

Companies in Missouri join effort to limit Chinese 'dumping'

BY BILL LAMBRECHT

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File photo – Containers are piled up on a dockyard in Nanjing in east China's Jiangsu province. (AP)

WASHINGTON • Officials at Mid Continent Nail Corp. of Poplar Bluff, Mo., rejoiced in 2008 when the U.S. International Trade Commission ruled that Chinese companies were harming American businesses by dumping cheaply made nails, breaking laws that guard against unfair trade.

The Commerce Department followed up by ordering tariffs that in some cases would double the cost of the Chinese nails and discourage their importing. Mid Continent expected a boon to its business of distributing nails for home and industrial use.

But those Chinese nails kept coming. So, after spending more than \$1 million to win the case, Mid Continent, a family-owned business employing 300 people, invested another \$75,000 to hire private detectives to find out what was happening.

The detectives discovered that Chinese manufacturers were sending their nails to Korea and Taiwan, where they were reboxed and shipped on to the United States. In some cases, manufacturers in China merely packaged the nails in boxes marked "Made in Taiwan" before shipping to the United States.

A lawyer in Washington for Mid Continent showed the Post-Dispatch "Made in Taiwan" nail boxes that investigators brought back from China — evidence the company turned over to U.S. Customs and Border Protection.

Yet nothing has changed, says Mid Continent president David Libla.

Customs officials "basically turn their heads. They say they don't have the resources or they don't have the time. They say they can't do this, can't do that," he said. "We spend all that money to win the case and then assemble the truth, and our government lets the Chinese get by."

FAMILIAR RESULT

Libla's experience has become familiar to American companies: After winning trade cases that cost them dearly, Customs fails to collect the duties and give them the protection that the law requires. Customs officials say the task is almost impossible, and they are doing the best they can.

Missouri is at the center of a growing coalition of companies such as Mid Continent that are pressing President Barack Obama's administration and Congress to get tough on the Chinese. An alliance that sprang up in 2009 has grown to 12 industries from around the country — from nails and bed springs to shrimp and honey.

American companies have many vexing trade issues with China, where inexpensive labor, government subsidies and predatory pricing can prove lethal to competitors. Companies like Mid Continent turn to the government's International Trade Commission when they see evidence of "dumping" — exporting products at artificially low prices in hopes of killing the competition. If companies prove allegations of dumping or unfair subsidies, the Commerce Department orders duties to bring prices on imported goods in line with the cost of U.S.-made goods.

But Chinese manufacturers routinely evade the duties by shipping through third countries in schemes that Customs officials often are slow to unravel. That translates to Chinese products flowing illegally into U.S. markets, American jobs lost and hundreds of millions of dollars in uncollected duties.

From mid-2008 through December, Customs and Border Protection — part of the Homeland Security Department — received some 300 complaints about evasion of duties, according to congressional sources. But a relatively modest \$13 million was assessed in fraud penalties last year, with just \$117,000 collected so far.

MILLIONS UNCOLLECTED

The Government Accountability Office reported in 2008 that more than \$600 million in duties — 90 percent related to Chinese goods — remained uncollected over six years. The GAO study added that the likelihood of collecting all that money was slim because companies under investigation often disappear.

M&B Metal Products, a manufacturer in Alabama of wire coat hangers, joined the Missouri companies in the fight for enforcement. Milton Magnus, president of the company, estimates that uncollected duties on Chinese hangers alone last year exceeded \$50 million.

FIGHTING FOR FAIR TRADE

American companies representing several industries have won trade cases involving Chinese imports but contend that the U.S. government doesn't enforce the remedies by collecting duties on the goods. Some examples:

Nails • Mid Continent Nail of Poplar Bluff says tons of Chinese-made nails pour into the United States through third countries, evading U.S. law and costing jobs.

Bedsprings • Leggett & Platt of Carthage has tracked innersprings shipped illegally to the U.S. through Hong Kong and Malaysia since winning its trade case in 2008.

Hangers • One of the last American hanger plants, M&B Metal Products of Alabama, says that Customs failed to collect \$50 million in duties last year on imported Chinese hangers.

Honey • At least 20 people have been indicted in schemes to import Chinese honey fraudulently, a success story in the fight against unfair trade.

Shrimp • Chinese began shipping through Malaysia after American shrimpers won a case. In 2009, China sent 40.37 million pounds of shrimp to Malaysia; Malaysia sent 40.38 million pounds to the U.S.

Wire • American Spring Wire of Ohio has seen "mysterious" imports of construction wire from other countries since winning its case against China in 2009.

His company won its trade case in 2008 while competition from Chinese companies was devastating the American hanger industry. Two hanger plants were shuttered in western Missouri and another, in the hard-pressed Southern Illinois town of Metropolis, closed its doors in 2006.

Magnus said his company is working at 60 percent of capacity and trade figures show why: More than 1.3 billion hangers reached the United States last year from Malaysia, Taiwan, Vietnam and South Korea, Magnus said. He estimates that 800 million of them were manufactured in China and shipped through other countries.

