



# CCCMC

CHINA CHAMBER OF COMMERCE OF METALS,  
MINERALS & CHEMICALS IMPORTERS & EXPORTERS

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

April 19, 2007.

Re: Comments on Surrogate Country Selection and Separate Rate application in  
Anti-Dumping Proceedings Involving Non-Market Economy Countries.

Dear Assistant Secretary Spooner,

On behalf of China's metals, minerals and chemicals industries and our 4000 member companies, we submit the following comments on surrogate country selection and separate rate application in Anti-Dumping Proceedings Involving Non-Market Economy Countries.

An original and six copies of our comments are attached. Please contact the undersigned if you or your staff has any questions regarding these comments.

**I. With regard to the selection of surrogate country, we hold the following viewpoints:**

1. In order to select an appropriate surrogate country, not only the "comparable level of economic development" and "significant producer of comparable merchandise" should be considered, the following factors should also be considered as well:

In the first place, either the market of like product or the market of relevant factors of production in surrogate country should be a perfectly competitive market.

Secondly, when establishing normal value on the basis of factors of production, it is necessary to fully consider the differences between factors of production in surrogate country and the involved NME countries, to lay an emphasis on each

country's comparative advantage in different factors of production, such as labor cost, materials, energy and capital cost.

2. In practice, the NME respondent is usually in an unfavorable position because the surrogate country mechanism lacks of predictability and the determination of normal value is within the broad discretion of DOC. Therefore, it is necessary to emphasize on the respondent's recommendations on the selection of surrogate country. DOC can collect the industry information of different countries from some certain authoritative international industry organization, analyze and compare the economic development, technology status and cost of production, consequently choose the most appropriate surrogate country. If the petitioner is opposed to using the country which the respondent recommended as surrogate country, he should undertake the relevant burden of proof. In this way, it can remedy the unfairness to the respondent to a certain extent.

3. In recent years, it seems that US is apt to choose India as the surrogate country for China. However, India protects its economy by high tariff and the government controls its main energy supply. Thus, India prefers to import the materials it doesn't manufacture with high price and the price of the products made of which are on the high side. If DOC chooses India as the surrogate country for the NME, a higher antidumping duty rate will be reached. The labor cost, materials and export cost for the same product are of great difference in China and India. So it will be very unfair for China if choosing India as the surrogate country for China.

**II. With regard to the separate rates application process in NME antidumping proceedings, we think that the current test which increases the burden on both interested parties and DOC goes beyond the limit of its necessity.**

First, considering the current situation of China's economy, it is unnecessary for DOC to implement a separate rate test for every Chinese respondent. "China's economy presents a significantly different picture than the traditional communist economic system of the early 1980s, i.e., the so-called 'Soviet-style economies,' such as the economies at issue in *Georgetown Steel*. These economies were characterized by both the Court and the Department as economies with a marked absence of market forces, in which: (p) Prices are set by central planners. 'Losses' suffered by production and foreign trade enterprises are routinely covered by government transfers. Investment decisions are controlled by the state. Money and credit are allocated by the central planners. The wage bill is set by the government. Access to

foreign currency is restricted. Private ownership is limited to consumer goods.”<sup>①</sup> (Memorandum of DOC in the free coated sheet paper). The situation and theory on which the separate rate test based changed substantially. In nowadays China, reforms in the past two decades witnessed significant change on our economy. Private ownership and foreign investment economy play a vital role. In the export activities, Chinese enterprises are all independent in decision making and responsible for their profit and loss. At the same time, there are numerous enterprises within the same industry and the market competition is fierce and perfect, so it is impossible for government to control the export activity of any individual company. This is an obvious fact.

Secondly, we find that Chinese respondents have sufficiently demonstrated that their export activities are independent from government control in the past cases. Therefore, the application and investigation on separate rates, which takes large time and labor, is become a meaningless process which should be completely canceled.

Thirdly, the intention of antidumping investigation is to determine whether a product sells below normal value and protect the domestic industry from injury or threat of injury. The purpose can be achieved by analyzing the questionnaires submitted by respondents and the information made by the on-the-spot verification.

We sincerely hope that the Department of Commerce can take into consideration our opinions and the changes taken place in China in the anti-dumping proceedings.

Respectfully submitted,



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<sup>①</sup> See *Georgetown Steel Corp. v. United States*, 801 F.2d at 1315 quoting *Carbon Steel Wire Rod from Poland; Final Negative Countervailing Duty Determination*, 49 Fed. Reg. 19375, 19376 (May 7, 1984).