 through 2004, this protectionist windfall was $1.04 billion.

Anti-dumping cases have been around for decades, and the first duties were imposed on foreign ball bearings in the late 1980s. These were bad enough, since products "dumped" in the U.S. have typically been defined as any with a price lower than a competing American-made good. The Commerce Department would slap duties on the foreign goods, raising consumer prices and the domestic maker's profits.

But with the Byrd Amendment, anti-dumping suits have become a kind of self-perpetuating payola. Senator Mike DeWine (R., Ohio) introduced the idea in 2000, but it never made it out of committee. Then Mr. Byrd took the DeWine language and snuck it into an appropriations bill later that same year without any debate.

Now when U.S. businesses win anti-dumping complaints, they benefit both from the higher prices they can charge for their goods and from the tariffs paid by foreign competitors. Of course, those foreign companies merely pass along the cost of those tariffs in higher prices for their U.S. customers. So Timken's $52.7 million Byrd windfall is really an income transfer to Timken shareholders and executives from ball bearing users.

More broadly, this payola has encouraged more U.S. companies to file more anti-dumping suits. According to the WTO, as recently as 1997 only 15 anti-dumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since Byrd took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Meanwhile, foreign countries have taken note and are filing more of their own anti-dumping suits against foreign (including American) goods. India had only six anti-dumping cases in 1995. By 2001 it had 79, followed by 81 in 2002 and another 46 in 2003. And now come the foreign retaliatory tariffs on U.S. exports -- including paper products, farm goods, textiles and machinery. These will hurt globally competitive U.S. businesses in order to protect Mr. Byrd's less efficient constituents. In trade politics, the first protectionist blow is never the last one.

President Bush wants Congress to repeal the Byrd Amendment, but so far the Members have been hearing mainly from the corporate-welfare constituency that wants to sustain it. Let's hope they start hearing from the export companies and workers who will now lose their jobs because of Mr. Byrd's boomerang.

URL for this article:
http://online.wsj.com/article/0,,SB111274732189999045,00.html