He produced e-mails from Chinese manufacturers to American distributors offering ways to avoid the duties by shipping through other countries. He has given those e-mails and other evidence obtained by investigators to Customs officials and was told they are looking into the matter.

Collecting the duties, Magnus said "would put a lot of people to work" in the United States.

At Leggett & Platt Inc., a maker of innersprings for beds since 1883, collecting duties would translate to enough additional sales to add 60 full-time jobs, company officials say.

After Leggett & Platt, based in Carthage, Mo., filed its trade case in 2007, investigators received false information and little cooperation from Chinese manufacturers, their reports show. In 2008, the six-member commission voted unanimously that the domestic industry had been injured and the government imposed duties that in some cases would triple the imports' cost.

'WE HAVE A LIVE FISH'

At first, sales of Leggett's bedsprings — for everything from baby cribs to king-sized mattresses — increased. It looked as though the system had worked. But the Missouri company soon noticed bedsprings arriving from Hong Kong, where none had come from before, and later from Malaysia.

In Hong Kong, private investigators hired by the company found an empty building and a tiny factory with two nonworking assembly machines — supposedly the sources of tens of thousands of bedsprings arriving in the United States.

Leggett & Platt estimates that \$50 million in duties went uncollected last year on some 900,000 Chinese-made imports.

The company has turned over investigative reports, shipping documents and videos to Customs. Last month, company officials traveled to Washington with fresh evidence of illegal shipments, along with names of people willing to testify to having witnessed fraud.

"We have a live fish on the line," remarked Wendy Watson, Leggett & Platt's associate general counsel.

The company hasn't heard back.

"It gets worse all the time," Watson said. "From a cheater's perspective, success breeds success."

In interviews, Customs officials insisted they are working diligently to collect duties — but described challenges akin to chasing ships in the fog.

"It's very easy to find someone willing to trans-ship for you," said Brian Lewandowski, director of the commercial targeting division in the Customs trade office.

Investigators, he said, often run into trouble getting cooperation from foreign governments. Then, he added, both the foreign company and the U.S. importer can disappear "even before we have a chance to look at them. And depending on the commodity, they can re-emerge under new names."

Chinese companies are increasingly open about their willingness to evade U.S. Customs law.

One of them, Hanhen Shipping, based in the Chinese port city of Shenzhen, advertises "triangular" shipping — routing products through a third country.

"According to traders' demands in commercial interests and import tariff reduction, we provide BL (bills of lading) switch for triangular trade, etc. in order to protect the interests of traders and save tariff expenses," Hahnen's Internet ad reads.

FINDING 'TRADE CHEATS'

The flouting of U.S. law has received far less attention in Congress than other trade issues with China. So in November, at the urging of Missouri companies, Sen. Ron Wyden, D-Ore., who heads a Senate subcommittee on trade, set out to find "trade cheats."

Wyden's staff members, portraying themselves as the fictitious company AvisOne Traders Inc., received 47 responses when they contacted companies stating the desire to avoid paying the trade duties. Of those, ten Chinese companies provided written confirmation of their willingness to help AvisOne evade duties on several products — including nails and bedsprings.

Wyden said in an interview that he intends to hold a congressional hearing on the problem shortly and introduce legislation to force the U.S. government to act more swiftly on allegations of fraud.

"There are two key agencies dealing with this issue. One of them, Customs, in my view treats allegations of evasion of duties like junk mail. The other, ICE (Immigration and Customs Enforcement) is more interested in stopping illegal downloads of music than taking steps to protect tens of thousands of manufacturing jobs," he said.

Despite the complaints, Customs' international trade office has scored successes. Earlier this month, a California man pleaded guilty after being indicted on federal charges of trying to circumvent trade duties imposed on Chinese-made hangers. An associate pleaded guilty earlier.

Chinese honey has drawn the most attention from authorities. Last month, a Chinese agent for several companies was arrested on federal charges filed in Chicago that she allegedly avoiding \$534,000 in duties on Chinese honey from South Korea, Taiwan and Thailand. The woman had worked with

another Chinese national sentenced to 30 months in prison in November for avoiding \$5 million in duties.

The U.S. Attorney's office in Chicago thus far has charged 20 people or companies in the honey fraud importation ring.

"We've seen CBP really step up to the plate," said Jill Clark, of Dutch Gold Honey Inc., an industry leader in Pennsylvania and a partner with the Missouri companies.

Others in the coalition say that successes are few. One of their lawyers asserted that Customs is intent on long-term investigations leading to "perp walks" rather than focusing on the constant flow of fraudulent goods.

Don Yando, executive director for commercial targeting and enforcement in Customs' trade office, described the complexity both in the rooting out the fraud and in communicating with victims. During investigations, he said, the government is prohibited from talking to companies about what actions are being taken.

"I can understand that industry may perceive that we're not doing anything," he said.

But with those Chinese nails still flooding American markets, Mid Continent's David Libla said he wants action, not understanding.

"His understanding isn't going to help our hourly employees and our pocketbooks," he said. "It's incomprehensible to me that our government is so weak-kneed that they're letting China run over us like this."

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