VIA ELECTRONIC FILING

May 10, 2017

The Honorable Wilbur L. Ross, Jr.
Secretary of Commerce
International Trade Administration
Enforcement and Compliance
APO/Dockets Unit, Room 18022
14th Street and Constitution Avenue, N.W.
Washington, DC 20230

Attn: Albert Hsu; Daniel Calhoun

Re: **Inquiry Into the Status of the People's Republic of China as a Nonmarket Economy Country Under the Antidumping and Countervailing Duty Laws, ITA-2017-0002**

Dear Mr. Secretary:

Consistent with its mission of taking action to maintain effective trade enforcement and remedy options for U.S. manufacturers and producers by ensuring the U.S. government preserves its right to conduct a fair and accurate assessment of China's non-market economy status, Manufacturers for Trade Enforcement submits the following comments in support of the Department's continued treatment of China as a nonmarket economy country under the U.S. antidumping laws. We submit these comments in connection with the Department of Commerce's ("the Department") Federal Register notice announcing its inquiry into the status of the People's Republic of China ("China") as a non-market economy country under the United States' unfair trade laws.[1] These comments are timely filed, based on the Department's recent publication of a notice extending the deadline for the submission of such comments.[2]

I. THE MISSION OF MANUFACTURERS FOR TRADE ENFORCEMENT

Manufacturers for Trade Enforcement is a coalition of leading U.S. industry groups opposed to the automatic granting of market economy status for China at the end of 2016. Current members of the coalition include (in alphabetical order):

- The Aluminum Association
- American Iron and Steel Institute
- Alliance for American Manufacturing
- Aluminum Extruders Council
- American Fiber Manufacturers Association, Inc.
- American Wire Producers Association
- Committee on Pipe & Tube Imports
- Copper & Brass Fabricators Council
- Forging Industry Association
- Institute of Scrap Recycling Industries, Inc.
- Municipal Castings Association
- Metals Service Center Institute
- Narrow Fabrics Institute
- National Council of Textile Organizations
- PET Resin Association
- Society of Chemical Manufacturers and Affiliates
- Specialty Steel Industry of North America
- Steel Manufacturers Association, and
- U.S. Industrial Fabrics Institute.

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1 See Certain Aluminum Foil From the People's Republic of China: Notice of Initiation of Inquiry Into the Status of the People's Republic of China as a Nonmarket Economy Country Under the Antidumping and Countervailing Duty Laws, 82 Fed. Reg. 16,162 (Dep't Commerce Apr. 3, 2017).

2 See Certain Aluminum Foil From the People's Republic of China: Notice of Extension of Time for Public Comment Regarding Status of the People's Republic of China as a Nonmarket Economy Country Under the Antidumping and Countervailing Duty Laws, 82 Fed. Reg. 20,559 (Dep't Commerce May 3, 2017) (extending deadline for submission of comments until Wednesday, May 10, 2017).

Collectively, the industries represented by members of the coalition directly employ more than one million American workers.

Fair international competition and a level playing field are essential for the global competitiveness of U.S. manufacturers. Effective and predictable trade enforcement mechanisms must include the accurate assessment of and response to distortions from state-run or other non-market economies, which risk endangering U.S. jobs and the economy. Because China's economy does not meet the basic requirements set forth by the Department of Commerce for a functioning market economy, the Department should continue to find – as it did in its most recent review of China's nonmarket economy status completed in 2006 – that the Chinese economy continues to meet the definition of a non-market economy. Such a determination is vital for U.S. manufacturers seeking redress for unfair trade practices by Chinese firms.

II. CHINA DOES NOT SATISFY THE STATUTORY REQUIREMENTS TO BE IDENTIFIED AS A MARKET ECONOMY UNDER THE UNITED STATES' ANTIDUMPING LAW

As discussed below, a review of the established criteria that the Department is required to evaluate in making a market economy status determination demonstrates that China should continue to be treated as a non-market economy for purposes of the U.S. antidumping law.

