

United States Senate

WASHINGTON, DC 20510

January 16, 2007

Honorable Carlos Gutierrez
Secretary of Commerce
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, DC 20230

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IMPORT ADMINISTRATION

Re: Application of the Countervailing Duty Law to Imports from the People's Republic of China -- Request for Comment

Dear Mr. Secretary:

We are writing in response to your agency's request for public comment on the issue of whether the U.S. countervailing duty law should apply to imports from the People's Republic of China. (71 F.R. 75507, December 15, 2006). We believe firmly that the countervailing duty ("CVD") law should be applied to China, and that the Department of Commerce possesses the legal authority to do so. In fact, the non-application of the CVD law to China means that non-market economies like China, which subsidize their industries most heavily and which cause the greatest injury to U.S. manufacturers and workers, are exempt from the reach of American anti-subsidy remedies. This makes no sense and is ultimately unfair to our other trading partners to whom both the antidumping and countervailing duty laws apply.

It is essential that American manufacturers, farmers and workers have all the tools at their disposal to deal with unfair trade practices in China. China's trade surplus with the United States continues to explode, fueled in large part by subsidies provided by the Chinese government to favored industries in China. As Chinese exports have grown, the impact of unfair government subsidies on the U.S. economy has increased.

Many recent U.S. government reports have noted the problems that result from Chinese subsidies. For example, in its 2006 Report to Congress, the U.S.-China Economic and Security Review Commission noted, "China has a centralized industrial policy that employs a wide variety of tools to promote favored industries. In particular, China has used a range of subsidies to encourage the manufacture of goods meant for export over the manufacture of goods meant for domestic consumption, and to secure foreign investment in the manufacturing sector." Similar conclusions are contained in the United States Trade Representative's 2006 Report to Congress, which concludes, "China continues to pursue problematic industrial policies that rely on trade-distorting measures such as local content requirements, import and export restrictions, discriminatory regulations and prohibited subsidies, all of which raise serious WTO concerns...."

The countervailing duty statute on its face in no way limits the application of the CVD law to any country. There is nothing in the countervailing duty provisions per se, or anywhere else in the statute, that limits the broad language applying CVD remedies to every "country." It appears, therefore, that CVD remedies apply equally to imports from all countries, including China. We have introduced legislation in the last two sessions of Congress to clarify our position that countervailing duty measures can and should be enforced against countries with non-market economies. In the 109th Congress, S. 593 enjoyed the sponsorship of 27 senators.

China joined the World Trade Organization in 2001. In its accession protocol, China explicitly agreed that it would be subject to the subsidy disciplines of other member countries. In fact, it agreed to specific provisions in Article 15 of the protocol which permit WTO countries to use alternative benchmarks for measuring subsidies in China. Now, it is time to hold China accountable to these commitments.

In conclusion, we urge you to apply the CVD law to imports from the People's Republic of China, and that you do so in the context of the current investigation covering imports of Coated Free Sheet Paper from the People's Republic of China. We look forward to working with you to ensure that this occurs.

Sincerely,

Susan Collins

Ernie Boyle

Olympia Snowe

Dick Durbin

Robert A. Menendez

Jeff Sessions

George V. Voinovich

Paul Coburn

Chuck Schum
