

Committee on Ways and Means

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GAO Questions Effectiveness of CDSOA/“Byrd Amendment” *Law Provides Windfall Subsidies to a Handful of Large Corporations*

WASHINGTON – A long-awaited Government Accountability Office (GAO) study released today on the effectiveness of the Continued Dumping and Subsidy Offset Act (CDSOA), also known as the “Byrd Amendment,” revealed that the subsidy program is not an effective trade remedy for U.S. companies injured by unfair trade.

The GAO report shows that nearly half of the \$1 billion in CDSOA payments have gone to only five companies. Two-thirds of all payments have gone to only three industries: bearings, candles, and steel. Furthermore, it notes that the World Trade Organization (WTO) has ruled that the CDSOA is inconsistent with international trade obligations, and trading partners have been authorized to retaliate against U.S. exports. Thus far, Canada, the European Union, Japan, and Mexico have imposed retaliation totaling almost \$115 million against a variety of U.S. exports.

“This report shows that the CDSOA does not achieve the stated goal of strengthening trade relief to injured U.S. petitioners,” said Ways and Means Chairman Bill Thomas (R-CA). “The GAO lays out the facts showing that, instead, the CDSOA has provided windfall subsidies to a handful of large corporations while other U.S. companies are paying the price. The GAO report provides objective analysis regarding the ineffective operation of the CDSOA and the extreme misuse of taxpayer dollars.”

Chairman Thomas continued, “The WTO has authorized our trading partners to retaliate against U.S. exports, such as California wine, agriculture, and dairy products, and producers of these targeted exports are innocent victims harmed by the CDSOA. Furthermore, the United States’ continued non-compliance with the WTO ruling on the CDSOA makes it difficult for U.S. negotiators to pursue an affirmative agenda to open up export markets and reduce trade-distorting subsidies in the ongoing WTO negotiations.”

Ways and Means Trade Subcommittee Chairman Clay Shaw (R-FL) and Oversight Subcommittee Chairman Jim Ramstad (R-MN) requested the GAO study to assist Congress in its oversight of international trade and expenditures of government funds.

“The GAO report reveals that the CDSOA has created a Millionaires’ Club of very few corporations which receive tens to hundreds of millions of dollars. The report recognizes that domestic competitors of these lucky recipients are harmed by this unfair and unwarranted subsidy,” said Ways and Means Trade Subcommittee Chairman Clay Shaw (R-FL). “The CDSOA does not require recipients to use the money to create new jobs in the United States. In fact, the opposite has occurred as some CDSOA recipients have closed down U.S. facilities and laid off U.S. workers – the GAO even found that ‘several’ used the money for personal expenses.”

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The CDSOA was enacted by slipping the provision into an agricultural appropriations bill in 2000. The CDSOA did not go through the regular legislative process, and the committee of jurisdiction was not able to evaluate the implications of the provision. As revealed by the GAO today, the result is bad government policy and unfortunate consequences for many domestic manufacturers and industrial users.

“The GAO carefully examined the implementation of the CDSOA and confirmed that there is no regular verification of claimed expenses. The one time that regulators comprehensively audited expenses claimed under the CDSOA, they found significant problems,” said Ways and Means Oversight Subcommittee Chairman Jim Ramstad (R-MN). “In addition, the report shows that the CDSOA does not require that companies use CDSOA payments for any specific purpose. The GAO study revealed that one recipient even used CDSOA money to pay off a home mortgage, further exposing this flawed law as a taxpayer-financed slush fund for a few lucky recipients,” said Chairman Ramstad.

While U.S. companies and workers injured by unfair trade might need assistance, the GAO’s findings make clear that the CDSOA is not the solution. The GAO study, entitled “Issues and Effects of Implementing the Continued Dumping and Subsidy Offset Act,” will be available after noon today at: www.gao.gov/cgi-bin/getrpt?GAO-05-979.

A Ways and Means summary of the GAO report follows:

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Summary of GAO's Findings on the Continued Dumping and Subsidy Offset Act (CDSOA)

- More than \$1 billion of CDSOA funds have been disbursed to a small number of U.S. companies.
- Since the inception of CDSOA (FY2001), five companies have received 46 percent of all payments.
 - Timken (\$205 million, or \$395 million with Torrington and MPB monies)
 - Torrington (\$135 million, owned by Timken)
 - Candle-light (\$57 million)
 - MPB (\$55 million, owned by Timken)
 - Zenith (\$33 million)
- Two-thirds of all payments went to three industries: bearings, candles, and steel.
- CDSOA does not provide a “trade remedy” in the traditional sense because it is not available to all companies; many domestic producers impacted by dumped or subsidized imports are ineligible to receive funds because they did not formally and publicly support the petition that resulted in the duties.
 - Two-thirds of dumping and CVD orders for which CDSOA payments are made precede CDSOA, and companies did not know they needed to support the petition to collect money.
- Customs and Border Patrol disburses payments to recipient companies based on claims for “qualifying expenditures,” but it does not routinely verify company claims. Instead it relies on industry competitors to bring the truth to light.
 - To date, CBP has verified a handful of claimants, with one in-depth verification in which it found significant problems, including substantial overstatement of claimed expenses.
- CDSOA’s pro-rata mechanism to disburse money creates incentive for companies to inflate claims. As a result, claims for qualifying expenditures in FY2004 were just under \$2 trillion dollars.
- The CDSOA law requires payments be made within 60 days of the end of the fiscal year. This timeframe doesn’t give CBP sufficient time to appropriately analyze claims and, as a result, some recipients have been overpaid. Collecting these overpayments is difficult.
- The number of claims for CDSOA funds is growing exponentially. In FY2004, 1,960 claims were filed. CBP estimates that almost 30,000 claims will be filed for FY2005 (due to the recent dumping order on shrimp).
- Eleven WTO members successfully challenged the CDSOA in the WTO, and eight complainants have been authorized to retaliate up to \$134 million.
 - Canada, EU, Japan, and Mexico have retaliated against a variety of U.S. exports, including: wine, dairy, chewing gum, textiles and apparel, paper products, frozen corn, sports footwear, hand drills, crane lorries, eyeglass frames, plastic furniture, photocopying machines, prefabricated buildings, mobile homes, ball point pens, live swine, ornamental fish, oysters, certain cigarettes, certain fish, ball bearings, flat rolled steel, navigational instruments, machinery accessories, printing machines, forklift trucks, and industrial belts.