

May 16, 2012

Mr. David V. Aguilar
Acting Commissioner
U.S. Customs and Border Protection
Washington, D.C. 20229

Dear Commissioner Aguilar,

I want to bring your attention to a piece of good news in our trade relationship with China. More aggressive action against unfair and illegal Chinese trade practices appears to be having some effect. Specifically, as the result of cases brought by American companies in the International Trade Commission (ITC), some Chinese companies are moving production to the United States, resulting in new jobs for American workers.

While this trend is encouraging, it will only last as long as Chinese firms believe that the U.S. government will enforce imposed penalties. I continue to be concerned that U.S. Customs and Border Patrol (Customs) is not doing enough to crack down on companies that use various tricks to evade penalties.

An article published by CNN on April 26, 2012, entitled "China offshores manufacturing to the U.S.," describes Chinese companies that are opening factories in the United States. The companies all have one thing in common: they produce goods that are subject to Anti-Dumping and Countervailing Duty (ADCVD) orders. As you know, when American companies suspect that foreign competitors are engaging in unfair trading practices (for instance, receiving subsidies from the government or selling goods below cost in the U.S. market), they can file a claim with the Department of Commerce and the International Trade Commission (ITC). If the Department of Commerce and the ITC determine that foreign companies are, in fact, engaged in unfair practices, they penalize the foreign companies by imposing tariffs (ADCVD) on those companies' imports to counteract the illegal practices. The companies featured in the CNN article have decided it makes more sense to manufacture in the United States than to produce in China, receive a subsidy but then face ADCVD orders.

Unfortunately, there is another trend that threatens this progress. More and more companies, particularly in China, are seeking to evade ADCVD orders. The Senate Finance Subcommittee on International Trade, Customs, and Global Competitiveness noted in a 2010 staff report a proliferation of foreign websites that offer to help companies evade ADCVD orders through methods like mislabeling goods, shipping them through a third country, and claiming a third country as the country of manufacturing origin. The Government Accountability Office reported that over the past decade, over \$1 billion in duties has gone uncollected as a result of such

unscrupulous activities. Companies in my state who have sought and won ADCVD orders report have communicated to me that evasion is an ongoing and growing problem.

I have discussed the problem of duty evasion with Customs many times in the past. Most of these conversations focused on preventing job loss in the United States. This CNN article makes it clear, however, that a failure to enforce duty collections could also endanger job growth. If Chinese companies believe they can get around ADCVD orders simply by mislabeling their products, they will have no incentive to stop cheating, let alone establish new factories in the United States..

While your agency has taken some steps in the right direction, I continue to believe that Customs needs to do more to stop duty evasion. Customs should support legislation like the ENFORCE Act, sponsored by Senator Wyden, and the FAIR Enforcement Against Duty Evasion Act, which I have introduced. Both pieces of legislation would help strengthen enforcement. If the CNN article is any indication, stronger enforcement should lead to stronger employment growth in the United States. I look forward to continuing to work with you on this important issue.

Sincerely,

A handwritten signature in blue ink that reads "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" being particularly prominent.

Claire McCaskill
United States Senator



THE RISE OF CHINA

China offshores manufacturing to the U.S.

By Parija Kavilanz @CNNMoney April 26, 2012: 5:35 PM ET



Governor Robert Bentley presents Li Changjie, Chairman of Golden Dragon Precise Copper Tube Group, Inc., a state seal to welcome the company to Alabama last year.

NEW YORK (CNNMoney) -- Chinese conglomerates, on a mission to expand their global footprint and avoid "anti-dumping" tariffs, are shifting more of their production to America.

In the United States, **cash-strapped states** desperate for revenue and jobs, are rolling out the welcome mat for foreign companies that can guarantee both.

More Chinese manufacturers have been launching their own U.S. facilities in the last five years, said Thilo Hanemann, research director at Rhodium Group, a New York-based economic advisory group.

The biggest investments are being made by **Chinese firms** with products that have been slapped with hefty anti-dumping tariffs, he said.

The United States imposes these financial penalties on imported products that it believes are being sold cheaper than the cost it takes to produce them. Dumping creates an unfair advantage in the marketplace, according to the Department of Commerce.

Alabama's sweet manufacturing boom

In recent years, the agency has imposed these fines on solar technology and heavy industrial products from China, including steel pipes, copper tubing and aluminum extrusions.

Xinxiang, China-based Golden Dragon Precise Copper Tube Group, Inc., the world's largest producer of copper tubing used in air conditioning, refrigeration and autos, broke ground last month on a \$100 million plant in Thomasville, Ala.

It's the first Chinese owned-and-operated plant to enter the state. The 400,000-square-foot facility is expected to create 300 American jobs when it's up and running in 2014.

Golden Dragon filed for an IPO in China last month and is in a quiet period. It declined to comment for the story.

Raymond Cheng, CEO of Hong Kong-based consulting firm SoZo Group, helped coordinate the deal for Golden Dragon and is working with 30 large Chinese manufacturers that want a presence in the United States.

"For many of these companies, their biggest customers are in the United States," Cheng said. "It's a tactical advantage to be next door to your biggest client."

Opening up a plant in the United States allows Chinese producers to save on transportation and fuel costs. For

instance, Golden Dragon's Alabama facility will be right next door to its largest customer Goodman Manufacturing in Houston, said Cheng.

Half of the 30 companies Cheng's working with also cited anti-dumping duties as a catalyst for coming to America. They can avoid these fines if they manufacture the products in the United States.

Golden Dragon will still have to pay the penalties until its Alabama plant is operational in 2014.

Until then, Alabama is offering special tax credits to companies to offset their anti-dumping duties.

"[It] gives Alabama a leg up against other states in attracting big businesses," said Linda Swann, Alabama assistant secretary of commerce.

Daniel Rosen, a China expert and partner with Rhodium Group, said Chinese investments in the United States can create domestic jobs and spur economic growth.

"There is precedent for this," he said. "Japanese companies came here in the 1980s for the same reasons, including finding a way around anti-dumping duties."

States to manufacturers: We want you ASAP!

"There was skepticism when they came," said Rosen. "But today, there are more than 700,000 Americans working for Japanese affiliates in the United States," he said.

Mark Stevens, a partner with manufacturing consulting firm Wipfli, is working with six Chinese manufacturers that are scouting for factory locations in the United States.

He agreed with Cheng about why his clients are eager to come to America.

"The U.S. is an untapped market," he said. "If they want to play here, they have to be here."

Nanshan America, a subsidiary of China's Nanshan Group, is aiming to have its first U.S. plant in Lafayette, Ind., open for business in July.

The 600,000-square-foot-plant will make aluminum components -- a category that faces anti-dumping fines. The facility expects to create as many as 200 local jobs by 2013, said Nanshan America president Lijun Du.

The company picked Indiana because 60% of its market is in the Midwest. Du said avoiding tariffs was also a factor in the company's decision to come to the state.

"When the U.S. imposed those fines in 2010, 95% of exports from China of aluminum extrusion products stopped," he said. Nanshan wasn't a big exporter to the United States at the time.

Said Cheng, "It is a natural evolution that as Chinese companies grow into global brands, they will come to the U.S., the largest consumer market in the world." ■

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