

# **Terms of Reference of the EU-China Competition Policy Dialogue**

**On 6 May 2004 the Ministry of Commerce of China and the Directorate General for Competition of European Commission reached agreement on a structured dialogue on competition of which the terms of reference are laid down herewith:**

## **1. Objectives and scope**

The Dialogue comes within the framework of the Joint Statement adopted at the EU-China Summit of 5 September 2001, in which competition policy was earmarked as one of the areas where the EU-China dialogue should be intensified.

China has formulated various competition-related policies, laws and regulations. On its side, the EU has a relatively complete set of competition legislation. This provides a basis for a dialogue between both parties on competition legislation and enforcement.

The increasingly significant role of multilateral forums where competition matters are discussed such as the International competition Network (ICN) should be taken into account in the dialogue between the EU and China on competition policy.

The primary objective of the Competition Policy Dialogue between the authorities in charge of competition policy in China and the services responsible in the European Commission is to establish a permanent forum of consultation and transparency between China and the EU in this area, and to enhance the EU's technical and capacity-building assistance to China in the area of competition policy.

Within this framework, the aim shall be to increase both sides' understanding and awareness of current and forthcoming policy approaches, legislation and related issues, in China and the EU, and to promote exchanges and cooperation between China and the EU in the area of competition policy and legislation.

Both parties understand that competition policy is an important factor in ensuring consumer welfare and it should provide for a level playing field and legal certainty to the business community in the market. The dialogue will promote mutual considerations.

The Dialogue shall also contribute to the establishment of smooth and sustainable trade relations between China and the EU.

## **2. Structure**

Treaty and Law Department of MOFCOM and the Directorate for Policy Development and Coordination of Directorate-General for Competition are responsible for coordinating the dialogue. The Dialogue, which will be co-chaired by a senior official (in principle the head of a Department or Directorate) in charge of competition policy and enforcement nominated by each administration, will be comprised of appropriate officials of each party, accompanied by officials from other relevant authorities, as may be appropriate.

The contact points will be the Treaty and Law Department of the Chinese Ministry of Commerce and the Directorate for Policy Development and Coordination of the European Commission Directorate-General for Competition. Any further activity or set up stemming from this dialogue shall be taken by consensus. Each party will also promptly notify the other of all changes of their responsible authorities for competition policy, both for legislation and for enforcement. In particular, parties will make sure that any modifications on the competence of

EU or Chinese authorities in charge of competition policy and enforcement will be adequately reflected in the structure of the dialogue.

The Dialogue may establish ad-hoc working groups to facilitate discussions at expert level.

The Dialogue should take place at least once a year. Meetings shall alternate between Beijing and Brussels unless otherwise decided. The parties will take advantage to the maximum of the opportunities to meet granted by forums of dialogue already in place between China and the European Commission such as the China-EU Joint Committee meetings or other present or future forums in which both parties participate.

The working languages will be Chinese and English.

### **3. Content**

The Dialogue shall, in particular, deal with:

- Antitrust law and enforcement. Exchange of views on current situations, experience, and new developments on legislation and enforcement of antitrust policies;
- Merger control in a global economy. How can company mergers be regulated? Exchange of views on merger legislations and enforcement;
- Setting up of a competition authority exchange of experiences on the set up of competition authorities, as well as their competition advocacy role;
- Exchange of views with respect to multilateral competition initiatives, with a particular mention to the fight against international «hard-core» cartels;
- Exchange of views on liberalisation of public utility sectors and State interventions into the market process;
- Exchange of experiences on raising companies and public's awareness on competition and anti-monopoly laws;
- Engage in cooperation to enhance EU's technical and capacity-building assistance to China in the area of competition policy.

### **4. Technical assistance and capacity building**

In the framework of the EU-China cooperation projects, both parties will endeavour to support the objectives of the Dialogue with appropriate competition-related technical assistance and capacity building activities such as the organisation of training, seminars, studies etc..

### **5. Costs**

Each party will cover its own costs, including transportation costs for international travelling, travelling between cities and accommodation. Each party will provide active support and assistance to the other.

Mario Monti,     Commissioner  
European Commissioner for Competition

Bo Xilai, Minister  
Minister of Commerce