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Surrogate Country Methodology in WTO Disputes Involving China from Legal Ambiguity to Systemic Reform

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Abstract
The mechanism of a surrogate country empowers WTO signatories to substitute the costs or prices of the third country for those of the exporting region in anti-dumping (AD) examination. This has been the pivotal and problematic element for China's alignment with the multilateral trading system multilateral in nature. Drawing from the provisions of price comparability with respect to China's WTO Accession Protocol, more specifically Section 15(a), the procedure has produced a remarkable volume of bilateral disputes at the WTO, rulings of the panel, and reports of the Appellate Body over the last couple of years. The current study investigates the evolution. regulatory foundations, and systemic repercussions of the surrogate nation procedure as applied to the Chinese exports [1].

Considering the comprehensive evaluation of the WTO jurisprudence, for instance, remarkable disputes DS516 (EU–Price Comparison Methodologies), CVD, DS471 (US–AD Methodologies), DS397 (EC–Fasteners), and DS449 (US–Anti-Dumping coupled with the scientific appraisal of the scholarly studies, the current study recognizes the trajectory of the mechanism from its focal justification as a provisional safeguarding to its conflicted post-2016 status [2]. This assessment has been finished in three stages: First, it investigates the regulatory text as well as its competing explanations; second, it recognizes the forms of punitive outcomes across the dispute manuals in the WTO; third, it investigates the implications of the policy relative to the contemporary regulatory uncertainty for the multilateral trading order at the WTO [3].

The study shows that, despite the termination of Section 15(a)(ii) on 11 December 2016, the self-governing authorization for the procedure officially expired, and political and organizational elements were prohibited from reaching a conclusive resolution, leaving the framework of the WTO in a precarious normative ambiguity state . The research concludes with a reform proposal that is based on evolving jurisprudence about the specific market condition perspective as a possible WTO-compliant pathway ahead [4-6].

Keywords: Anti-Dumping, Surrogate Country Methodology, Non-Market Economy, China, Wto Disputes, Section 15 Accession Protocol, Normal Value, Particular Market Situation

Introduction
Since China's association with the WTO on 11 December 2001, no single governing framework has generated more conflicted adjudication than the price comparability provision in China's Accession Protocol [7]. Referring to Section 15 of the Protocol, under specific scenarios, WTO members disregard prices and costs across China in AD investigation and as a substitute, adopt "surrogate country" principles and rules to recognize whether Chinese exporters were selling at prices lower than the actual ones [8]. This provision legitimized and codified an activity that the EU and USA had triggered against non-market economies (NMEs) and China for a couple of years before accession to the WTO, hence changing a formerly extralegal governing framework into a binding global commitment [9].

The implications of this encoding were remarkable. China swiftly became the focal target of AD investigations across the globe, facing more proceedings in comparison to other members of the WTO [10]. By 2010. The USA alone had executed AD measures against Chinese products in sectors ranging from furniture to shrimp, steel pipes to solar cells, with dumping margins more often reaching three-digit levels of percentages that would not have been possible under a typical framework using domestic costs of China [11]. The EU's corresponding requests of the "analogue country" procedure produced equally antagonistic trade disputes [12]. Meanwhile, regulatory and academic scholars debated whether the procedure established a balanced response to real-time market disruptions in the state-governed economy of China or a mechanism for finely disguised safeguarding [13,14].

On 11 December 2016, the disagreement reached its climax when subparagraph 15(a)(ii) of the Accession Protocol was planned to expire [15]. China understood this expiry as discussing autonomous market economy status (MES), which would need business allies to execute typical AD measures and adopt domestic prices in China. Both the EU and USA actively challenged this interpretation, sustaining that the termination of a single sub-paragraph does not abolish the wider mechanisms allowing withdrawal from standard procedures where prices of China remained disrupted by state-governing benchmarks [16]. True to its stated intention, China initiated dispute settlement proceedings against both the EU (DS516) and the United States (DS515) on 12 December 2016, initiating the most significant multilateral trade law controversy of the current decade [4].

In contradiction to this backdrop, the current study provides a systematic assessment of the methodology adopted by surrogate countries across three investigative dimensions. First, it investigates the regulatory framework of Section 15 and the contending interpretations that were advanced by the adjudicatory bodies of the WTO, China, and its focal allies [2-17]. Second, it evaluates and synthesizes the focal WTO reports regarding disputes entailing the procedure, portraying patterns of regulatory disciplines and domains of insistent ambiguity [3]. Third, it assesses the policy repercussions of the contemporary impasse, impaired by the unresponsiveness of the Appellate Body of the WTO since December 2019, and suggests a reform program embedded in the doctrine of Article 2.2 of the Anti-Dumping Agreement (ADA), namely "Particular Market Situation" (PMS) [5].

The current research mainly contributes to the prevailing literature in two ways. Although past studies have tended to emphasize either the quantitative patterns regarding the selection of a surrogate country or the regulatory interpretation of Section 15, the current study bridges these two streams of assessments to provide an amalgamated account of how regulatory uncertainty has triggered governing strategy, and how governing strategy, consequently, has produced further regulatory controversy [3].

Moreover, by positioning the debate of the surrogate country within the wider disaster of WTO conflict management, this study provides a progressive analysis of the reform mechanism that exceeds the binary conflict between " automatic MES" and "business as usual" [3]. The rest of the study is organized in the following manner. Section 2 offers the regulatory landscape, which includes the provisions of Section 15 and the relevant text of the ADA of the WTO. Section 3 provides an in-depth review of the literature. Section 4 evaluates the execution of the methodology of the surrogate country by the EU and the USA. Section 5 investigates the focal WTO conflict reports. Section 5 addresses the post-2016 regulatory framework. Section 7 relates to the options regarding policy reforms, and Section 8 concludes the research.

