



中国机电产品进出口商会

China Chamber of Commerce for Import & Export
of Machinery & Electronic Products

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May 19, 2004

Mr. Jame. J. Jochum

Assistant Secretary for Import Administration

U.S. Department of Commerce

Central Records Unit, Room 1870

Pennsylvania Avenue and 14th Street NW

Washington, DC 20230

Re: Public Hearings on U.S.-China Joint Commission on Commerce and Trade
Working Group on Structural Issues

Dear Assistant Secretary Jochum,

China Chamber of Commerce for Import & Export of Machinery and Electronic Products (CCCME) hereby responds to the Department's May 3, 2004 Federal Register notice(69 Federal Register 24,132) inviting comments and requests testify concerning topics and issues for the U.S.-China Joint Commission on Commerce and Trade Working Group on Structural Issues.

As an interested Chinese party, we attach a written comment in an original and six copies, as well as an electronic version on CD-ROM.

We would appreciate the opportunity to make an oral presentation at the hearing on June 3. The name, address, telephone number, position and the relevant information of our representative who will make a presentation are as followed:

Mr. Liu Mei Kun, Vice President of CCCME;

Address: 14th Floor, North Office Tower, Beijing New World Center,

No.3B, Chong Wen Men Wai Street, Beijing, P.R.China

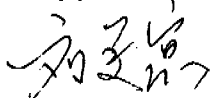
Tel: 0086-10-67092852; Fax: 0086-10-67092615;

E-mail: liumeikun@cccme.org.cn.

We also appreciate it very much if you extend the time for our presentation beyond the five-minute time limitation.

Best wishes,

Sincerely yours,

A handwritten signature in black ink, appearing to be the Chinese characters '刘梅坤' (Liu Mei Kun).

Liu Mei Kun

Vice president, CCCME

**Comment of China Chamber of Commerce for Import & Export of
Machinery and Electronic Products
On
The Market Economy Characteristics in Chinese Machinery and
Electronic Industry**

14th Floor, North Office Tower,
Beijing New World Center
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Dated: May 19, 2004

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Introduction

This comment is submitted by China Chamber of Commerce for Import & Export of Machinery and Electronic Products (“CCCME”) in connection with the USDOC examination of whether China is a market economy country. As part of this broader inquiry, we provide factual details concerning the machinery and electronic industries, as an example of the extent to which an important sector of the economy functions as market-oriented. The economic environment permitting these industries to operate on the basis of market determined prices and production extends broadly throughout the Chinese economy.

I . A General Overview of the Chinese Machinery and Electronic Industries

A. Being the top one of Chinese foreign trade and the most competitive industries, the Chinese machinery and electronic industries has gained the most rapid growth in the decade.

1. The Chinese machinery and electronic industries covers a large range of various products.

There are about 2300 Chinese HS codes reflected in the production of Chinese machinery and electronic products. These products cover machinery, electronic, and light industrial products such as automatic data processing equipment, household electrical appliances, consumer electronic products, electronic components, telecommunication equipment and components etc.

2. The Chinese machinery and electronic products has been the top Chinese export sector for several years.

From year 1995, the Chinese machinery and electronic products sector has been the top Chinese exporter. In 2003, total export value in this sector reached 227.46 billion USD, accounting for about 16% of China’s GDP and 51.9% of Chinese total exports. This reflects growth of 44.8% over the previous year., and an average annual

increase of 22.85%..

3. The growth of export of Chinese machinery and electronic products results from Chinese market economy system.

a. The freedom in the operation of foreign trade triggers more companies doing export of machinery and electronic products.

In late 1980s, Chinese companies gained the ability to freely export machinery and electronic products. There was no need to obtain permission from the authorities to export the relevant products from then on. It resulted in more and more companies coming into the free competition field, and , as a result, the machinery and electronic industries developed quickly. And, the Chinese government gradually weakened the government authority on the qualification of companies' right dealing with foreign trade, step by step. According to the *Chinese Foreign Trade Law*, from July 1 this year, all Chinese companies and natural persons have the rights to deal with foreign trade, provided only that they are legally registered..

b. The free convertibility of foreign currency facilitates companies' export activities.

With the Chinese government's elimination of requirements establishing companies' foreign exchange income target, and the free convertibility of foreign currency for current account transactions, there remain no obstacles on the usage of foreign currency for any Chinese companies which deal with foreign trade.

