

PRESS RELEASE

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FTA
Foreign Trade Association

FTA: Is the Commission's Solution to the 'China MES' Problem Really a Solution?

Brussels, 20 July 2016. Following the college of Commissioners meeting earlier today and the announcement on 'China MES', Christian Ewert, FTA's Director General said *"On the one hand it is heartening to hear that the Commission intends to do away with its discriminatory practice when conducting anti-dumping investigations against China. On the other, it seems to me that although the new proposal is not discriminatory in letter, it will be discriminatory if in practice it only applies to China."*

FTA understands the view of EU producers, who say that China is not a market economy and as such should not obtain such status by default and the view that applying the usual method of dumping margin calculation will most likely result in lower anti-dumping duties – perhaps no duties at all. However, we also believe there are ways in which this impact can be mitigated. Firstly it is important to understand that anti-subsidy investigations will be unaffected. Second, it is possible for the EU to use a method similar to that used in investigations against Russia or use adjustments when calculating the dumping margin.

However, it seems that the new method proposed will, most likely, still have to use prices in third country market economies to calculate dumping margins (i.e. the current "analogue country" method). This may continue to result in artificially high dumping duties for Chinese imports – a fact borne out by Commissioner Malmström's comment that duties against China under the proposed new method will result in duties more or less at the level reached under the current system.

China has stated it will bring the EU before the WTO if it does not use the usual method of calculation. This is unlikely to meet with success if the proposed method is indeed non-discriminatory (and will in any case take several years to conclude). However, it is also possible that it will use more immediate measures to pressure the EU to change; such as anti-dumping investigations, withdrawal from the negotiations on the bilateral investment treaty and measures affecting EU businesses in China.

Christian Ewert says *"It is an unavoidable truth that trade between the EU and China is of great importance to many thousands of EU companies. It is also true that a trade war between the EU and China, should the proposed method result in a de facto status quo, will negatively impact those companies. I trust therefore that the Commission can offer assurances that its solution to the 'China MES' problem is one that will be mutually agreeable by the EU and China."*

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Background

The Commission announced today that it will no longer single out China when conducting anti-dumping investigations by using an extraordinary method for calculating dumping margins. Instead, it will determine whether prices are distorted via state interference when conducting investigations against all countries – not just those it determines are non-market economies. In this respect, the Commission's proposal would appear to avoid claims of discrimination against

China that is currently permitted under Section 15 of China's Protocol of Accession to the WTO and which is due to expire on 11 December. Specific details of the proposal, which will need to pass through the Council and the European Parliament before becoming applicable, will not be known until later this year.

About the association: The [Foreign Trade Association](#) (FTA) is the leading business association for global commerce that promotes the values of international trade and sustainable supply chains. FTA represents over 1,800 retailers, importers and brands to promote and defend international trade and supports their business by providing information and practical solutions towards sustainability in the global supply chain. The association provides the [Business Social Compliance Initiative](#) (BSCI) to support participants to improve working conditions in factories and farms worldwide. It also provides the [Business Environmental Performance Initiative](#) (BEPI) to facilitate improved environmental performance in global supply chains.

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