Section 15 of China's Accession Protocol and the WTO Anti-Dumping Agreement

Legal Framework

The regulatory basis of the methodology of the surrogate country as executed in China rests on two overlapping frameworks: the China-centric provisions of the Accession Protocol and the general provisions of the WTO Agreement, particularly ADA and Article VI of GATT 1994 [18]. Conceptualizing both patterns is pivotal to comprehending why the procedure has produced such continuous disagreement.

Under Article 2 and Article VI of GATT 1994, AD duties could be imposed when an exported good is sold at a price less than its actual price, normally referred to as the equivalent price in the exporting region's domestic market [19]. The ADA offers comprehensive procedural benchmarks for normal value calculation, such as the adoption of the third-region prices in restricted conditions and text for constructed value. Indeed, Article 2.2 allows constructed value to be relied upon for manufacturing costs, coupled with a sensible portion for selling, administrative, and general expenses, on the other hand, Article 2.2.1.1 offers that costs shall usually be estimated based on records kept by the manufacturer or exporter under examination, provided that such insights rationally depict the production costs and product sales under consideration [20]. The ADA entails no unambiguous text authorizing the adoption of the surrogate country information, including methodology, hence needs particular regulatory authorization beyond the four pillars of the Agreement itself [21].

China's Accession Protocol's Section 15 offered authorization for a definite period. Referring to Section 15(a); the WTO's importing members could adopt a procedure that is not rely on a firm comparison with domestic costs or prices in China if the manufacturer under study could not visibly demonstrate the conditions of the market economy prevailing in the organization's manufacturing of similar products [8]. Subparagraph 15(a)(ii) additionally stated that this derogation would expire "in any case" fifteen years after China's accession date (11 December 2016) [22]. In addition, referring to

Section 15(d), once China has demonstrated, under the regulation of the WTO's importing members, that it has been a market economy, the derogation would terminate [23]. The overlap between such provisions, more specifically the correlation between the termination of 15(a)(ii) and the survival of 15(a)(i), becomes the focal interpretive battlefield of the post-2026 conflict [24].

The USA executes the methodology of the surrogate country by using Sections 771(18) and 773(c) of the Tariff Act of 1930, as revised [9]. For NME regions, the calculation of normal value by estimating the production factors adopted in the production of the subject stock and valuing those elements utilizing publicly available insights from a surrogate country, a market economy region at a comparable level of financial growth to the NME region [1]. The EU has traditionally executed a structurally identical "analogue country" approach under Articles 2(7)(a) and 2(7)(b) of its fundamental AD regulation; however, the specific benchmark for the exemption of individual organizations and surrogate country selection has varied from that of the USA [25]. The ADA's Article 2.2 doctrine, "Particular Market Situation," offers a progressively invoked regulatory landscape for leaving domestic costs and prices even outside the NME mechanism. Article 2.2 allows institutional bodies to disregard sales in the domestic market when a PMS exists that does not allow a suitable comparison. Post-2016, both the EU (through Regulation 2017/2321) and the USA (through the Trade Preferences Extension Act of 2015) have tended to raise PMS as an additional or substitute justification for executing methodologies similar to NME towards Chinese goods [20-26].

Literature Review

Previous studies on the methodology of the surrogate country could be categorized into four focal patterns (1) reform-centric proposals addressing the repercussions of methodology at the systemic level; (2) analyses of the political economy of the NME treatment as a type of business safeguarding; (3) quantitative literature investigating the surrogate country selection and the consequent margins of dumping; and (4) regulatory-interpretive scholarship on the ADA and Section 15. Reform-centric proposals proposed an array of methodologies to address the post-2026 regulatory ambiguity. Academicians [27]. criticized the EU's novel " significant distortions" approach under Regulation 2017/2321 as effectively dismantling NME treatment under a supposedly region-neutral mechanism, asserting that it lacked a regulatory foundation in the ADA due to the Agreement not allowing an examination power to sanction state intervention rather than addressing the appropriate comparison between normal value and price of the export [27].

Likewise, the assertions of Suse depict that EU's novel approach, while perhaps protecting the Regulation from "as such" institutional (WTO) problem, was unlikely to sustain inspection as executed, provided the Appellate Body's verdicts on disregard cost in EU–Biodiesel [20]. A considerable literature on PMS doctrine has extended the debate since 2015 Act of US Trade Preferences Extension codified extended discretion for USDOC to manage specific transactions as outside the normal course of business, with courteously asserting that this regulatory transformation predicted a post-NME determination of normal value paradigm in which participant's costs could be replaced and disregarded with substitute principles that estimated the previous NME surrogate approach [26]. An in-depth scientific assessment of the academic debate by Hošman recognized four different interpretive positions, including PMS-as-residual-authority, shifting burden of proof, business as usual and automatic MES, and categorized various insistent misconceptions, giving the highly organized mapping of the academic arena to date [2].

Studies on political economy have investigated the treatment of NME as a tool of managed safeguarding. Several researchers drafted the discriminatory escalation of AD measures against China following its accession to the WTO in 2001, depicting that business allies gradually substituted China-centric protectionism and NME-AD instruments as traditional tariff barriers were forced by WTO commitments [28]. Furthermore, an empirical study on US AD commencement and adjudication proposed a significant correlation between the frequency of affirmative AD rulings, the theatrical growth of China-US business ties, and NME status, recommending that economic and political burdens interacted with the technical mechanism of NME to produce highly aggressive execution [11].

Furthermore, another research stream provides in-depth cross-country evidence that nations recognizing the market economy status of China significantly initiated fewer AD examinations against Chinese goods, harmonized with the speculations that treatment of NME operates as a form of trade barrier, discriminatory in nature [15]. Another survey on China's contribution to WTO AD conflicts from 2001 to 20122 depicts the progress from passive rule-taker to dynamic litigant, showing that growing experience with the WTO conflict handling framework, technical capability, and exposure of China gradually transformed its safeguarding positioning [29].