4. The operation of the companies in Chinese machinery and electronic industries is fully market-oriented, and foreign investments have further stimulated the development of market economy.

The operation of companies, encompassing all operational activities and the whole product life, are determined by market factors. These include the purchasing of raw materials, decisions on production inputs, the introduction of new technology, the arrangement of production, and decisions on prices, etc. More and more foreign

investments also have come into the field. This enhances competition and improves the management of enterprises, the technology and quality of products. Definitely, these foreign investments have further stimulated the development of market economy.

5. Domestic competition of machinery and electronic products is intense, reflecting market economy characteristics.

The competition of machinery and electronic products, especially consumer products daily-used is quite severe in the Chinese domestic market. Such competition fully reflects market economy characteristics.

B. CCCME is a non-government, non-profit intermediate organization, representing the interests of member companies.

1. A brief introduction of CCCME

CCCME was founded in 1988. It is a non-government, non-profit intermediate organization consisting of nearly 6000 member companies among which many are among China's biggest companies. All these member companies are dealing with the import and export of machinery and electronic products. Under CCCME, there are 26 branch chambers in different fields of machinery and electronic industries. All the member companies operate under a market economy scheme. CCCME is positioned as the leading Chamber of Commerce for Import& Export.. A majority of CCCME's member companies are share-holding companies, foreign-invested companies, and private companies. The proportion of state-owned companies is declining year by year. And those foreign-invested companies which are members of Association of Foreign-invested Companies will also be recognized as CCCME's members, and they will thus enjoy our service. With such a large representation of foreign-invested and private companies, which operate on market economy basis, CCCME knows a general overview of the market economy characteristics in China.

2. Function of CCCME

As an organization independent from government, CCCME's main task is to help its member companies to explore market, maintain a normal trade order, and to safeguard their interests under the principles of WTO. One of its important tasks is to respond to all kinds of trade barriers on behalf of member companies and of non-member companies under entrust, such as respond to anti-dumping investigation, safeguard investigation, and other investigations in foreign markets.

3. CCCME's practice in responding to anti-dumping investigation and safeguard investigation

CCCME has responded to anti-dumping investigation initiated by other countries against China since 1991. Now, it is involved in responding to over 120 cases of anti-dumping and safeguard investigations, including 16 anti-dumping investigations initiated by USA. As the results of some of these cases, high anti-dumping duties were levied against Chinese companies. This stemmed from the use of factors of production and surrogate values, because the USA still treats China as a non-market economy. From the information we collected in these investigations, we think the NME treatment to China is seriously biased and unfair. In the relevant investigations, because such NME treatment of China existed, the Chinese respondents were treated unfairly and their interests were severely damaged.

II. The situation in the export of Chinese machinery and electronic products reflects that China is a market economy country.

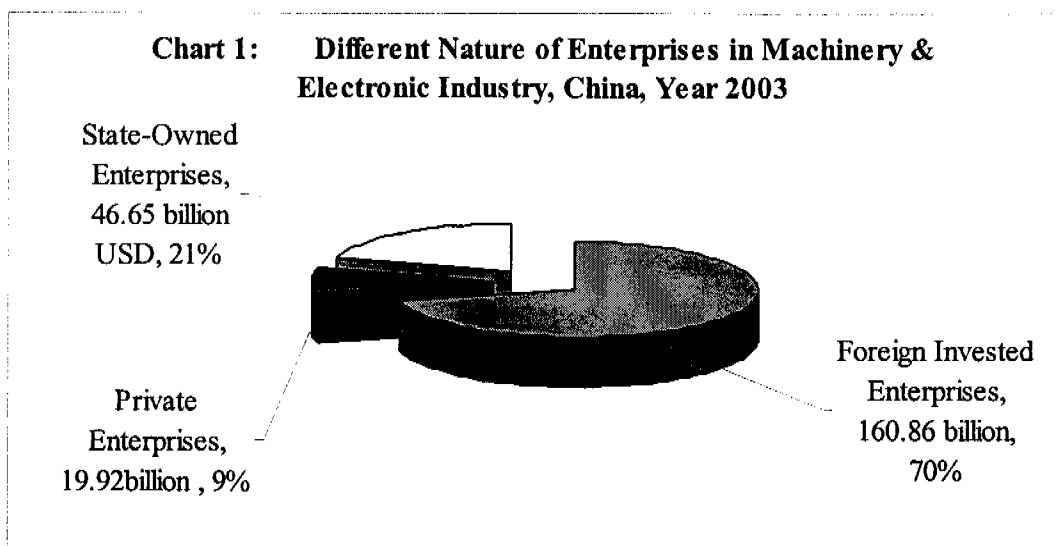
A. Under the USDOC's definition of market economy country, we can see that Chinese enterprises operate under market economy conditions.

