

## Commission postpones final decision on Market Economy Status for China

(25 July 2016) When China joined the WTO in December 2001, a transitional arrangement for its accession allowed for the treatment of China as a non-market economy (NME) in anti-dumping proceedings. China's current NME status offers the possibility to use prices of a comparable surrogate country rather than domestic prices (which are often artificially low due to state intervention) to compute the dumping margin (the standard dumping margin is the difference between the domestic price and the export price). The use of NME methodologies is described in Section 15 of the Chinese WTO Accession Protocol, but some of the provisions will expire on 11 December 2016 (after 15 years).

On the 20<sup>th</sup> July, the Commission held an orientation debate about how to address the issue of MES China. The discussion addressed the different options and will be the basis for concrete proposals to the Council and the European Parliament later this year.

### The Commission agreed on the following:

- Strengthening the existing trade defence instruments: faster procedures, strengthening the anti-subsidy regulation (as subsidies create a lot of distortions in trade flows), lifting the lesser duty rule in a certain number of cases
- Setting up international platforms for addressing industrial over-capacities (especially in the steel sector)
- Changing the anti-dumping methodology by a new approach of calculating the anti-dumping margins 'which will result in the same level of anti-dumping duties as in the past', according to Jyrki Katainen, EU Commission Vice-President.

IndustriAll European Trade Union is pleased with the fact that the Commission is concerned about the impact of unfair trade practices on European industrial jobs. Also, the fact that the Commission is referring to the need for a new methodology is a step in the right direction.

### However, many questions remain:

1. For the Commission the question whether or not China is a market economy is not relevant anymore. Does this mean that the Commission will remove China from the list of non-market economies anyhow?
2. No reference is made of the respect by China of the Accession Protocol to the WTO and of the five technical criteria used by the EU for defining a market economy
3. While it is positive that the Commission refers to a new calculation methodology, it is not clear which criteria will trigger the application of this new methodology.
4. As no details have been made public about what will be exactly 'new' in the calculation of dumping margins, it is not clear yet whether this new approach will be really effective in creating a fair level-playing field with China. Anyhow moving to the so-called 'cost adjustment procedure' will not be very helpful as European companies will have to deliver the proof that Chinese prices are distorted which is almost impossible to do because the lack of transparency.

## Press Release

*‘For industriAll Europe it is clear that as long as China doesn’t live up to the **five criteria** for defining a market economy, the EU should be allowed to use effective non-standard methodologies to reveal the real level of dumping by China’, Luc Triangle, General-Secretary of industriAll Europe. ‘We can no longer accept that China is exporting its restructurings to Europe by artificially keeping its companies afloat by state aid or by exporting its overcapacities at prices that are even below its own production costs’.*

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