

**Information Note
for the attention of the Members of the European Commission**

China / Market Economy Status

Given that this issue is to be considered at the Commission meeting on 30 June, a short information note is hereby provided.

Background

Clearly, the label “market economy status” is an emotive term, and countries such as China and Ukraine (and Russia before them) are keen to be granted this status. However, it is something of a misnomer, because it only concerns trade defence (i.e., on anti-dumping and anti-subsidy investigations, and the prices and costs used in relation to individual companies to calculate whether dumping or subsidization is taking place. It does not relate to general judgements about the Chinese economy or the state of reform in general terms. In more precise terms, in the case of countries designated as “market economy” countries, the prices and costs used are those reported by the individual companies. In case of economies in transition (such as China, but nine others), it is presumed that prices and costs are influenced by State interference and therefore the investigating authorities use the prices and costs of companies in a market economy third country.

The Community has currently 32 definitive anti-dumping measures in force and 22 ongoing anti-dumping investigations (6 new cases and 16 reviews) against China. The most important products by import volume subject to measures are bicycles and their parts, fluorescent lamps, dead-burned magnesium and fluorspar. For the purposes of comparison, the US has currently 52 anti-dumping measures in force against China.

In late 1998 the EU adapted its trade defence rules to allow individual companies to claim market economy status if they could prove that their prices and costs are not influenced by the state. Of the 111 individual requests received since 1999, only 28 met this test. What China wants is what has been granted to Russia in 2002: namely market economy status without the need to prove it in individual cases.

Clearly, we are within our rights. The possibility to treat China as an economy in transition in trade defence investigations for up to 15 years was agreed and enshrined in the Chinese WTO accession protocol signed in 2001. Therefore there is a clear and mutually agreed legal framework to deal with this matter while the request is being examined. New Zealand, Singapore, Malaysia and just yesterday Thailand have announced that they are granting MES to China, although this is of limited impact in practice - the number of AD cases opened by these countries against China in 2003 is very limited (2 cases for New Zealand and none for Malaysia). Other countries such as the United States, Brazil or Canada have not granted MES to China.

China lodged its request for Market Economy Status (MES) in June 2003 and provided supporting documentation in September 2003. Additional information was submitted in the course of 2004. The Commission undertook to provide the Chinese authorities with a preliminary assessment of their MES request by the end of June 2004. The analysis was carried out by the Commission services on the basis of the

documents supplied by China and of information obtained from authoritative external sources.

The Commission assessment

The Financial Times of 28 June reports in a rather lurid way the outcome of that analysis, which has been leaked. The key point is that MES assessment is not a political statement. It is a technical analysis exclusively linked to trade defence investigations. We need to be sure that costs and prices of Chinese companies can be relied on for the purpose of these investigations.

The preliminary assessment, now transmitted to the Chinese authorities, acknowledges the progress achieved by China over the past years. But it draws attention to four broad areas, where further progress is needed, and which mean that it is not possible to grant MES at this stage.

- State influence: ensuring equal treatment of all companies by reducing state interference, which takes place either on an *ad hoc* basis or as a result of industrial policies, as well as through export and pricing restrictions on raw materials.
- Corporate governance: increasing the level of compliance with the existing Accounting Law in order to ensure in general the usability of accounting information for the purpose of trade defence investigations.
- Property and bankruptcy law: ensuring equal treatment of all companies in bankruptcy procedures and in respect of property and intellectual property rights.
- Financial sector: bringing the banking sector under market rules, i.a. by removing discriminatory barriers, in order to ensure rational allocation of capital by financial institutions.

However, we have of course assured the Chinese authorities that we are committed to granting China MES as soon as these matters have been satisfactorily addressed. We have also agreed, perfectly amicably with the Chinese side, on an *ad hoc* working group to assist the Chinese in the whole process.

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