1. There are no limits on foreign investment.

Having a lower cost of manufacture and better market economy conditions, China has become one of the most attractive place for international capital, especially for the manufacturing industries. Among the top 500 enterprises in the world, more than 400 have investment in mainland China. And American direct investment in China now is

over 44 billion USD.

Those foreign companies come to China not only because they can get skillful manual labor at lower cost but also because of the excellent local investment environment. There are no limits on foreign investment in the machinery and electronic industries in China. Foreign capital can flow in and out freely. As the following chart (Chart 1) illustrates, the export sector of machinery and electronic products consists primarily of foreign-invested companies, and the proportion from state-owned enterprises is declining. For example, the number of state-owned enterprises declined 4.8% compared with the previous year; while the figure of private enterprises increased 4.85%. This just reflects the truth that the nature of Chinese exporters has changed.



The largest four categories of exported products among machinery and electronic industries provide the best examples. They are automatic data processing equipment, household electrical appliances & consumer electronic products, electronic components, and telecommunication equipment & components. Foreign-invested companies account for a major part in all these four categories of products. We have attached charts with the relevant data of export value and enterprises' number below for your reference.

Chart 2: Different Nature of Enterprises of Automatic Data Processing Equipment, China, Year 2003

State-Owned
Enterprises, 3.85
billion USD, 6%;
Enterprises'
Number: 4570



Foreign Invested
Enterprises &
Private
Enterprises, 55.92
billion USD, 94%;
Enterprises'
Number: 3414

Chart 3: Different Nature of Enterprises of Household Electrical Appliance & Consumer Electronic Products, China, Year 2003

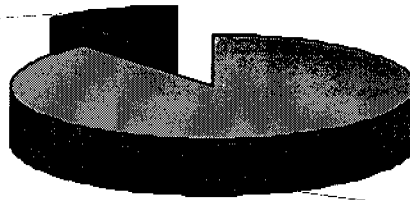
State-Owned
Enterprises, 5.2
billion USD,
21%; Enterprises'
Number: 2325



Foreign Invested
Enterprises &
Private Enterprises,
19.31 billion USD,
79%; Enterprises'
Number: 4851

Chart 4: Different Nature of Enterprises of Electronic Components, China, Year 2003

State-Owned Enterprises, 1.59 billion USD, 11%; Enterprises' Number: 1351



Foreign Invested Enterprises & Private Enterprises, 13.19 billion USD, 89%; Enterprises' Number: 3872

Chart 5: Different Nature of Enterprises of Telecommunication Equipment & Components, China, Year 2003

State-Owned Enterprises, 1.7 billion USD, 9%; Enterprises' Number: 1115



Foreign Invested Enterprises & Private Enterprises, 17.84 billion USD, 91%; Enterprises' Number: 2980

From the above facts, it is easy to see that foreign-invested companies and private companies have become a major force in Chinese machinery and electronic industries.

2. Chinese companies' operation is totally on the basis of independence.

The extent of the Chinese government's involvement in the companies' operation is limited to appropriate and justified regulation. Similar levels of government oversight are prevalent in all other countries, including the U.S. It is a universally accepted that a minimum level of government supervision is essential in a

market economy in order to maintain the very market principles inapposite to extensive state control.

Chinese companies' operate under the legal basis of *Company Law*, *Bankruptcy Law* and other relevant laws and regulations. Just as stated in *Company Law*, a "company shall...operate independently and be responsible for its own profits and losses" and "organize its production and operation independently in accordance with market demand." Chinese producers retain sole discretion in making decisions regarding products, prices and quantities. Outside of laws that are characteristic of market economies, there are no limitations on financing or use of profits.

The practice of the member companies of CCCME exemplifies the situation above mentioned.

