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The Honorable James J. Jochum
Assistant Secretary for Import Administration
U.S. Department of Commerce
Attn: Import Administration
Central Records Unit, Room 1870
14th Street and Constitution Avenue, N.W.
Washington, DC 20230

Attn: Mr. James J. Jochum

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

Dear Mr. Secretary:

On behalf of American Spring Wire Corp., Insteel Wire Products and Sumiden Wire Products Corp., domestic producers of prestressed concrete steel wire strand, we submit these comments in response to the notice published by the Department seeking comments on China's economy and, specifically, China's treatment as a non-market economy under U.S. trade laws. See 69 Fed. Reg. 24,132 (May 3, 2004). According to the notice, the United States and China are reviewing China's aspiration to be recognized as a market economy for purposes of the U.S. antidumping law. Id. Comments were requested on characteristics of the Chinese economy that appear to be inconsistent with the normal experience of a market economy as well as Chinese

government practices and policies that have the potential to distort the market and U.S.-China trade.

The domestic PC strand producers believe that it is premature to consider treating China as a market economy given the terms and conditions set forth in China's Protocol of Accession to the World Trade Organization ("WTO"). WT/L/432 (Nov. 23, 2001). In that protocol, China agreed to be treated as a non-market economy for the first 15 years of its WTO membership. Indeed, this 15-year period of China's treatment as a non-market economy was advanced as a reason why Congress should approve China's WTO accession. See Statement to Congress of USTR Charlene Barshefsky, 146 Cong. Rec. S8539, 8564 (Sept. 14, 2000). Further, under the Protocol, China bears the burden of demonstrating that it has met the criteria for graduation to market economy status.

Given these facts, the United States should not shorten the 15-year period identified in the very recently-negotiated Protocol for China's treatment as a non-market economy. To the extent that any consideration is given to this issue, the burden is on China to come forward with strong, affirmative evidence demonstrating a comprehensive change in its economy warranting reevaluation of the non-market economy status so recently agreed upon. As there is no indication of any such evidence provided by China, there should be no need for the United States to consider this matter further.

Moreover, an examination of the various factors identified in U.S. law for treatment of a foreign country as a non-market economy, i.e., one that "does not operate under market principles of cost or pricing structures" indicates that China remains a non-market economy. 19 U.S.C. § 1677(18). Specifically, the currency of China, the renminbi or yuan, is not freely

convertible into the currency of other countries. Indeed, the renminbi has been artificially pegged to the U.S. dollar at a constant rate for over a decade, leading to distortions in the values of goods and services. See “Will China Revalue the Yuan?,” available at <http://www.sounddollar.org/mnews74.htm>. Similarly, wage rates in China are not determined by free bargaining between management and labor. Instead, workers are punished when they attempt to advance their economic rights by collective bargaining, when they protest working conditions, or when they expose corruption. See “China: Labor Rights Violated Despite New Treaty,” available at www.hrw.org/press/2002/03/chinalabor.htm.

Joint ventures or other investments by foreign firms are subject to impediments to free enterprise that are not imposed on Chinese firms. See Asian Development Banks 2003 Private Sector Assessment of the PRC at 19. The Chinese Government retains extensive ownership or control over the means of production in China and, indeed, the influence of State-owned enterprises or “SOEs” in the Chinese economy appears to be increasing. Id. at Executive Summary, 4, 35. The Chinese government also continues to exercise control over the allocation of resources and price/output decisions of Chinese companies, including, for example, the Chinese State Power Corporation’s ownership of 46 percent of the country’s generation assets and 90 percent of the total electricity supply assets. See “Electricity Reforms in China Benefit Meter Manufacturer,” available at http://www.metering.com/archive/022/05_1.htm. Other factors, including the role of the government banking sector, the absence of the rule of law in China, and continued government involvement in all levels of political and business aspects of China’s economy demonstrate that China continues to function as a non-market economy country.

We appreciate your attention to these comments and would like to testify at the hearing scheduled for June 3, 2004. Appearing on behalf of American Spring Wire, Insteel Wire Products and Sumiden Wire Products, Corp., will be Paul Rosenthal, Attorney, and Robert Cassidy, Director, International Trade and Services, both with Collier Shannon Scott.

Respectfully submitted,

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