The legal research on EC–Fasteners (DS397) initially identified the tussle between the EU's NME-wide duty practices and principles of the WTO regarding individual duty treatment under ADA's Article 6.10 and 9.2 [30,31]. Scholars noted that the Appellate Body in EC–Fasteners opened a "Pandora's box" regarding NME relevant queries that the adjudicatory mechanism was endeavoring to terminate ever since, for instance, the conditions under which NME region's exporters may adequately be treated as a single entry, and the extent of government intervention justifies these accumulations [30].

Furthermore, a number of studies evaluate the proceedings of the compliance in EC–Fasteners (Article 21.5) and depict that the AB's allowance for adjusting costs in surrogate approach scenarios inhibited the highly draconian applications of the analogue country method, recommending an incremental judicial discipline of the approach even before the protocol sunset [32]. An array of quantitative studies has addressed the surrogate country selection and the far-reaching implications on estimated margins of dumping. A systematic investigation of the USDOC patterns of the selection of the surrogate country reveals that, in contrast to the common perception of unpredictable and random selection, the institution had sustained a comparatively persistent strategy based on recognizable benchmarks, for instance, availability of insights, financial comparability, and significant manufacturing of the subject products [1].

Nevertheless, they asserted that this apparently persistent strategy produced significant challenges in estimating the margin of dumping for Chinese goods, even though not at a scale adequate to have a significant implications on the performance of Chinese exports [1]. The initial quantitative studies on NME status of China demonstrate the increasing tendencies by which US AD petitions against China resulted in confirmatory results due to the calculated normal value under the approach of surrogate country was systematically more likely to surpass the export price [33]. Another assessment of the non-frozen USA-based apple juice concentrate case depicted how the selection of a surrogate country could be conclusive in identifying whether dumping is evident at all, as the adoption of India rather than the genuinely speculated Poland transformed the consequences of the proceedings [34].

As the December 2016 sunset approached, the studies on legal imperative swiftly grew. A considerable number of researchers, including Nedumpara and Subramanian, asserted that the termination of subparagraph 15(a)(ii) has been insignificant due to subparagraph 15(a)(i) autonomously authorizing the adoption of Non-Chinese requirements when manufacturers could not depict the conditions of their market economy in the relevant sector, rendering 15(a)(ii) a redundant expression whose termination transformed nothing of substance [8].

In contrast, the termination of 15(a)(ii) ended the WTO's members' right to impose surrogate costs or prices based on a national NME benchmark, demanding any potential adoption of substitute requirements to comply with the ADA's general provisions applicable to all signatories of the WTO [4]. Another stream of interpretive, demonstrated by González-Rojas and Bhattacharya, speculated a "shifting burden of proof" methodology under which the belief of NME conditions would continue, but the responsibility would move towards the importing region to favorably depict that Chinese costs or prices have been disrupted in the particular examination at hand [17-24].

The Surrogate Country Methodology in Practice: United States and European Union

The real-time execution of the methodology of the surrogate country by the EU and the USA, while transmitting the identical pivotal rationale, has changed in crucial substantive and methodological ways that have produced dissimilar patterns of litigation in the WTO [35]. The USDOC's approach treats China as an NME region by default under 19 C.F.R. § 351.408, which proposes that the institution will value production factors by using publicly available insights from a surrogate region unless a respondent can demonstrate that the PMC prevails in the particular organizational sector generating the subject products [36]. The surrogate region's selection proceeds based on a public process in which stakeholders might submit proposals and facilitate data; USDOC contemplates economic comparability (assessed by per capita GNI), crucial manufacturing of the subject product, availability and reliability of the information, and the absence of crucial institutional disruptions [34].

The consequence "Surrogate Value" (SVs) for individual production factors, including overhead, raw materials, energy, and human resources, are hence executed to the respondent's personally demonstrated quantities of consumption to establish a speculative production cost in the context of a market economy [1]. The FOP-driven methodology, as drafted by Ahn and Kim, has sustained a persistent pattern of favoring certain regions, including Bulgaria, Romania, Indonesia, the Philippines, and India as a focal surrogate basis, relying upon the sector under examination [1].

A unique attribute of the US NME approach is the doctrine, namely "NME-wide entity", under which the entire manufacturers and exporters in China that fail to sustain autonomy from state intervention are treated as a single entity and designated a shared Available Adverse Facts (AFA) rate originated from petition insights rather than the respondent's personal trading insights [37]. This methodology has produced a few of the greatest published margins of dumping in the history of USDOC, recurrently exceeding 100 per cent and in a few cases touching several hundred per cent [38]. Referring to the ruling of the Appellate Body in DS471 (US–AD Methodologies), eventually demonstrate this activity mismatched with the ADA's Article 6.10 and 9.2, which require estimations of margins to be executed on an individual producer or exporter basis, and ruled that the adoption of the rates of AFA for NME-wide entity breached the ADA's Annex II and Article 6.8 [39,40].

On the other hand, the approach of the EU's analogue country did not adopt FOP-centric valuation methodology but rather compares prices of exports directly with the domestic price of similar machinery in the analogue region, or if such prices are not available, the costs of the analogue country production cost [41]. The EU's approach also combined the notion of "Market Economy Treatment" (MET), whereby individual manufacturers in China could be evaluated under typical benchmarks of the market economy if they demonstrated that their activities were free from crucial state interventions, a provision absent from the approach, namely, USDOC [42]. Furthermore, the EU executed an "Individual Treatment" (IT) benchmark for manufacturers that did not qualify for MET but could demonstrate that the quantities and prices of their exports were autonomously identified [41].

