

**Memorandum of Understanding  
on a dialogue  
in the area of the State aid control regime and the Fair  
Competition Review System**

between  
on the one side

**The State Administration for Market Regulation  
of The People's Republic of China**

and  
on the other side

**The Directorate-General for Competition of the European Commission**

The Directorate – General for Competition of the European Commission and the State Administration for Market Regulation of the People's Republic of China hereinafter referred to as the “Sides”.

Having regard to the consideration that the aim of the State aid control regime and the Fair Competition Review System is to prevent public policies from distorting and restricting competition while maintaining fair market competition and promoting a unified market.

Having regard to the mutual benefit for both Sides in a dialogue where they exchange experiences on how to optimise and steer the use of State resources to promote the efficient and sustainable economic development of both economies.

Having regard to the importance of having a dialogue between the Sides on the enhancement of an effective, transparent and non-discriminatory state aid control and fair competition review.

the Sides have reached the following understanding:

**1. Scope and Objective**

- 1.1. The primary objective of this Memorandum of Understanding is to establish a forum of consultation and transparency between the Sides on the State aid control regime and the Fair Competition Review System, and to strengthen cooperation and coordination between the two Sides in this area (hereafter the dialogue). The ultimate aim is to increase mutual understanding and awareness of current and forthcoming trends and expected developments of relevant policy in their respective jurisdictions in the understanding that State aid control and fair competition review are important factors in ensuring consumer welfare and in providing a level playing field as well as

legal certainty for the business community in the market. Without prejudice to the rights of the European Union and China under the WTO to address similar issues, this dialogue at technical level shall also contribute to smooth and sustainable trade relations between the EU and China.

- 1.2. The Memorandum of Understanding is based on the principles of equality and mutual benefits and should promote mutual considerations in a coordinated manner.

## **2. Structure**

- 2.1. The dialogue, which will be co-chaired by a senior official in charge of respectively State aid control or fair competition review policy nominated by each administration, will be comprised of appropriate officials of each Side, accompanied by officials from other relevant authorities, as may be appropriate.
- 2.2. The contact points will be the Directorate for Policy and Strategy of the Directorate-General for Competition and the Price Supervision and Anti-Unfair Competition Bureau of the State Administration for Market Regulation. Any further activity or set up stemming from this dialogue should be taken by consensus. Each Side will also promptly notify the other of all changes of their responsible authorities for State aid control or fair competition review. In particular, the Sides will make sure that any modifications on the competence of the EU authorities in charge of State aid control or the Chinese authorities in charge of fair competition review will be adequately reflected in the structure of the dialogue.
- 2.3. The Sides, as part of the dialogue, may establish *ad-hoc* working groups to facilitate discussions at expert level.
- 2.4. The dialogue should take place at least once a year. Meetings are to alternate between Beijing and Brussels unless otherwise decided. The Sides will take advantage to the maximum of the opportunities to meet granted by forums of dialogue already in place between the EU and China in which both Sides participate.

## **3. Content**

- 3.1. In view of the longstanding EU experience in State aid control and the idea set forth by China to implement a fair competition review system. The following exchanges can be envisaged:
  - (a) Exchange of views on developments in state aid control and fair competition review legislation and on their experience in the enforcement of this legislation;
  - (b) Exchange of experiences on the enhancement of the operation of the Sides' State aid control and fair competition review authorities;
  - (c) Exchange of views with respect to multilateral state aid control and fair competition review initiatives;
  - (d) Exchange of experiences on State aid control and fair competition review advocacy including on raising awareness of authorities, companies and the wider public of State aid control and fair competition review;
  - (e) Exchange of views and experiences regarding a coordinated approach to technical cooperation between the EU and China in the area of state aid control and fair competition review.

3.2. Both Sides will endeavour to support the objectives of this Memorandum of Understanding with appropriate and coordinated technical cooperation activities making efficient use of available resources.

**4. Existing laws and confidentiality**

4.1. Cooperation between the Sides under this Memorandum of Understanding is subject to the respective laws of the EU and China.

4.2. No Side is required to communicate information to the other if such communication is prohibited by the laws or regulations of the EU and China possessing the information or would be incompatible with the interests of that Side in the application of its laws. In so far as information is communicated, the recipient should, to the extent consistent with its laws, maintain the confidentiality of any such information communicated to it in confidence.

**5. Costs**

5.1. Each Side covers its own costs, including transportation costs for international travelling, travelling between cities and accommodation.

**6. Final provisions**

6.1. The working languages under this Memorandum of Understanding will be Chinese and English.

6.2. The Sides will apply the provisions of this Memorandum of Understanding on a voluntary basis.

6.3. The provisions of this Memorandum of Understanding are not designated or intended to create legal rights or obligations under international law.

6.4. The first period of operation of this Memorandum of Understanding will be five years as of the date of signature. The Sides will review the operation of this Memorandum of Understanding before the end of the first period.

6.5. Either side may terminate the Memorandum of Understanding by written notice to the other side and will strive to do sixty days before the date of such termination.

The present Memorandum of Understanding is signed in Brussels on 9 April 2019 in two copies, each in English and Chinese.

**For the European Commission  
(Directorate-General for Competition)**



**Margrethe VESTAGER**  
Commissioner

**For the State Administration for  
Market Regulation**



**Zhang MAO**  
Minister