May 2016

Under Section 15 of the Chinese WTO Accession Protocol, China can be treated as a non-market economy (NME) in anti-dumping proceedings. The definition of China as a NME allows importing countries to use alternative methodologies for the determination of normal values, often leading to higher anti-dumping duties. The legal interpretation of section 15 of the Chinese WTO Accession Protocol is controversial; a debate sparked on whether that provision constitute a legal obligation to grant Market Economy Status (MES) to China after December 2016 and therefore would require abandoning the use of NME methodology for antidumping investigations against Chinese firms. The EU Commission started a consultation in order to decide whether it should grant MES to China and amend its current antidumping regulation. This topical digest offers a sample of recent and relevant publications with respect to the debate on the Market Economy Status of China.

Granting Market Economy Status to China: An analysis of WTO law and of selected WTO members’ policy
In-depth Analysis by Laura Puccio, November 2015
Several WTO members have agreed to recognise China as a Market Economy, for several political reasons. The main exceptions are the EU, the US, Canada, Japan, Mexico and India, who still refuse to grant MES. The legal interpretation of the Chinese WTO Accession Protocol has come under debate, as well as whether the latter stipulates the automatic granting of MES to China after December 2016. This analysis looks at the debate on the interpretation of WTO law and the current policy of selected WTO members with respect to China’s MES.

Major-EU-China-anti-dumping-cases
Briefing by Gisela Grieger, May 2016
China is by far the major target of antidumping (AD) investigations initiated by the European Commission (EC) which concern particularly the bicycles, ceramics, chemicals, solar panels and steel sectors and significant employment levels. A review of some key AD cases in these sectors shows that Chinese exporters and the Chinese Government have increasingly challenged procedural and substantive aspects of the EU Antidumping Regulation before EU Courts and at the WTO respectively.

Calculation of Dumping Margin: EU and US rules and practices in light of the Chinese Market Economy Status debate
In-depth Analysis by Laura Puccio, May 2016
This paper looks at the differences in the methods for calculation of dumping margin and in particular normal values in investigation against exporters in a market economy and against exporters in NME, showing the possible implications of the options considered for China after 2016. It then focuses on the differences in the European Union and United States approaches towards NME, and uses empirical analysis to see how different methodologies are used in investigations against China, revealing a current restrictive stance of the Commission in applying market economy treatment to Chinese firms.

State-Owned Enterprise (SOE) reforms in China: a decisive role for the market at last?
Briefing by Gisela Grieger, May 2016
After decades of reforms, SOEs continue to play a key role in China’s political economy. They enjoy significant financial and regulatory privileges justified by social, industrial and foreign policy objectives they pursue. SOE reform is an important part of China’s transition to a market-driven economy. However, the current reform design suggests that SOEs are likely to retain many of their privileges, hindering private domestic and foreign firms to compete with SOEs on a more equal footing in and outside of China in the future.
Map of WTO members that granted earlier MES status to China and membership

Percentage of investigations in which Individual Treatment (IT) and Market Economy treatment (MET) were granted to at least one firm in the total investigations initiated against Chinese firms in a particular year

Source: DG EPRS-Members Research Service data

Timeline of SOE reforms

Data source: Author’s own compilation.