The boundary between IT and MET, and the differential treatment between non-MET and MET-qualifying organizations, trigger intense litigation at the WTO level, closing in the EU–Footwear (DS405) and EC–Fasteners (DS397) conflicts, which found the EU's NME-wide duty methodology mismatched with the individualization benchmarks of the ADA [43,44]. The wider landscape that evolves from investigating EU and US practice is one of the remarkable governing discretions in the execution of the methodology regarding surrogate country [13]. The absence of WTO benchmarks clearly defining NME or suggesting the selection benchmarks of the surrogate country consulted by examination bodies, broader freedom to formulate decisions that systematically preferred the outcomes of the high margins of dumping [14]. This asymmetry at the structural level, in which the authorities of the importing region reserved inclusive discretion over both the threshold identification of NME status and the surrogate requirement's selection, shapes the significant equity challenges underlying the sustained regulatory campaign of China against the approach [45].

Focal Panel and Conflicts and Appellate Body Rulings of the WTO

The conflict management record of the WTO regarding issues of the surrogate country and China-relevant NME is wide-ranging. This part assesses the four highly crucial conflicts and their jurisprudential repercussions.

Definitive AD and Countervailing Duties (CVDs) on Particular Chinese Goods by the US (DS379)

China's foremost NME-oriented dispute (DS379) questioned the parallel execution of AD measures estimated under the surrogate approach regarding NME and CVDs on similar goods. China's foremost NME-relevant dispute (DS379) questioned the parallel execution of AD duties estimated under the CVDs and NME surrogate approach on identical products. In March 2011, the Appellate Body ruled that this "double remedy" strategy may violate the benchmarks of Article 19.3 of the SCM Agreement by consequential measures in excess of the amount of the subsidy [46]. The AB appreciated the structural obstacle of removing double counting in the context of NME, where the surrogate approach already embedded a speculation that manufacturers enjoy cost-driven benefits attributable to institutional facilitation, yet directed USDOC to commence case-centric examinations to develop whether and to what degree double counting had happened [47]. It has been reported that the ruling triggers crucial procedural needs regarding DOC while leaving the fundamental NME approach intact, producing a dispute of compliance (DS449) in which the AB eventually found that the US law enacted to circumvent the DS379 ruling itself breached the benchmarks of the WTO [46-48].

Definitive AD Measures on Steel or Iron Fasteners from China (DS397): European Communities

The conflict of EC–Fasteners, adjudicated in 2011, provided the initial in-depth ruling of the WTO about the individual duty treatment benchmarks for NME exporters. China opposed Article 9(5) of the EU's fundamental AD Regulation, which imposed country-specific duties on NME exporters unless they were effectively imposed for individual treatment under rigorous benchmarks [31]. The Appellate Body has found that ADA's Article 6.10 and 9.2 needed examination bodies to identify dumping margins at individual level for each known manufacturer or exporter, subject only to the exception from sampling based on the second sentence of the Article 6.10 when an array of involved importers, manufacturers and exporters or products types were so bulky that it was not feasible to perform determinations at individual level [32].

For NME manufacturers, the EU's blanket nationwide methodology based on a state intervention belief that could only be invalidated by meeting the rigorous IT benchmarks was evident to reverse the individualization benchmark and establish an unworkability belief unverified by the provisions of the ADA [45]. The proceedings of the compliance under Article 21.5 (EC–Fasteners II) additionally illustrated that even when producers are categorized into a single object because of noticeable commercial or structural correlations, the object cost should still be adjusted to demonstrate market-oriented inputs, restricting the highly hostile executions of the methodology regarding the analogue country [33].

Certain Approaches and their Execution to AD Proceedings Involving China (DS471): United States

In December 2013, China started DS471, targeting three diverse US procedural practices: the weighted average-to-transaction (WA-T) comparative approach, the NME-wide doctrine of entity, and the rates of Adverse Facts Available (AFA) linked with NME-wide entities [37-39]. In the June 2016 report, the Appellate Body paradoxically issued a couple of months before the protocol sunset against the USA in relation to all three counts [40]. Referring to the WA-T method, the AB ruled that the USDOC had inappropriately executed the remarkable WA-T approach by applying the "Nails test" to develop a price pattern that significantly varied across buyers, vicinities, and periods of time, reporting that the assessment benchmarks had been inappropriately aligned with the pattern requirements of the ADA in Article 2.4.2. [38].

On the NME-wide entity, the AB confirmed the DS379 direction that the ADA requires individual margin calculations and that the entity-wide approach violated Articles 6.10 and 9.2 [38]. The Article 22.6 arbitration in this dispute, reported in November 2019, further found that the counterfactual for calculating China's permitted retaliation should be a zero-duty baseline, a determination that McDaniel and Vermulst criticized as effectively conducting re-litigation of violations [49,50].

Actions Regarding Price Comparison Approaches (DS516): European Union

DS516, China's dispute against the EU, confronted the regulatory foundation of the EU's post-2016 methodology, namely "significant distortions" under Regulation 2017/2321 as a de facto prolongation of NME treatment in breaching China's rights under GATT 1994 and ADA [51]. In June 2019, the proceedings were adjourned by China before the report was issued by the panel. It has been depicted either as a strategic estimation regarding the potential result or as a Chinese priority to avoid a possibly hostile precedent in the perspective of the paralysis of the Appellate Body [51,52].

The deferment did not solve the focal regulatory question of whether the EU's novel approach was harmonized with the WTO's benchmarks, leaving the issue officially open and subject to latent future obstacles once the appellate function of the WTO is reconstructed [27]. The study of Antonini recommended that the EU's approach of "significant distortions" was identical to the NME approach at the structural level and depicted WTO-inconsistent in relation to the EU–Biodiesel (Argentina) and was hence susceptible to the obstacle both "as such" and "as applied" [25].

Persistent Ambiguity and Competing Frameworks: The Post-2016 Legal Landscape

The consequence of the sunset protocol not only generated a resolution but also a multiplication of competing regulatory mechanisms, each asserting harmonization with the WTO while sustaining the financial implications of the previous NMEE approach [3]. The USA declined to transform its approach regarding surrogate value, depending upon Section 771(18) of the Tariff Act and the nonappearance of a WTO adjudicatory identification of the acceptability of the persistent NME label under domestic regulations of the United States [9].

