

# **BIPARTISAN GROUP OF SENATORS PRODS OBAMA ADMINISTRATION TO PURSUE ALLEGATIONS THAT CHINA'S CURRENCY MANIPULATION IS SUBSIDY HARMING U.S. PAPER INDUSTRY—CASE COULD OPEN DOOR TO CRACKDOWN ON CURRENCY MANIPULATION**

*In Letter To Commerce Sec Gary Locke, 15 Senators Urge That  
Commerce Dept. Finally Move Forward On Subsidy Investigation*

*Numerous U.S. Industries Have Alleged That China's Currency  
Manipulation Is An Unfair Subsidy That Is Causing Them  
Economic Harm – Case Regarding Paper Industry Currently  
Sitting Before Commerce Department Could Be First Step In Much  
Wider Action Against China*

*Should Commerce Dept. Decide To Investigate China Currency  
Manipulation As Subsidy That Affects U.S. Paper Industry,  
Findings Could Be Cited In Effect On Many Other Domestic  
Industries*

**WASHINGTON, DC**—Today, a bipartisan group of 15 U.S. senators announced it is urging the U.S. Department of Commerce to finally move forward with an investigation of China's currency manipulation. Senators Charles E. Schumer (D-NY) and Lindsey Graham (R-SC), joined by 13 of their colleagues from both sides of the aisle, sent a letter urging Commerce Secretary Gary Locke to launch an investigation into the U.S. manufacturing industry's allegations that China's actions with respect to its currency constitute a countervailable subsidy. The letter comes after numerous claims by U.S. manufacturers that China subsidizes its export-oriented companies through currency practices that result in economic harm to U.S. companies forced to compete with subsidized Chinese imports.

The letter has been signed by Robert Byrd (D-WV), Carl Levin (D-MI), Barbara Mikulski (D-MD), Russ Feingold (D-WI), Olympia Snowe (R-ME), Susan Collins (R-ME), Sam Brownback (R-KS), Jim Bunning (R-KY), Debbie Stabenow (D-MI), Ben Cardin (D-MD), Sherrod Brown (D-OH), Bob Casey (D-PA) and Arlen Specter (D-PA).

“There can be no doubt that China’s policy of large-scale intervention in the exchange markets and the significant undervaluation of its currency acts as a subsidy to Chinese exports to the United States. We respectfully urge the Department to properly assess the most recent allegation that China’s manipulation of its currency is a countervailable subsidy,” the senators wrote.

The Commerce Department is tasked with investigating certain unfair trade practices, including foreign government subsidization of products exported to the United States. If Commerce determines that imported products are subsidized, and if the International Trade Commission finds that the U.S. industry making the like product is economically harmed by the subsidized imports, Commerce will order the imposition of additional duties on those imports. Subsidization is considered to be an unfair trade practice under World Trade Organization rules because it distorts trade, allowing foreign manufacturers to sell products in the U.S. market at artificially low, subsidized prices, thus undercutting and causing economic harm to domestic manufacturers.

The letter references an ongoing Commerce Department investigation involving subsidized exports of Chinese paper products and the effect such subsidies, including China’s currency manipulation, are having on the U.S. domestic paper industry. The letter focuses on the paper case because experts believe that the domestic industry in that case has provided sufficient evidence such that the Commerce Department is required by law to investigate whether China’s currency manipulation is a countervailable subsidy. If Commerce agrees to investigate the Chinese government’s actions on currency in this particular case, the results of that investigation could then be cited in other cases alleging that currency manipulation is a subsidy. This could ultimately lead to a situation where duties are placed on a wide range of Chinese products and ultimately cause the Chinese government to reform its currency practices.

The Commerce Department has investigated or is investigating subsidy allegations involving China in about a dozen cases involving products ranging from steel pipe and wire to various chemicals.

China’s practice of devaluing its currency has long been a sticking point in relations between our two countries. For over a decade, China has been making promises that it would change its currency policy, yet time and time again China has altered its currency to give its manufacturers an unfair advantage over other manufacturers throughout the world, particularly in the U.S.

Around mid-July 2008, China abandoned any pretense of letting its currency appreciate. After a few years of modest progress, China’s government, once again, fixed the value of its currency, the yuan, against the dollar and walked away from its commitments to reform its currency policies. The result is continued undervaluation of China’s currency – by some estimates as much as 40 percent – and serious economic harm to U.S. manufacturers forced to compete against subsidized Chinese imports.

In a November 19, 2009, letter to the Commerce Department, Senators Schumer and Graham urged the Department to fully investigate allegations that China’s currency

manipulation is a countervailable subsidy. In a December response to Schumer and Graham's initial letter, the Commerce Department assured the senators that subsidy allegations involving China's currency practices would be assessed "no differently than any other subsidy allegation." The lack of action on this issue by the Commerce Department suggests otherwise. Right now, U.S. manufacturers have filed at least 12 allegations that the Chinese government is actively engaged in keeping the value of its currency artificially low to promote the growth of export-oriented industries, and the Commerce Department has yet to even investigate. The senators said that launching an investigation in the paper case could end up cracking the problem wide open, and lead to widespread penalties against china for currency manipulation.

