ETUC POSITION
ON GRANTING MARKET ECONOMY STATUS TO CHINA

Approved by the Executive Committee on 17 December 2015

China has been a member of the World Trade Organisation (WTO) since 2001 but it is not recognised as a market economy by any of its major trading partners, including the EU and the US. China's WTO Accession Protocol allowed WTO members not to grant “Market Economy Status” (MES) to China for a period up to 11 December 2016.

Not applying MES to China allows the EU to use alternative methods for calculating dumping margins (that apply to Non-Market Economies, NMEs, often based on the higher prices applying in third countries).

China argues that it is automatically entitled to Market Economy Status after December 2016. However, well-grounded legal analyses demonstrate that there is no legal automaticity in the EU granting MES to China after that deadline and the ETUC, together with a range of organisations on both sides of European industry, strongly contests the suggestion that China should automatically be granted Market Economy Status in 2016.

The EU has set five technical criteria for defining a market economy which aim to establish whether the economic conditions in the country concerned have evolved to the extent that prices and costs can reliably be used for the purpose of trade defence investigations. To obtain technical MES for trade defence investigations all five criteria must be met1. These criteria stipulate that in the country concerned there must be:

> i) a low degree of government influence over the allocation of resources and decisions of enterprises, whether directly or indirectly (e.g. public bodies), for example through the use of state-fixed prices, or discrimination in the tax, trade or currency regimes;
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> ii) an absence of state-induced distortions in the operation of enterprises linked to privatisation and the use of non-market trading or compensation system;
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> iii) the existence and implementation of a transparent and non-discriminatory company law which ensures adequate corporate governance (application of international accounting standards, protection of shareholders, public availability of accurate company information);
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> iv) the existence and implementation of a coherent, effective and transparent set of laws which ensure the respect of property rights and the operation of a functioning bankruptcy regime;
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> v) the existence of a genuine financial sector which operates independently from the state and which in law and practice is subject to sufficient guarantee provisions and adequate supervision.”

The underlying idea of these five criteria is to determine if the prices and costs of companies in a transition country can be relied upon for the purposes of anti-dumping investigations. At the same time, we would draw attention to the fact that the United States Department of Commerce examines in the context of graduating a country to MES “the extent to which wage rates [...] are determined by free bargaining between labor and

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[1] *SEC(2008) 2503*

the management"2 which is not taken into account in the EU approach. Interference in trade union affairs – indeed state control of trade union organisations – and the lack of free collective bargaining has not been raised in this context with the Chinese authorities by the EU, and we believe it should.

For the EU to grant China MES, it would need to change its anti-dumping regulations, a procedure which would take almost a year. Such a decision would therefore have to be taken by the end of 2015.

Should the EU consider China a Market Economy, such decision would have a direct and immediate negative impact on investment and job creation in the EU. In particular, it would allow the EU's manufacturing core to be undermined by unfair trading practices: this would severely undermine the effectiveness of the EU's trade defence system and expose the EU market to unlimited Chinese dumping. A recent independent study projects that "the increased imports arising from granting MES to China would reduce EU output by between €114.1 billion and €228 billion per year, a 1 percent to 2 percent reduction in EU GDP (relative to base year output in 2011) that translates into 1.7 to 3.5 million potential jobs lost among import-competing industries, their suppliers, and the companies that depend on the wages of displaced workers. In addition to these direct and indirect jobs at risk, granting MES to China would put up to 2.7 million direct jobs at risk in a group of highly import-sensitive industries. The job losses estimated in this report are above and beyond jobs already lost due to rising EU trade deficits with China, and additional job displacement that will result from trend growth in bilateral trade deficits in the future"3. " In this light, ETUC believes that the European Commission should decide to launch a Sustainability Impact Assessment and ask the European Economic and Social Committee to adopt an Opinion on the issue. Social partners and Civil Society Organizations should be formally consulted and the European Parliament fully involved at all stages of the negotiations with the Chinese Government. Any contact between the European Commission and the Chinese authorities must be reported to the public and to the relevant stakeholders as to have to widest transparency and involvement.

In summary, the arguments against granting China MES are as follows4:

• The EU does not automatically have to grant MES to China when Section 15(a)(ii) of the Accession Protocol expires. It only means that China's trade partners lose a shortcut to using NME anti-dumping determination methods.

• China must honour the commitments that it made when it joined the WTO. Today China has not demonstrated that it meets the technical criteria to be a Market Economy. It must show that it has MES either for the whole economy or for subsectors of the economy. In addition we believe that free collective bargaining should be a criterion in the evaluation.

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[2] *The U.S. Section 771(18) (B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1677(18) (B) requires the authorities to take into account the following factors:*

(i) the extent to which the currency of the foreign country is convertible into the currency of other countries,

(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,

(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,

(iv) the extent of government ownership or control of the means of production,

(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and

(vi) such other factors as the administering authority considers appropriate.

[3] *EPI Briefing Paper #407 | September 18, 2015, Unilateral grant of Market Economy Status to china would put millions of EU jobs at risk, Robert E. Scott and Xiao Jiang - http://www.epi.org/publication/eu-jobs-at-risk/*

[4] *No to dumping from China. Industrall Policy Brief 2015-13. http://www.industriall-europe.eu/database/uload/pdf/Policy%20Brief%202015-13%20No%20to%20dumping%20from%20China%20final.pdf*

• A unilateral EU decision could lead to a flood of cheap imports into the EU as a result of trade deflection. This would have a devastating effect on a large number of manufacturing sectors in the EU.

Therefore, the ETUC calls upon the EU institutions (Commission, Parliament and Council) not to grant MES to China.

The ETUC will seek to work with all organisations involved in order to build a strong case against granting MES to China and asks ETUC affiliates to lobby at national level to verify that Governments will make sure that the European Commission will not grant MES to China.