Congress strengthened this posture by enlarging the provisions of the PMS in the 2015 Act of Trade Preference Extension, enabling USDOC to contest respondents' personal insights regarding cost and substitute surrogate-driven substitutes when a specific condition of the market has been evident to disrupt prices in either the US market or the exporting region's domestic market [26]. It has been shown that the US apparatus regarding business remedies had established various overlapping instruments, including CVDs, protectionism, and AD under the NME approach, which jointly ensured "special treatment" for exporters from China regardless of whether the NME status of China was officially maintained [9]. The ruling of the DS471 disciplined the highly egregious methodological manifestations for this model without removing its practical foundation [40].

Furthermore, the EU pursued a highly flexible transformational journey by formally eliminating China from its NME region's list in December 2017 while concurrently initiating the approach of "significant distortions" as a substitute [25]. The commission may recognize the existence of significant distortions under Regulation 2017/2321 and its executive provisions, in a given sector or region, activating normal value construction based on global benchmarks, costs or prices undistorted in nature, rather than the own records of the exporting country [20-53].

In December 2017, a report documented that China has recognized six classifications of significant distortions in relation to the economy of China, which includes distortions in labor market, distortions in the financial sector, intellectual property, discriminatory regulation, government intervention in organizational decisions, and government-owned business and speculated that such classifications could validate the disregard of Chinese domestic costs at a systemic level across an array of domains [53]. In addition, it has been reported that this methodology was legitimately disputed under the ADA because Article 2.2.1.1 needs that costs must be relied upon data hold by the manufacturer unless the insights o not sensibly depict the costs, and this benchmark has been explained hardly through the AB in EU–Biodiesel to emphasize on particular goods and particular disruptions rather than government intervention on country wide [20-26].

It has been evident that there are four competing interpretive positions in contemporary studies of the post-2016 regulatory framework [2]. An array of researchers exhibit a narrative, namely "magic deadline," which depicts that the termination of 15(a)(ii) autonomously prohibits members of the WTO based on Non-Chinese rules and regulations in the determinations of normal value, demanding them to indulge in constructed values or domestic values based on the datasets derived from China [54]. Furthermore, it has been asserted a narrative, namely "business as usual" depicted that Section 15(a)(i) automatically validates the NME approach as long as Chinese manufacturers could not develop the conditions of market economy in their sectors, triggering the termination of 15(a)(ii) insignificant [16-55].

It has also been evident that a narrative called "shifting burden of proof" demonstrates a central position that the NME approach could sustain but demands a confirmatory demonstration by the importing economy rather than a rebuttable supposition against the exporting region [24-17]. On the other hand, the narrative of "PMS pathway" hypothesized that the PMS narrative of the Articles' 2.2 demonstrated an automatic regulatory foundation for departing from domestic costs and prices in the post-2026 context, without reference to Protocol or NME status at all [5-26-56].

Since December 2019, the unresponsiveness of the Appellate Body, when its membership fell below the three members essential for a quorum, has prohibited the conclusive adjudicatory resolution of such competing positions [3]. To suspend DS516, China's decision before the report of the panel has further delayed the moment of regulatory clarification. In this context, the uncertainty at the normative level established by competing interpretations has advantaged importing economies sustaining NME-driven approaches, since, without negative appellate verdicts, their strategies conform to no official obligation regarding compliance [51]. Several researchers characterized this consequence from the perspective of law, depicting that the foundational dedication of the WTO regarding transparency and predictability in business policy has been damaged by the instability of the procedural ambiguity at the center of the system's biggest bilateral business ties [2].

Reform Proposals and Policy Repercussions

The debate regarding the repercussions of the surrogate country approach at the systemic level expands well beyond the bilateral China-EU and US-China ties. The incapability of the WTO to resolve the NME question via normal conflict management frameworks has repercussions for the repute of the rule-oriented multi-lateral order of trading and for the treatment of other developing economies that evaluate the WTO under identical commitments [57]. It has been evident that various pathways of reform value consideration. The foremost and highly consequential at the structural level would be to engender disciplines at the level of the WTO on the identification of NME status and the surrogate country selection. It has been asserted that the nonappearance of the WTO regulations clearly defining the benchmarks for selection of the surrogate country or prescribing NME status established an undesirable zone of managerial discretion that breached the non-discrimination and transparency benchmarks of the system at WTO level [14]. In relation to the methodological benchmarks, a multilateral agreement for reliability of data, financial comparability and structural differences adjustments between the surrogate and exporting regions would trigger a pivotal pressure on te protectionist or arbitrary scope for the selection of the surrogate country while sustaining the authentic purpose of ensuring a reasonable comparison between normal value and export price [58]. The DDA Rules Negotiations at the level of the WTO, which included AD disciplines in their order, offered a natural platform for these reforms, and proposals of China in such negotiations persistently stressed the need for severe obstacles on the methodology regarding surrogate country [59].

Another pathway of reform entails the explanation of the operationalization of the PMS narrative as a mechanism of post-NME. Under this mechanism, which draws facilitation from ADA's Article 2.2, examining agencies would be obliged to recognize particular market disruptions from the state interventions at the sector or merchandise level and to calculate normal value consequently, based on external criteria only to the degree that such state interventions reduced domestic costs or prices incompatible with assessment objectives [5-56].

This methodology has the benefits of addressing the practical concern regarding government-administrative prices while endeavoring the utilization of surrogate information to obtain quantitative results regarding particular disruptions rather than a categorical allocation of the NME status to the exporting country. A considerable literature depicted that this methodology is more authentic with respect to the ADA's text because it emphasizes the conditions evolving around individual transactions of sales rather than the overall conditions of the market of the exporting country [56-60]. Nevertheless, this approach is not without obstacles: the explanation of the PMS narrative by the Appellate Body in USDOC practice remains disputed in DS471, and the narrative's scope in the context of post-2016 awaits firm explanation [26].