**Senator Charles E. Schumer said:** "The bedrock of our economic system is fairness and China's currency practices violate that principle in every single way. Workers across the country are losing their jobs because of what China's doing, and it is past time that the Commerce Department properly consider domestic industries' repeated allegations and launch an investigation. The Commerce Department has yet to take this issue seriously and we must keep pressing the agency until it does the right thing and declares that China is manipulating its currency to put U.S. manufacturers at a disadvantage."

**Senator Lindsey Graham said:** "I am convinced that the Chinese government manipulates its currency in a manner that creates an unfair advantage for Chinese companies competing with the United States and the rest of the world. Because the Yuan is artificially devalued by 15-40 percent below its true market value, American companies are losing market share for an unacceptable reason."

**Senator Robert Byrd said:** "An investigation of Chinese currency manipulation as a countervailing trade subsidy makes sense. Any unfair subsidies puts US manufacturers at a disadvantage in the world marketplace, and currency manipulation should be an integral component of these investigations."

**Senator Carl Levin said:** "At a time when our industries are struggling to grow, we must do everything we can to support fair trade practices and fight for American jobs. Our government is long overdue to take seriously China's currency manipulation and the negative impact it has on American companies that are forced to compete with foreign companies whose products cost less because they are being unfairly subsidized by their governments. "

**Senator Barbara Mikulski said:** "I will always fight for American and Maryland workers. Today we are standing up against unfair and predatory international trade practices that are forcing US companies to compete on an uneven playing field. This is making it harder for NewPage Paper, a major employer in my state, to support good jobs at good wages. During these tough economic times, making it harder for American companies to provide American jobs is unacceptable and the Commerce Department must take every step to address illegal trading practices that are hurting American jobs and American families. No one in America should lose a job because other countries aren't playing by the rules."

**Senator Russ Feingold said:** “Our trade agreements with China have been devastating for Wisconsin manufacturers and have contributed to tens of thousands of jobs leaving the state. China’s manipulation of its currency puts American manufacturers at a huge disadvantage. American businesses deserve a fair playing field and our government needs to take seriously these unfair practices that have been hurting our national, state and local economies for years.”

**Senator Olympia Snowe said:** “China's currency manipulation is one of the most destabilizing components in the global trading system, making Chinese imports artificially cheaper vis-à-vis competing U.S. goods and, as a result, putting domestic manufacturers at a significant disadvantage,” said Senator Snowe. “It is imperative that our government act swiftly not only to enforce current trade laws but also to implement new policies to guarantee American businesses have access to the tools they need to fully compete in the global market.”

**Senator Susan Collins said:** “This is a critical issue for numerous industries, including paper producers in Maine. The Chinese yuan is pegged to the U.S. dollar at artificially low levels. As a result, China is able to undervalue the prices of its exports. Not only does this practice provide Chinese producers with a price advantage, but it is a clear subsidy. Our letter requests that the Department of Commerce consider the continuing allegations.”

**Senator Jim Bunning said:** “Everyone knows that China is keeping its currency low to promote exports and keep its markets closed. Unchecked, China’s massive intervention in currency markets is a direct threat to our economic future and to the global economy. The administration must act now to save the jobs of America’s working families by declaring China a currency manipulator.”

**Senator Debbie Stabenow said:** “Manufacturers in Michigan face many challenges during these difficult economic times, but one of the largest challenges they face is competing against Chinese manufacturers who are subsidized by China’s undervalued currency. This letter makes it clear that the Commerce Department can and must address this practice under the countervailing duty law. If it chooses not to, I will encourage my colleagues to pass my bill the Currency Reform for Fair Trade Act.”

**Senator Sherrod Brown said:** “We cannot allow Chinese currency manipulation to undermine our economic development and shutter our factories. China’s currency manipulation enables Chinese paper producers to undersell U.S. companies, including Appleton in West Carrollton, Ohio. As a result, paper workers have lost jobs and communities have been forced to deal with plant closures. I urge the Commerce Department to initiate an investigation on China’s currency practices.”

**Senator Bob Casey said:** “Part of our short- and long-term job growth strategy has to be creating a level playing field for American workers and American companies. The Commerce Department has an obligation to target China's unfair advantage that is costing Pennsylvania jobs and increasing our trade deficit.”

**Senator Arlen Specter said:** “We have lost 2.3 million jobs from 2001 and 2007 as a result of the trade imbalance with China, due in no small part to the fact that China continues to manipulate its currency. The Commerce Department has an obligation to investigate allegations of currency manipulation so we can stop this form of international banditry and help our domestic manufacturers.”

A copy of the letter appears below.

###

The Honorable Gary Locke  
Secretary of Commerce  
1401 Constitution Avenue, NW  
Washington, DC 20230

Dear Secretary Locke,

We write to express our serious concern that the Commerce Department has failed to properly consider allegations that China’s manipulation of its currency is a countervailable subsidy. U.S. manufacturers have filed at least 12 allegations – most recently on January 13 in the Coated Paper investigation – that the Chinese government is actively engaged in keeping the value of its currency artificially low to promote the growth of export-oriented industries. We urge the Department to properly consider the allegation and the information provided by petitioners in determining whether to investigate China’s actions.

