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UNICE POSITION ON MARKET ECONOMY STATUS FOR CHINA

State of Play

The accession of China to the WTO has been a key stage in the development of a strong EU-China trade and investment relationship. In 2003, China became the EU's second-largest trading partner outside of Europe, and the EU is also the second-largest trading partner for China. Total EU-Chinese bilateral trade has now reached 135 billion euro, and is advancing at the rate of around 17% a year. EU foreign direct investment in China is also growing and many EU companies are taking advantage of the opportunities available on the Chinese market.

This trade relationship is, however, now marked by a sizeable and widening EU deficit with China (around 55 billion euro in 2003), linked, in part, to China's competitive advantage in certain industries, China's exchange rate regime, government intervention, subsidies and a number of, often WTO-incompatible, barriers to the Chinese market. To address these concerns, European business expects China to fully implement its WTO commitments in a timely and effective manner.

Over the last few years, China has also made progress towards more transparent economic regulations and business practices – especially in some regions. There are still many problems but European business acknowledges China's efforts and encourages China to continue on that path. Nevertheless, economies in transition need time to evolve towards a fully functioning market economy to enable legislation to be adopted, enforced and translated effectively into practice.

China's WTO Accession Protocol rightfully acknowledged that its transition towards a fully functioning market economy would take time and it was therefore agreed to treat China as an economy in transition for up to 15 years. In the meantime, the EU Anti-Dumping Regulation treats Chinese companies that demonstrate that they are operating under market economy conditions in the same way as their counterparts in other market economies. Although few Chinese companies challenged by EU anti-dumping proceedings actually request market economy treatment, there appears to be no evidence that the EU has refused to grant Chinese companies this treatment when they demonstrate that they operate under market economy conditions. About half of the over one hundred Chinese companies that have applied for MES were actually granted it by the EU in the end. A larger share of the companies that are acknowledged as functioning as market economy operators by the EU are characterised by a high degree of foreign participation (i.e. Joint ventures), which suggests that Chinese economy needs further development towards a fully functioning market economy.

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A Call for the Continuation of Serious Reform in China

European business has identified priority sectors where China should actively proceed to build on the achievements of its reform process.

Financial sector: continued reform of the Chinese financial sector is key to the overall reform process. In particular, bank practices in respect of guarantee provisions and the granting of loans therefore need to be in full conformity with market economy requirements.

Company law and international accounting standards need to be effectively enforced in order to provide the necessary transparency to economic operators, the adequate protection of, and information for investors/shareholders, as well as to enable the self-regulatory mechanisms of the market to operate. Also in this context, it is absolutely necessary for bankruptcy law to be applied and enforced for all companies in China.

The *Government's role* should be to encourage the orderly operation of the market and to avoid the interference of State guidelines in companies' decision-making or in the functioning of the market. China should also take account of its role in the global economy and avoid industrial policy measures that disrupt markets in China and abroad or contradict its WTO commitments. In addition, local government behavior and initiatives should be fully consistent with those of the central government.

The *freedom to trade* should become a reality without discrimination or unjustified restrictions, both for domestic and foreign operators. This would not only benefit the effective operation of market forces in China, but would also provide the most effective remedy against fraud, corruption and smuggling.

Fiscal instruments should be transparent and should not provide Chinese operators with unfair advantages in international markets. Domestic and foreign operators should receive national treatment and thus should benefit from the same advantages in the Chinese domestic market.

Enforcement of basic legal principles in areas of concern to companies (IPR, standardization or certification, services regulations) should be based on the principle of equal treatment for domestic and foreign companies.

Conclusion

European companies attach great importance to the opportunities arising from the integration of the Chinese economy into the global market and are aware of the potential benefits for the world economy. The large European investment in China attests to the fact that European companies value China as an important global economic partner.

European business insists, however, on China implementing the rules and practices that ensure the proper functioning of a market economy. This is absolutely vital before granting MES.