A third methodology would entail plurilateral or bilateral agreements between China and focal business allies on the determination of the conditions of the market economy in particular domains or product classifications. It has been evident that recognition of market economy status by individual countries has evidently mitigated the extent by which AD examinations against the products of China, recommending that bilateral negotiation recognition could attain tangible outcomes regarding liberalization of trade even in the nonappearance of multilateral reform [15]. Likewise, it has been speculated that NME countries, serving as an alliance, must negotiate jointly with the EU and US to develop an agreed mechanism for organization -specific or sector-specific determinations of market economy, leveraging their joint business weight to protect less discretionary and more predictable treatment [13]. This method is harmonized with the decentralized role of the WTO regulatory system's supplementary correlation with accession-driven commitments and preferential agreements of trade.

A fourth and highly pivotal pathway of reform would simply remove the category of NME from business remedy regulation and demand that the entire AD examinations to executed under the standard mechanism of the ADA, depending upon Article 2.2's prevailing text for the construction of cost and the narrative of PMS for case-oriented departures from the prices at the domestic level [21]. It has been asserted that after December 2016, there is "no legal basis in the Protocol for the continuing application of such special treatment" and the EU must eliminate China from the list of NMEs without executing "significant distortions" compensating actions [21]. Likewise, research opposes that whatever label business allies choose to execute towards China and its domestic regulations, this label no longer vindicates the execution of the NME approach due to these exceptions should now harmonize with the WTO's benchmarks pertinent to all members [4]. This scenario would significantly mitigate the scope for preferential treatment but would leave genuine distortions in the market triggered by government intervention to be managed through proceedings of the CVD and preventive measures rather than an AD approach [61].

Nevertheless, the attributes of each pathway of reform and the constraints of the political economy on reform are challenging. As a study has shown that the political system of the United States has recurrently depicted its dedication to sustaining preferential treatment to China regardless of the regulatory mechanism at the multilateral level, and various interventions at the legislative level, for instance, the 2012 Act of Currency in the United States and the 2015 Act of Trade Preferences Extension were particularly formed to sustain the financial implications of the NME approach even if its unambiguous regulatory foundation eroded [9].

The EU confronts the identical political burdens from the import-competing organizational sectors, as depicted in the

2016 non-legislative resolution by the European Parliament clearly denying China MES on the basis that yielding it would disclose EU organizations to competitive pressure [6-62]. Reform, if it comes, is likely to be procedural and incremental rather than substantive and radical, a course that would be harmonized with the wider evolution of AD jurisprudence at the WTO level towards substantial methodological discipline without a pivotal revision of the crucial assessment mechanism [3].

Conclusion

The current research has investigated an approach of surrogate country as executed within the dispute handling framework of the WTO towards the Chinese exports, determining its regulatory basis, disputed explanations, historical disagreement, and evolution of the post-2016. Various focal outcomes emerge from the assessment. First, an approach of surrogate country, while embedded in a legitimate purpose of establishing a fair evaluation between normal value and export price, has been ensured in a manner that artificially amplified and systematically triggered high margins of dumping by amalgamating unrestricted managerial discretion in the selection of surrogate country with asymmetries at the structural level that disadvantaged exporters from China. The nonappearance of disciplines at the WTO level regarding the selection of a surrogate country and identification of the NME has been a pivotal void in the rules framework at the multilateral level that neither the text of the ADA nor consequent dispute management jurisprudence has optimally addressed [14-33].

Second, the record of WTO dispute management, while executing significant methodological disciplines including the protections against double counting, adjustments of costs in composite entities, and obligations of the duty treatments at the individual level, has not resolved the focal questions of whether and under what circumstances surrogate requirements remain harmonized with the post-December 2016 WTO's benchmarks [3]. The Appellate Body's unresponsiveness has indefinitely deferred a definitive verdict on the competing explanations of Section 15, thereby allowing importing-country strategies to remain within a normative ambiguity zone [51].

Third, the EU and US post-2026 responses at the regulatory level enlarged the methodology of the "significant distortions" and PMS narrative, respectively, depicting structurally identical operational equivalents to the previous NME approach, sustaining the financial repercussions of surrogate criteria under an alternate regulatory mechanism whose harmonization with the WTO remains disputed [20-26,27]. The decision of China not to press DS515 and suspend DS516 to completion depicts an estimation at the strategic level that the current moment is inconvenient for a conclusive ruling at the multilateral level, recommending that the normative impasse may sustain in the long run [27-52]. Fourth, the systemic repercussions of the controversy regarding surrogate country expand beyond the particular context of Chinese work settings. The NME approach "multilateralization" depicts the circulation of surrogate-specific assessment methodologies into typical ADA examinations through the narrative of PMS, this in turn, establishes a risk that optimized utilization of departures from the personal data of the respondents will become normalized across the system at multilateral level, rewarding tit-for-tat gestures and eroding the ADA's dedication to the cost-oriented estimations in genuine manufacturer insights [3].

The policy repercussions of this assessment point toward an agenda of reform that amalgamates three factors: reconstruction of the Appellate Body of the WTO to restore the capability for legal authoritative resolution of the unresolved interpretive controversies; multilateral disciplines regarding the selection benchmarks of surrogate country and standards of economic comparability; and PMS narrative's operationalization through agreed interpretive rules that confine its execution to particular, quantitatively authenticated market disruptions [58-63]. Without such reforms, the WTO's capacity to address one of the most crucial early 21st-century business policy conflicts will remain impaired at the structural level, with potentially severe repercussions for the effectiveness and legitimacy of the trading system at the multilateral level [2-51].