3. The price of inputs and products are decided by each company on the basis of market demand and supply.

The allocation of resources is determined by each company on its own. The prices of inputs obtained in home market or imported are all determined by the company and its suppliers, and the prices reflect the real value and demand-supply relationship in market. The major raw materials used by machinery and electronic manufacturers, such as steel, copper, coal etc., are commodities whose Chinese market prices fluctuate with international prices. A relevant mature futures market is becoming established in China through which Chinese companies can make profit and hedge their risks arising from their purchases of commodity raw materials. In addition, Chinese companies have complete independence over the selection of suppliers.

The output of products and their prices are determined by each company. Each company has complete freedom in negotiating prices both within the PRC and abroad. Such prices and contracts are not subject to the approval of any government entity.

4. Company has the right to employ or fire its employees, and the wages are decided through negotiation between employer and employee.

China has fully transitioned itself to a labor system in which workers are able to move freely among jobs and geographic areas. Similarly, employers are now able to make hiring decisions without government oversight. The Chinese government describes its labor policies as follows:

“Carrying out the employment policy of laborers finding employment on their own initiative, the market adjusting the demand for employment and the government promoting employment, the Chinese government encourages securing employment through fair competition, encourages employers to decide the number and quality of their own employees, and adopts measures to promote the shaping of a market-oriented employment mechanism.” (State Council, Labor and Social Security in China; April 29, 2002)

Accordingly, labor rates are established solely by negotiations between the employers and employees. The government’s role in setting wages is limited to that of any country: the establishment of minimum wage and overtime laws. While employers in the PRC are free to hire and dismiss employees, employees possess total freedom in accepting or resigning from employment. These rights are subject only to the terms of a labor contract.

5. There are almost no limits on companies’ usage of foreign currency for current account transactions.

After application, Chinese companies can be granted a foreign currency account. There are no limits on the usage of foreign currency for current account transactions..

For your reference, you will find in Chart 6 and Chart 7 (at the end of this comment) the export proceedings of trade companies and manufacturers in China. We

think those proceedings are the same as their partners in other countries.

B. Almost all Chinese companies, including state-owned companies, operate under market economy scheme.

Company Law must be abided by all kinds of companies, including state-owned companies. Following you will find some facts about specific companies for your reference.

1. Limited liability companies and companies limited by shares

The operation of such companies is under the supervision of directors and the meeting of shareholders, so there are no doubts in their characteristics of market economy.

A lot of Chinese companies have been transformed into share companies listed on stock market. Their operation and financial reports must be disclosed, and thus are under great public scrutiny.

2. Foreign trade companies

In the past, most foreign trade companies were state-owned companies. Nowadays, they have been reformed to share companies with some of the medium and small ones transferred completely into privately held companies.

3. Even the wholly state-owned companies are under market economy mechanism.

A state-owned company only means that the major or whole capital comes from government. In fact, state-owned companies also operate under market economy mechanism. If you are interested in it, we'd like to help you make some further investigation.