First, China's currency is not freely convertible into the currency of other countries. The Government of China has a long-standing practice of intervening in markets to influence the value of the renminbi – in many instances to drive down the value of China's currency in order to create an artificial advantage for exports of products manufactured in China. These actions have harmed U.S. manufacturers and have been a subject of focused attention by Congressional and Executive Branch officials. China's government has also maintained significant and rigorous restrictions on capital account transactions. While the Government of China has undertaken some modest reforms of its currency practices since the Department completed its last review of China's status as a nonmarket economy in 2006, the Government of China continues to actively intervene in markets to manage the value of its currency and to maintain significant restrictions on capital account transactions. Because the value of the renminbi is not truly market-based, and because significant capital controls remain in place, the Department should continue to find that the Chinese government's actions continue to interfere with the ability of market forces to impact the renminbi's exchange rate.

Second, while the Department found in 2006 that wages appear to be negotiated between employers and employees, two important institutional constraints identified by the Department at that time continue to persist. Specifically, trade unions in China continue to lack the ability under Chinese law to act as a counterweight to the Chinese government's interests, and the Chinese government's policies limiting the mobility of individuals (through the so-called "hukou" system) distort the supply side of the labor market. The persistence of these conditions precludes a finding that wage rates in China are fully determined as a result of free bargaining between labor and management.

Third, with respect to China's openness to joint ventures or other foreign investment, the Department's findings in its 2006 analysis continue to be applicable today. China has failed to make measurable and demonstrable progress in the area of foreign investment and continues to restrict market access to foreign investors, including U.S. investors. Despite offering high-level promises to liberalize market access for foreign investors, China's current policies do not reflect significant progress toward opening its economy. The Chinese government continues to exhibit preferences for state-owned enterprises ("SOEs") at the expense of foreign investors and to impose high barriers to foreign investors seeking to do business in China. Indeed, both the number and significance of SOEs in Chinese economy has expanded since the time of the Department's 2006 analysis. For these reasons, the Department should find that current Chinese government policies and practices result in significant interference and control by the government of foreign investment and that non-market economy conditions continue to prevail in China.

Fourth, the Department's conclusion in 2006 regarding government ownership in China holds true a decade later. Despite purported reforms, the Chinese government has not implemented a comprehensive program for privatizing state-owned assets, reflecting an incremental approach to privatization that mirror the government's desire to maintain a significant role for SOEs, especially in certain sectors. Further, there have been no changes in the extension of land-use rights, and property rights remain poorly defined and weakly enforced. The analysis of this statutory factor, therefore, does not support a finding that China is a market economy for purposes of the U.S. antidumping laws.

Fifth, the Chinese government continues to play a significant role in most aspects of the Chinese economy, including through the allocation of resources. The close relationship between the Chinese government and firms is particularly evident in the sectors that the government has identified as strategic to its broader goals. Moreover, the number of strategic sectors slated for government management, and the extent of the role the Chinese government intends to play in those sectors, has increased – rather than decreased – in recent years. Strategic sectors that are a focus of the Chinese government include: information technology; computer numerical control machinery and robotics; aerospace and aviation equipment; maritime engineering equipment and high-tech maritime vessel manufacturing; advanced rail equipment; energy-saving vehicles and electrical vehicles; agricultural machinery and equipment; new materials; and biopharmaceuticals and high-performance medical devices. The Chinese government's prominent role in resource allocation has also led to a massive overcapacity crisis affecting numerous industrial sectors – including steel and aluminum – on a global basis. The presence of distortive resource allocation and industrial sector favoritism, and the lack of institutional support for private sector growth, continue to support a finding that China is a non-market economy.

III. CONCLUSION

The MTE Coalition continues to support the Department of Commerce approach of a criteria based assessment of to market economy treatment of any country. In the specific instance of China, for the reasons above, we maintain that China does not meet any of the established statutory criteria that would entitle it to be treated as a market economy for purposes of the U.S. antidumping law. A decision by the Department at this time to grant market economy status to China would intensify the impact of the market distortions that have resulted from the Chinese government's extensive interventions in its economy and would undercut the ability of domestic industries in the United States to pursue remedies under the unfair trade laws as a means of redress against these distortions. For these reasons, Manufacturers for Trade Enforcement strongly urges the Department to publish promptly a determination confirming China's continued status as a non-market economy country under the U.S. unfair trade laws.

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We appreciate the Department's consideration of these comments.

Respectfully submitted,