The approach of a surrogate country begins as transitional protection, established for a 15-year period to address China's consolidation of a trade regime centered on a market economy. Its sustainability beyond that time frame, and the political and regulatory tussles surrounding its persistence, depict structural disputes between China's government-administrative financial frameworks and the speculations of AD law at the level of the WTO. Mitigating such tussles needs not simply adjudicative explanations of agreement text but a wider commitment at the political level to optimizing the normative mechanism of the WTO to depict the 21st century's state capitalism realities [57-63,64]. This is a job beyond the capability of any single conflict manual, and the prevailing obstacles for the trading system at the multilateral level.

References

1. Kim, H., & Ahn, D. (2019). Empirical evidence on surrogate country method for non-market economy: <scp>US</scp> anti-dumping policy towards China. World Economy, 42(8), 2452–2466.
2. Hošman, M. T. (2021). China's NME status at the WTO: analysis of the debate. Journal of International Trade Law and Policy, 20(1), 1–20.
3. Zhou, W., & Qu, X. (2021). Confronting the 'Non-Market Economy' Treatment: The Evolving WTO Jurisprudence on Anti-Dumping and China's Recent Practices.
4. Zhou, W. (2017). China's Litigation on Non-Market Economy Treatment at the WTO: A Preliminary Assessment. The Chinese Journal of Comparative Law, 5(2), 345–364.

5. Zhang, L. (n.d.). Chinaâ€TMs Market Economy Status Adoption of Surrogate Country Methodology After 2016. RePEc: Research Papers in Economics.
6. Zhang, L. (2016a). China's Market Economy Status Adoption of Surrogate Country Methodology After 2016. Journal Global Policy and Governance, 5(2), 3–15.
7. Choukroune, L. (2012). China and the WTO Dispute Settlement System. The Global Trade Lawyer and the State Capitalist.
8. Nedumpara, J. J., & Subramanian, A. (2017). China and the Non-Market economy treatment in Anti-Dumping Cases: Can the surrogate price methodology continue post-2016. Journal of International and Comparative Law, 4, 253-278.
9. Lee, J. (2017). Chinas Nonmarket Economy Treatment and US Trade Remedy Actions. Journal of World Trade, 51(Issue 3), 495–516.
10. China in the World Trade Organization. (2023).
11. Zeng, K., & Liang, W. (2010). US antidumping actions against China: the impact of China's entry into the World Trade Organization. Review of International Political Economy, 17(3), 562–588.
12. Oxford Analytica. (2016). EU will offset the drop of China's NME status. Emerald Expert Briefings.
13. Nguyễn, T. T. (2018). Negotiating for Market Economy Status: Journey to the West for Transitioning Countries.
14. Ly, V., & Ngo, T. (2016). NME Status in Anti-Dumping Proceedings: A Revision Under WTO Law and Practice.
15. Urdínez, F., & Masiero, G. (2015). China and the WTO: Will the Market Economy Status Make Any Difference after 2016? Chinese Economy, 48(2), 155–172.
16. Birch, N. J., Stewart, T. P., Fennell, W. A., & Bell, S. M. (2014). The Special Case of China: Why the Use of a Special Methodology Remains Applicable to China after 2016. Global Trade and Customs Journal, 9(Issue 6), 272–279.
17. Bhattacharya, R. (2017). THREE VIEWPOINTS ON CHINA'S NON-MARKET ECONOMY STATUS. Trade, Law & Development, 9(2), 188.
18. Baere, P. D., Parc, C. du, & Damme, I. V. (2021). The WTO Anti-Dumping Agreement. Cambridge University Press eBooks.
19. Vermulst, E. (2005). The WTO Anti-Dumping Agreement: A Commentary. Oxford University Press eBooks.
20. Suse, A. (2017). Old Wine in a New Bottle: The EU's Response to the Expiry of Section 15(a)(ii) of China's WTO Protocol of Accession. Journal of International Economic Law, 20(4), 951–977.
21. Noel, S. (2016). Why the European Union Must Dump So-called 'Non-market Economy' Methodologies and Adjustments in Its Anti-dumping Investigations. Global Trade and Customs Journal, 11(Issue 7/8), 296–305.
22. Beck, J., & Ruessmann, L. (2014). 2016 and the Application of an NME Methodology to Chinese Producers in Anti-dumping Investigations. Global Trade and Customs Journal, 9(Issue 10), 457–463.
23. Minyou, Y., & Guan, J. (2017). The Non-Market Economy Methodology Shall Be Terminated After 2016. Global Trade and Customs Journal, 12(Issue 1), 16–24.
24. González-Rojas, F. (2017). All Parts Should Have Meaning: A Proposal on the Correct Interpretation of section 15(a) & (d) of China's Protocol of Accession.
25. Antonini, R. (2018). A 'MES' to be adjusted: past and future treatment of Chinese imports in EU anti-dumping investigations. Global Trade and Customs Journal, 13(Issue 3), 79–94.
26. Nicely, M. R. (2016). U.S. Trade Preferences Extension Act (TPEA) of 2015 Could Lead to Increased Use of "Particular Market Situation" in Calculating Normal Value in Anti-Dumping Cases. Global Trade and Customs Journal, 11(Issue 5), 238–243.
27. Zhou, W., & Noël, S. (2016). Replacing the Non-Market Economy Methodology: Is the European Union's Alternative Approach Justified Under the World Trade Organization Anti-Dumping Agreement? Global Trade and Customs Journal, 11(Issue 11/12), 559–567.
28. Bown, C. P., Feenstra, R., & Wei, S. (2007). Prepared for NBER Conference on China's Growing Role in World Trade.
29. He, L. L. (2012). China's WTO Participation in Anti-Dumping Disputes (2001-2011). SSRN Electronic Journal, 7(4), 616–643.
30. Zang, M. Q. (2011). EC -- Fasteners: Opening the Pandora's Box of Non-Market Economy Treatment. Journal of International Economic Law, 14(4), 869–892.
31. Qi, T. (2012). A turning point of non-market economy: on the individual duty treatment of the WTO in the fasteners anti-dumping case between European Communities and China. Frontiers of Law in China, 7(3).
32. Espa, I., & Levy, P. I. (2018). The Analogue Method Comes Unfastened – The Awkward Space between Market and Non-Market Economies in EC–Fasteners (Article 21.5). World Trade Review, 17(2), 313–334.
33. Roberts, M. (2008). The US-China Trade Relationship: Explaining U.S. Anti-Dumping Duties on China.
34. Lin, L. (2005). Appropriate Selection Of Surrogate Country In Antidumping Case Against Non-Market Economy. International Trade and Finance Association Conference Papers.
35. Yilmazcan, A. (2024). Procedures of the US, EU and the Position of China under the Anti-dumping Investigations. Cambridge University Press eBooks, 108–152.
36. Low, P., & Santana, R. (2009). Trade liberalization in manufactures: what is left after the Doha Round?. Journal of International Trade and Diplomacy, 3(1), 63-126.
37. Kugler, K. (2017). United States – Certain Methodologies and Their Application to Anti-Dumping Proceedings Involving China (US–Anti-Dumping Methodologies (China)), DS471. World Trade Review, 16(4), 753–757.
38. United States – Certain Methodologies and Their Application to Anti-Dumping Proceedings Involving China: Hitting Nails in the Coffin of Unfair Dumping Margin Calculation Methodologies. (2018).

