

Foiled by Foil: China’s Hopes for “Market Economy” Status

By Hilary Wong, J.D. Candidate 2020 | November 20, 2017

The U.S. Department of Commerce recently issued a [162.24%](#) anti-dumping tariff on aluminum foil imports from China. The announcement is unsurprising given President Trump’s rallying cry for tariffs against Chinese imports since the campaign trail. However, the outcome is significant because it marks the Trump administration’s decision to continue treating China as a [non-market economy \(NME\)](#). In response, China has cited the new tariffs as an impetus to request for [additional consultations](#) with the U.S. as part of its ongoing fight at the World Trade Organization (WTO) over its NME status.

Beijing argues that, under WTO guidelines, a new member is supposed to be certified as a “market economy” 15 years after ascension. Prior to certification, a member is considered an NME. These economies are often subjected to more stringent anti-dumping duties than other countries. The assumption is that prices are often distorted, state-controlled, and not a reliable benchmark. As such, trading partners are given more flexibility in determining whether an NME is dumping and in calculating a corresponding tariff. For example, the U.S. generally applies an average duty of 162% against Chinese goods, compared with a 33% rate for goods from “market economies.” Following certification, a higher burden of proof is expected in order for a member country to accuse and retaliate against a country that is certified as a “market economy.” It is thus understandable that China is doing everything it can to acquire the “market economy” certification.

On the other hand, the U.S. and the E.U. argue that achieving “market economy” status was contingent upon China taking up liberalization practices. For example, the continual dominance of state-owned enterprises (SOEs) in China remains a key concern for both the U.S. and E.U. The WTO, however, has yet to take a stance on China’s SOEs. Meanwhile, China has filed a complaint in the WTO against both the U.S. and E.U. for continuing to deny China “market economy” status.

Despite the lack of status, China is now a frequent participant of the WTO dispute settlement system. Some have [argued](#) that China’s increased involvement in the WTO can be seen as a failure by the existing international economic order to control the rise of China. However, an alternative view is that China’s involvement in the WTO is evidence of successful efforts to integrate China and align its modus operandi with international norms. There are instances where Beijing has sought to diverge from existing international institutions. For example, China’s establishment of the Asian Infrastructure Investment Bank could be seen as a direct challenge to the current order led by the World Bank and a failure of the existing order to properly integrate emerging economies such as China. Therefore, China’s acceptance and active participation in the WTO should be celebrated and welcomed.