

# Cefic views on Market Economy Status (MES) for China

## **Background**

The chemical industry is a leading exporter of high value-added products. In this context, Cefic strongly supports multilateral trade liberalization under the banner of the World Trade Organization (WTO).

Back in 2003, China's chemical sales were around €116bn, 8.7% of the global total. That was far behind the top trio of the EU, US and Japan. A decade later, China had become world leader in chemical output by a wide margin, with annual sales of €1047.3bn, a 33.2% share of the global total and far ahead of the EU's €527bn sales and 16.7% global market share. Today China is the EU's second-biggest chemicals trading partner, accounting for 9% of EU exports and has become the most important growth market for global chemical companies and a major investment location. While Chinese chemical companies are gradually increasing their focus on specialty chemicals, the country will remain a major importer of commodity chemicals for some time to come. Chinese expansion does not necessarily imply Europe loses out. Rather, there are wins for both and China offers many opportunities.

Fair market access is a priority. In the past, we have been regularly confronted with dumped imports originating in China. Though these are only a minute fraction of total chemical imports from China, anti-dumping measures restore a level playing field. In this context, China's lack of market economy status (MES) is one of the country's principal points of contention with the EU. For the purpose of anti-dumping investigations China's WTO accession protocol allows WTO members to treat China as a 'non-market economy' until 2016. Beijing considers this issue a serious obstacle to the development of closer commercial relations with Europe. Cefic's view is that China does not yet meet the criteria for receiving MES but that convergence is a gradual process. So far, we have highlighted that the discussions on MES should remain technical and without political considerations. The ongoing debate over whether to grant MES is intensified by differences in interpretations of article 15 of China's accession to the WTO. Cefic, so far, has not intervened in these legalistic discussions.

This paper sets out the importance of granting (or not) MES to China for the European chemical industry and assesses the best way forward in the current debate on this dossier.

## **What is MES about and why is it important to our industry?**

Market Economy Status (MES) plays a key role in deciding how an exporting country, in this case China, will be treated for the calculation of dumping margins in the context of anti-dumping investigations by the EU. Meaning that where a market economy method is applied in the dumping calculations, the level of dumping margin will be (significantly) lower.

Of all the new anti-dumping investigations (cross-sector) initiated between 2010 and 2014, roughly half of them were against China (44%). As regards the chemical sector, the initiation of anti-dumping investigations in the last three years was dramatically low and only two new investigations, one of which against China, were initiated. It should be noted however that

only a tiny fraction of overall EU-China chemical's trade is affected by anti-dumping measures.

Today, the EU – like the USA - does not recognize China as a Market Economy because China does not meet the EU's technical conditions for granting "Market Economy Status".

### **The EU's five market economy criteria**

The five technical criteria that the EU currently applies in determining whether or not to grant market economy status to a country are the following:

- A low degree of state interference in the allocation of resources and in the decisions of enterprises (e.g. no state-fixed prices or discrimination in the tax or trade regime).
- No state induced distortions linked to privatisation or non-market trading or compensation.
- The existence and implementation of a transparent and non-discriminatory company law ensuring adequate corporate governance (independent boards, application of international accounting standards, protection of shareholders, public availability of accurate company information).
- The existence and implementation of a coherent, effective and transparent set of laws ensuring the respect of property rights and the operation of a functioning bankruptcy regime.
- The existence of a genuine financial sector operating independently from the state and which, in law and practice, is subject to adequate supervision and capital provision.

It can be concluded that today, China has not yet demonstrated that it meets the above market economy criteria.

### **The way forward**

Cefic considers the strong growth of China first and foremost as an opportunity rather than as a threat. Indeed, a 'winning' China does not imply a 'losing' Europe and the advent of China will generate win-win situations. We strongly believe that ongoing talks about an investment agreement should ensure companies are treated equally irrespective of their nationality, ownership, type or size and that China must honour the commitments it made when it joined the WTO in December 2001.

The European chemical industry promotes free and fair trade, advocating the eventual elimination of all chemical tariffs. Fair market access is a priority for Cefic. An open market for chemicals brings not only healthy competition but also potentially eradicates unfair trade practices, such as dumped and/or subsidized imports. The chemical industry needs effective means against such unfair trade practices and to restore fair competition.

In this context, Cefic will not intervene in the legalistic MES discussions which are currently taking place and will continue to reiterate its considerations that the decision on whether or not granting MES should be based on the above mentioned technical criteria. We consider that today China does not meet the criteria but however, this is a continuous process.

In addition, the EU's decision should be taken in view of the positions of other major trading partners involved, in particular the US. A unilateral granting of MES to China would risk exposing EU industries to deviation of (dumped) Chinese exports from US to EU.

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#### About Cefic

Cefic, the European Chemical Industry Council, founded in 1972, is the voice of 29,000 large, medium and small chemical companies in Europe, which provide 1.2 million jobs and account for 17% of world chemicals production.