39. Organization, W. T. (2017). United States - Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China. Appellate Body Reports.
40. Prusa, T. J., & Vermulst, E. (2019). United States – Certain Methodologies and Their Application to Anti-Dumping Proceedings Involving China: Nails in the Coffin of Unfair Dumping Margin Calculation Methodologies. World Trade Review, 18(2), 287–307.
41. Qian, W. (2003). An analysis of the legal problems and issues arising from the European Union's current anti-dumping legislation with regard to the People's Republic of China (Doctoral dissertation, University of Glasgow).
42. Johnson, V. (2013). Market Economy Treatment for Chinese Producers under the Indian Antidumping Regime. Global Trade and Customs Journal, 8(Issue 2), 53–61.
43. Dunoff, J. L., & Moore, M. O. (2014). Footloose and duty-free? Reflections on European Union–Anti-Dumping measures on certain footwear from China. World Trade Review, 13(2), 149-178.
44. Ito, K. (2013). [WTO Case Review Series No. 8] European Communities — Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China (WT/DS397): Dispute over the method of imposing anti-dumping duties on non-market economies (Japanese). RePEc: Research Papers in Economics.
45. Hollington, W. N. (2018). Legal and Policy Justifications for Refusing to Grant China Market Economy Status in 2016. The Georgia Journal of International and Comparative Law, 46(3), 3644.
46. Zheng, W. (2011). Trade Remedies and Non-Market Economies: The WTO Appellate Body's Report in United States – Definitive Antidumping and Countervailing Duties on Certain Products from China. SSRN Electronic Journal.
47. Ahn, D. (2011). United States—Definitive Anti-dumping and Countervailing Duties on Certain Products from China. American Journal of International Law, 105(4), 761–767.
48. Beshkar, M., & Chilton, A. (2015). Revisiting Procedure and Precedent in the WTO: An Analysis of US – Countervailing and Anti-Dumping Measures (China). World Trade Review, 15(2), 375–395.
49. McDaniel, C. A., & Vermulst, E. (2020). United States – Certain Methodologies and Their Application to Anti-Dumping Proceedings Involving China: Re-Litigating through the Backdoor? World Trade Review, 20(4), 546–555.
50. Organization, W. T. (2019). United States - Certain methodologies and their application to anti-dumping proceedings involving China - Recourse 2. Arbitration Reports.
51. Zhou, W., & Noël, S. (2019). EU's New Anti-dumping Methodology and the End of the Non-market Economy Dispute?
52. Noël, S., & Zhou, W. (2019). EU's New Anti-dumping Methodology and The End of The Non-Market Economy Dispute? SSRN Electronic Journal.
53. Câmpeanu, V. (2018). New Eu Anti-Dumping Methodology. First Report: China. Euroinfo, 2(1), 15–22.
54. Sud, J. D. (2016). Normal value in anti-dumping proceedings against China post-2016: are some animals less equal than others?. Global Trade and Customs Journal, 11(5).
55. Miranda, J. (2014). Interpreting Paragraph 15 of China's Protocol of Accession.
56. Washington, A. J. (2018). Not so fast, China: non-market economy status is not necessary for the "Surrogate Country" Method. Chicago Journal of International Law, 19(1), 8.
57. Pogoretskyy, V. (2019). Non-market Economies in the Global Trading System: The Special Case of China edited by James J. Nedumpara and Weihuan Zhou Springer, 2018, ISBN 978-981-13-1330-1, xliv + 324 pp. World Trade Review, 18(3), 537–540.
58. Chen, Y. (2013). The Surrogate Country System for WTO Antidumping Investigations against Non-market-economy Countries: China as an Example. TSpace.
59. Choi, W. M. (2007). People's Republic of China's Proposals for Anti-Dumping in WTO/DDA Rules Negotiations. SSRN Electronic Journal, 2(1), 25.
60. Washington, A. J. (2018b). Not So Fast, China: Non-Market Economy Status is Not Necessary for the "Surrogate Country" Method. Chicago Journal of International Law, 19(1), 260.
61. Kok, J. de. (2016). The Future of EU Trade Defence Investigations against Imports from China. Journal of International Economic Law, 19(2), 515–547.
62. Zhang, L. (2016b). China's Market Economy Status Adoption of Surrogate Country Methodology After 2016. Journal Global Policy and Governance, 5(2), 3–15.
63. Kwon, Y. (2022). Non Market Economy and WTO: Focused on the US Complaints against China. Journal of Korea Research Association of International Commerce, 22(1), 139–163.
64. Bown, C. P. (2019). Nontariff Responses to China's Development Strategy. Cambridge University Press eBooks, 277–298.