

U.S. producers that believe themselves injured by subsidized Chinese imports have not been able to obtain relief through CVD actions because China is considered a nonmarket economy country (NME) under U.S. law and practice. In two 1984 cases, the Department of Commerce declined to make CVD determinations for NME countries on the grounds that it lacked explicit legal authority to impose CVDs on NME countries and that, as a practical matter, it could not arrive at economically meaningful conclusions regarding subsidies in such countries—and therefore could not rationally apply the CVD laws. Commerce based the latter finding on its conclusion that, in such countries, government intervention in the economy is so pervasive that meaningful comparisons between subsidized and market-determined prices are not possible. A federal appeals court subsequently upheld Commerce’s determinations.

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