



## 中国机电产品进出口商会

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Honorable David Spooner  
Assistant Secretary for Import Administration  
U.S. Department of Commerce  
Central Records Unit, Room 1870  
14<sup>th</sup> Street and Constitution Avenue, NW.,  
Washington DC, 20230

November 18, 2007

**Re: Comments in Response to Federal Register Notice,  
*Antidumping Methodologies in Proceedings involving Certain  
Non-Market Economies: Market-Oriented Enterprise***

Dear Assistant Secretary Spooner,

Learning that USDOC requests public comments on Market-Oriented Enterprise for the second time, CCCME would like to state its opinion again.

As we have stated in the Comments of June 18, 2007, China has made phenomenal achievements in market-oriented economic reforms in the past about 30 years. More and more Chinese enterprises, especially Chinese machinery and electronic enterprises are operating totally under market-economy system. It is unfair for them

to be still treated as NME enterprises in AD proceedings, and USDOC should grant market economy status to China, at least market-economy treatment to individual respondents of China in AD proceedings.

As for the legal basis for an MOE test, we could not find any provisions in the agreements of WTO that prohibit the implementation of MOE tests. Thus, as a basic principle of law, USDOC is entitled to implement MOE test on Chinese respondents in AD proceedings. Moreover, according to *Article 15, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, “developing country should be given special regards in antidumping proceedings and possibilities of constructive remedies shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members.” At present, the abuse of surrogate country and valuation of factors of production resulting from NME treatment is quite unfair, which deny the comparative advantages that China has obtained, and it has become a disaster to thousands of Chinese enterprises and relevant industries, and accordingly affect the essential interests of China. USDOC should not turn a blind eye to the freely competing market in which Chinese enterprises, especially private enterprises, are competing with each other, including with foreign-invested enterprises, and should at least gives special regards to Chinese enterprises, if not to the whole country, e.g., granting market-economy treatment to individual respondents in AD proceedings involving China. Otherwise, it could be a discrimination against China as a developing country.

As for the administrative feasibility and conditions of identifying an MOE operating within a broader NME environment, CCCME would like to clarify first that an absolute majority of Chinese enterprises are operating under market-economy environment. If USDOC has to do an identification job among those enterprises, we think it might not be too difficult for USDOC to find out that Chinese enterprises operate under a market economy environment by reevaluating the following factors:

Firstly, the extent to which the currency of the foreign country is convertible into the currencies of other countries. As is known to the world, China is one of the most opened countries in the rising market economies. The extent of freedom of economy in China is much higher than many countries which have been treated as market economies by USA. China has implemented important reforms to its currency regime and FOREX market. RMB is convertible on the current accounts, and the government has been liberalizing capital account transactions, too. On January 4, 2006, China introduced the OTC and market-maker approach for the interbank foreign exchange market, allowing for two parties to mutually agree a price without the intervention of a third party. However, not all the market-economy countries have allowed currency convertibility. Therefore, considering the effort that China made in the currency convertibility, the currency problem should not be an excuse to refuse to treat China as market-economy country; at least, it should not be a hindrance to grant market-economy status to individual enterprises involved in the AD proceedings.

Secondly, the extent to which wage rates in the foreign country are determined by free bargaining between labor and management. With the progress of economic reforms in China, the employment system of Chinese enterprises, esp. state-owned enterprises have been changed greatly. A “two-way choice” in the job market becomes the rule of employment, which allows the employees and employers to choose each other in the job market and negotiate the wage rates and working conditions freely and resulted in a free flow of labor across the whole country. Moreover, the *Labor Contract Law* will be put into force in January 1, 2008, which provides detail rules on the rights and obligations of both employees and employers concerning payment, contract terms, disclosure, reduction of staff, etc. With all these measures, market and laws have become the dominating force in the employment system, instead of government control. Wage rates are now determined by free bargain between labor and management in almost all Chinese enterprises.

Thirdly, the extent to which joint ventures or other investments by firms of other

foreign countries are permitted in the foreign country. As is known to the world, China makes great effort in attracting foreign investments. Today, a number of foreign-invested companies have made big success in Chinese market. China's foreign investment policy has been a powerful guarantee for the development of joint ventures and other foreign investments in China and they are also the witness of Chinese market economy development.

Fourthly, the extent of government ownership or control of the means of production. Since 1970s, China has implemented its reform and opening-up policy and started to transform to market-economy. After an effort of about 30 years, China has made great achievement in her market- oriented reforms on economy. Private-owned companies and foreign-invested companies increase rapidly in both numbers and influence. Take the industry of machinery and electronic products for example, among the member companies of CCCME, 60% of them are private-owned companies and foreign-invested companies. As for those state owned or controlled companies, the government has receded from managing enterprises and become a shareholder, and has changed its role to make and execute macro-control policy, engage in construction of infrastructural facilities and construct a favorable environment for economy development. With the economic reforms and the growth of private economy, the government has given up its control over means of production in more and more industries. Therefore, government control should not be an excuse for refusing to grant market economy status to enterprises of China.

Fifthly, the extent of government control over the allocation of resources and over the price and output decisions of enterprises. For those enterprises not owned or not controlled by the government, there would be no government control over the allocation of resources and over the price and output decisions of enterprises. For the small part of government owned or controlled enterprises, since Chinese government has receded from the management, all the decisions of those enterprises are solely based on market consideration. For all that, in many market-economy countries, the

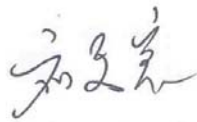
governments also owned and controlled many big companies in some industries. A typical example is that, in OPEC countries, the price and output of oil are set and controlled by the government, but these countries are also treated as market-economy countries. Thus, not only the enterprises without any Chinese government share, but also the enterprises with Chinese government share, should not be treated as NME enterprises.

In conclusion, all Chinese enterprises are operating under a market economy environment. At the same time, in the process of resources allocations and transactions (including capital, labor, land, etc.), the prices, output, profit and other elements are all considered and decided in accordance with rules of market, instead of orders from government. The activities of enterprises are market-oriented.

Nowadays, more and more countries recognize the market-economy status of China. CCCME requests that USDOC reconsider its attitude toward China in AD investigation and start to recognize the big progress that China has made in market economy reform, at least grant market-economy treatment to individual respondents of China in AD proceedings.

Yours sincerely,

LIU Meikun

A handwritten signature in black ink, consisting of stylized Chinese characters, positioned to the right of the printed name.

Vice President of CCCME