



May 18, 2004

VIA HAND DELIVERY

Mr. James 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

PUBLIC DOCUMENT

Public Comments and
Notice of Intent to Testify
U.S.-China Joint Commission on
Commerce and Trade Working
Group on Structural Issues

Dear Mr. Secretary:

The following comments are delivered to you in response to a request for comments in connection with the establishment of a working group to discuss issues relevant to China's aspiration to be recognized as a market economy for purposes of the U.S. antidumping law. Additionally, please accept this as notification of our intent to testify at the public hearing scheduled for June 3, 2004.

The Cookware Manufacturers Association represents the interests of 18 U.S. manufacturing members, nearly all of which have been impacted by the degree of trade in the commodities of cookware and bakeware by Chinese firms. China's imports into the U.S. in calendar year 2003 amount to \$640-million, an increase of 31 percent over 2002. These imports account for fully 53 percent of all cookware and bakeware imported into the U.S. Conversely, U.S. produced cookware and bakeware exported to China in 2003 amounted to just \$3.4-million. The reasons for this great imbalance of trade are many, but China's non-market economy contributes in myriad ways:

1. A major reason that China is not a market economy is the continuing transition of previously state-owned factories to private enterprises with incentives and subsidies granted to new owners. We know of cases where free equipment, forgiveness of rent, free raw materials, subsidized fuel, cancellation of payroll taxes, and non-enforcement of labor, minimum wage and work standard laws have accompanied such transfers. Absent the payment of true market prices for

inputs, these factories can compete in the market place with artificially low prices in predatory ways. Even plants built with foreign investment *within* China cannot compete under these conditions.

2. China's veiled permitting process makes it a non-market economy. Factories are not allowed to sell other than to the customers they have permits to sell. Some factories can only export product; others are strictly to serve the domestic market. Such strictures on sales distort distribution channels and vastly reduce competition. Our members' experience is that there is no transparent way in which such permitting or licensing is accomplished with bewildering differences from location to location.

3. A distorted tax and bank system lacking transparency makes China a non-market economy. Our investigations indicate that payroll taxes are subject to negotiation with provincial or city authorities for locally controlled businesses. In most cases, less than all employees of China-owned firms are counted in calculating the tax. Foreign-owned or partially foreign-owned factories have all their employees counted for tax purposes. Additionally, China's value added tax on exports is half that of the tax for domestically produced products. This acts as a clear subsidy for exports. Our members report that China's system of banking is far from transparent. Loans are not repaid with impunity by some factories, or loans are continued without regard for the financial situation of a firm. Seemingly, the number of workers employed is a key determiner of the amount of loans granted. This is not the way in which a market economy works. Additionally, China's position regarding its currency and its being pegged to the U.S. dollar distorts the true prices of Chinese manufactured goods.

4. China's continued resistance to enforcing statutes on its books for intellectual property theft is a major roadblock to a market economy. One of our members reports a patented knob, included its imprinted patent notice, was copied precisely by a Chinese firm and placed on goods destined for the United States. Additionally trade dress features and design patents are routinely copied by China factories and sold in the U.S. Almost every major branded cookware design in the U.S. has been precisely copied at one time or the other by a China firm and offered in the U.S. market at landed prices beneath the raw material inputs of an American manufacturer.

5. Finally, China's continued resistance to allowing direct sales of product to its consumers marks it as a non-market economy. Several members of the Cookware Manufacturers Association produce product that is sold by distributors through direct selling at home parties. In 2003, these firms shipped over \$50-million dollars of U.S. made product to the Far East, but almost none to China. Despite assurances that a sanctioned direct selling association would answer China's concerns regarding fraud in direct sales, China has continued to resist the free flow of goods between and among its citizens. This blocks needed exports to China of a product with strong demand in other Asian countries that would help balance China's overwhelming exports into the U.S.

We thank you for the opportunity to make these comments and would be happy to answer any questions that you might have.

Sincerely,

A handwritten signature in blue ink that reads "Hugh J. Rushing". The signature is written in a cursive style with a large, stylized initial "H".

Hugh J. Rushing
Executive Vice President
Cookware Manufacturers Association