Around mid-July 2008, China abandoned any pretense of letting its currency appreciate. After a few years of modest progress, China’s government, once again, has fixed the value of yuan against the dollar and walked away from its commitments to reform its currency policies. The result is continued undervaluation of China’s currency – by some estimates as much as 40 percent – and serious economic harm to U.S. manufacturers forced to compete against subsidized Chinese imports.

For example, the value of China’s paper and paperboard exports to the United States increased by 21 percent between 2006 and 2008, jumping from \$1.9 billion to \$2.3 billion. The dramatic increase in exports is due in large part to substantial Chinese government subsidies. Those government subsidies include China’s continued devaluation of its currency vis-à-vis the U.S. dollar, a government policy designed to promote and fuel continued growth in export-oriented industries. As senators from key paper product-producing states, we are very concerned that domestic paper manufacturers and paper industry workers are substantially harmed by subsidized Chinese imports.

China’s mercantilist policies are undermining the health of many U.S. industries – industries that inject billions of dollars into the U.S. economy and employ hundreds of thousands of American workers. In the face of China’s actions to subsidize its exports at the expense of U.S. manufacturers and workers, the Department needs to act.

In a November 19 letter to the Commerce Department, Senators Schumer and Graham urged the Department to give due consideration to allegations that China's currency manipulation is a countervailable subsidy. In your December 22 response, you assured the Senators that subsidy allegations involving China's currency practices would be assessed "no differently than any other subsidy allegation." The lack of agency action on this issue to date suggests otherwise.

Moreover, we are concerned that the agency's failure to investigate China's actions regarding its currency derives from a flawed interpretation of the legal standard for the Department's assessment of a subsidy allegation. According to your December 22 letter, in determining whether to investigate an alleged subsidy, the Department will consider if the allegation demonstrates "whether there *is* a financial contribution that is specific to an industry or group of industries which confers a benefit" (emphasis added). This is not the statutory standard for assessment of a subsidy allegation.

A subsidy allegation need not *prove* the elements of the financial contribution, benefit and specificity. Rather, the law requires that the Department initiate an investigation to determine whether a countervailable subsidy is being provided if the domestic industry "alleges" the elements necessary for the imposition of a countervailing duty and provides "*information reasonably available*" to the domestic industry supporting the allegations (emphasis added). 19 USC 1671a(c)(1)(A)(i) and (2). In other words, an allegation must contain information reasonably available to petitioners with respect to each of the elements of a countervailable subsidy – not definitive proof. The legislative history of the Trade Agreements Act of 1979 confirms this standard and reflects Congress' unequivocal intent that the Department "act upon all petitions which, based upon *facts reasonably available* to the petitioner, make *reasonable allegations of the presence of the elements* necessary for the imposition of a countervailing duty." H.R. Rep. No. 317, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 51 (1979) (emphasis added).

Our review of the 11 Commerce Department determinations not to investigate petitioners' allegations concerning China's currency manipulation suggests that the Department has prejudged the outcome of a subsidy investigation it has yet to do, rather than assessed the sufficiency of the allegation on the basis of "information reasonably available" to petitioners to determine whether to launch an investigation. This is troubling and suggests that the Department is treating allegations involving China's actions on currency differently than it has treated other allegations, including other currency-related allegations involving other countries.

For example, we are aware that the administering authority previously investigated currency-related subsidy allegations in at least three other countervailing duty proceedings involving Mexico, Germany and Uruguay, and contemplated how currency restrictions could constitute a subsidy in the proceeding involving Canada. The fact that the Department and its predecessor agency have previously investigated currency-related subsidies reinforces our belief that the Department knows how to apply the correct legal standard for assessment of a subsidy allegation and has the authority under current law to

investigate the most recent series of subsidy allegations involving China's currency manipulation.

There can be no doubt that China's policy of large-scale intervention in the exchange markets and the significant undervaluation of its currency acts as a subsidy to Chinese exports to the United States. We respectfully urge the Department to properly assess the most recent allegation that China's manipulation of its currency is a countervailable subsidy. In its assessment, the Department should give due consideration to whether petitioners have alleged the elements necessary for imposition of a countervailable subsidy and provided information reasonably available in support of their allegation.

During these difficult economic times, it is more critical than ever that the Department take every step possible to address these unfair practices. Assuming petitioners have properly alleged the elements necessary for the imposition of a countervailing duty and provided information reasonably available to petitioners, the Department has an obligation to investigate.

Thank you for your prompt attention to this matter.

Sincerely,

Senators Charles E. Schumer (D-NY), Lindsey Graham (R-SC), Robert Byrd (D-WV), Carl Levin (D-MI), Barbara Mikulski (D-MD), Russ Feingold (D-WI), Susan Collins (R-ME), Olympia Snowe (R-ME), Sam Brownback (R-KS), Jim Bunning (R-KY), Debbie Stabenow (D-MI), Ben Cardin (D-MD), Sherrod Brown (D-OH), Bob Casey (D-PA) and Arlen Specter (D-PA).