III. It is unfair to Chinese companies that China was treated as NME in past anti-dumping investigations.

According to Chinese customs statistics, the trade value of machinery and

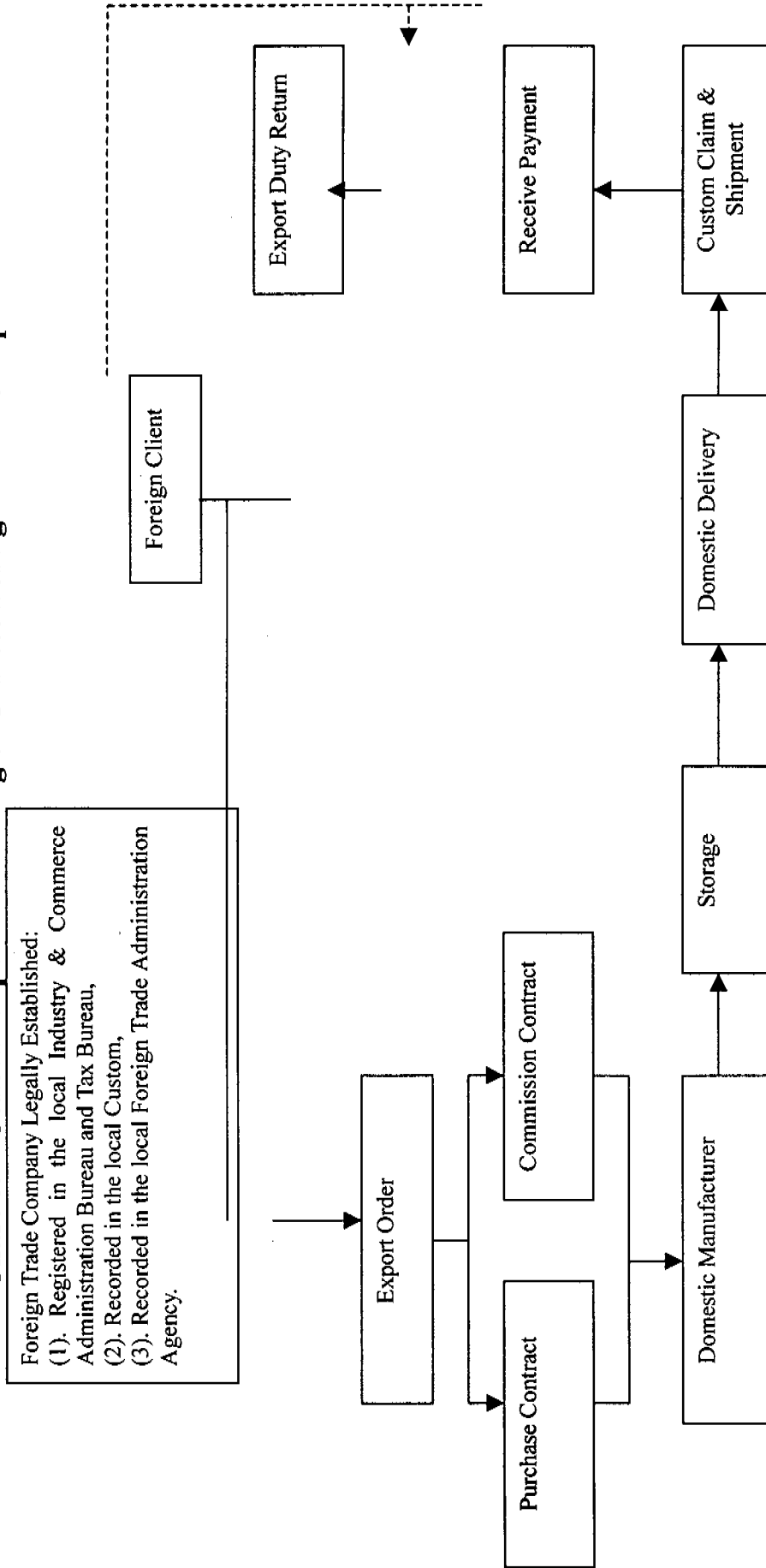
electronic products between China and USA in 2003 is 71.65 billion USD, increasing 31.83%, and accounting for 56.71% of total Sino-US bilateral trade. China is in surplus status in this bilateral trade, but Chinese exports are mainly made by OEM. American importers, IP owners and consumers benefit a lot from Chinese products.

Unfortunately, because China has been treated as NME in past anti-dumping investigation, the real costs of companies were substituted by the costs of producers in a third country. In this way, some of Chinese products are under unreasonably high anti-dumping duties. Not only the interests of Chinese companies, but also that of American importers and consumers, are seriously damaged. And it should also be mentioned that the request for MOI status from the Chinese Color TV industry, refused by USDOC before the final determination of the anti-dumping investigation, so that Chinese CTV companies failed the case under such unfair conditions.

That a market economy situation exists in China is being recognized by more and more people, even many American investors and entrepreneurs. We hope the US government carefully takes Chinese real situation into account and gives reasonable treatment to Chinese companies soon.

We believe that, Chinese companies operate according to the same economic rules as their American trading partners. We hope, USDOC will think the issue of Chinese market economy status only on the merits of the situation and give an objective and equal treatment to Chinese companies.

Chart 6: General Export Proceeding of Chinese Foreign Trade Companies



Foreign Trade Company Legally Established:

- (1). Registered in the local Industry & Commerce Administration Bureau and Tax Bureau,
- (2). Recorded in the local Custom,
- (3). Recorded in the local Foreign Trade Administration Agency.

Chart 7: General Export Proceeding of Chinese Manufacture Companies

