

# Tim Brightbill Comments on China's WTO Status as a Nonmarket Economy

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Timothy C. Brightbill, a partner in Wiley Rein's International Trade Practice, was quoted in a February 5 *Law360* article discussing China's upcoming 15th anniversary as a member of the World Trade Organization (WTO), and whether it should be recognized as a nonmarket economy (NME) or market-oriented industry (MOI) in antidumping investigations that occur after December 11, 2016.

Brightbill confirmed that in the view of domestic manufacturers and industries, the United States may continue to treat China as an NME after December 2016, and, under U.S. law, could only change course after the Commerce Department is asked to do so within the context of an active antidumping investigation.

Even then, Commerce would employ a six-factor test to determine whether China's economy is significantly independent from government actors. According to Brightbill, China does not meet any of the six tests at this time.

According to the article, the U.S. Department of Commerce (Commerce) historically has been able to impose high antidumping duties on NMEs such as China and Vietnam, which have government policies that help to artificially elevate the price of some industry goods such as steel and copper. The thought that this practice [of imposing duties based on NME calculations] may change has domestic manufacturers concerned, said Mr. Brightbill.

"It's an extremely important issue for U.S. companies and industries that use the trade laws because if you assume that these distorted Chinese prices can be used in dumping calculations, it will clearly

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have an effect on some of these cases, which would weaken the results and therefore weaken the usefulness of the trade laws," Mr. Brightbill told *Law360*.

To read the complete article, [click here](#).