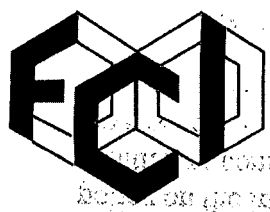


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December 6, 2007

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

Re: Comments on Antidumping Methodologies in Proceedings Involving Certain Non-Market Economies: Market-Oriented Enterprise (MOE)

2007 DEC 18 PM 4:42
US EXECUTIVE SECRETARIAT

Dear Secretary Gutierrez:

The Industry Trade Advisory Committee for Chemicals, Pharmaceuticals, and Health/Science Products and Services (ITAC 3)¹ hereby responds to the Department's *Federal Register* notice of October 25, 2007, requesting comments on whether the Department should consider granting market-economy treatment to individual respondents in antidumping proceedings involving the People's Republic of China. We welcome the opportunity to submit these comments because ITAC 3 is deeply concerned about the impact of U.S.-China trade policy on the industrial sectors represented by our advisory committee. ITAC 3 is not in a position to comment on the Department's legal authority or methodological issues, but we do have serious concerns about the policy implications of granting MOE status to individual Chinese firms.

ITAC 3 does not support granting market-economy status to individual Chinese enterprises. This approach is wholly inconsistent with China's designation, recently affirmed by the Department in *Antidumping Duty Investigation of Certain Lined Paper Products from the People's Republic of China*, as a non-market economy country for purposes of the antidumping law. The Department's consideration of whether to adopt a company-specific approach to determining market-economy status appears driven by the rise in private ownership of Chinese firms. However, private ownership does not eliminate the market distortions stemming from the Chinese government's involvement in the economy. Private Chinese firms still operate in an economic environment in which their input prices and costs are tainted by the government's involvement, and therefore, cannot serve as an appropriate basis on which to derive market-driven prices and costs in China. Unless and until the Department finds that China, *as a whole*, merits treatment as a market economy country, it should not permit individual firms to obtain market-economy status.

¹ ITAC 3 covers HTS Chapters 28-40, specifically inorganic and organic chemicals, pharmaceuticals, fertilizers, colorants and paints, cosmetics, soaps, starches, explosives, photographic materials, plastics, rubber, and medical devices.

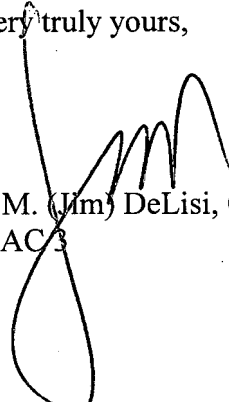
Second, if the Department grants MOE status in antidumping proceedings, China would be given an unwarranted concession in our bilateral trading relationship. We are mindful that, when China joined the World Trade Organization, it agreed to be treated as a non-market economy country until 15 years after its accession. There is no sound policy reason to depart from this agreement, particularly in light of China's failure to resolve ongoing complaints by the United States regarding China's failure to live up to its WTO obligations. Moreover, drawing exceptions to the NME (non-market economy) country-wide designation reduces pressure on the Chinese government to continue to execute the necessary structural reforms needed to justify graduation to market-economy status.

Third, we are concerned about the administrative feasibility of granting individual Chinese firms MOE status. To make a determination of whether an individual enterprise warrants market-economy treatment, the Department would need to conduct a complex analysis to isolate the non-market dynamics from the market-oriented dynamics in evaluating the firm's input prices and costs. This analysis would also entail examining legal, economic, and factual arguments presented by the interested parties in the proceeding. In effect, the Department would be forced to conduct multiple investigations within each proceeding, imposing a great burden on Department analysts as well as the U.S. petitioning industry. ITAC 3 does not support a change in practice that would impose additional costs on U.S. manufacturers seeking remedies for injury attributed to unfair pricing by Chinese producers/exporters.

Finally, ITAC 3 is concerned that granting market-economy status to individual firms will create incentives for circumvention of any resulting antidumping order. Chinese firms that are not accorded market-economy status will seek to transship goods through firms with market-economy status to avoid paying higher antidumping duties. Such evasion of the order will undermine its effectiveness to remedy the harm to the U.S. petitioners seeking discipline in the pricing of Chinese imported goods into the U.S. market.

In conclusion, ITAC 3 urges the Department to carefully consider any modifications to its longstanding NME methodology. From a policy perspective, any change should not undermine the efficacy of the antidumping law as a remedial measure for U.S. manufacturers. Although China has made great strides in re-structuring its economy, and the role and extent of private enterprise ownership is far greater in today's economy, the Department should not prematurely adopt changes to its NME methodology without ensuring that such changes do not disturb the tenuous balance that already exists in U.S.-China trade policy.

Very truly yours,


V.M. (Jim) DeLisi, Chairman
ITAC 3