

# **Memorandum of Understanding on Cooperation in the area of anti-monopoly law**

between  
on the one side

**The European Commission (Directorate-General for Competition )**

and  
on the other side

**The National Development and Reform Commission (hereinafter NDRC)  
and  
The State Administration for Industry and Commerce (hereinafter SAIC)  
of The People's Republic of China**

hereinafter referred to as the "Sides".

Having regard to the adoption on 30 August 2007 of the Anti Monopoly Law in the People's Republic of China and the role played by NDRC and SAIC in its implementation,

Having regard to the importance of cooperation and coordination between the Sides in the enhancement of an effective, transparent and non-discriminatory enforcement of the competition legislations of both jurisdictions,

the Sides have reached the following understanding:

## **1. Scope and Objective**

- 1.1. The primary objective of this Memorandum of Understanding is to strengthen cooperation and coordination between the two Sides in the area of competition legislation, and in particular in the area of Anti-Monopoly legislation<sup>1</sup>. The ultimate aim is to increase mutual understanding and awareness of current and forthcoming trends and expected developments in competition legislation and its enforcement in their respective jurisdictions in the understanding that competition legislation is an important factor in ensuring consumer welfare and in providing a level playing field as well as legal certainty for the business community in the market.
- 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.

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<sup>1</sup> For the purpose of this Memorandum of Understanding the term of "Anti-Monopoly" refers to all matters covered by the Anti Monopoly Law of China, excluding matters relating to concentrations (or mergers).

## **2. Content of the cooperation and coordination activities between the two Sides**

- 2.1. Both Sides consider that it is in their common interest to exchange views on matters regarding competition legislation and its enforcement in their respective jurisdictions, as defined by the Sides' respective competition legislation, subject to reasonable available resources. The following exchanges can be envisaged:
- (a) Exchange of views on developments in competition legislation and on their experience in the enforcement of this legislation;
  - (b) Exchange of experiences on the enhancement of the operation of the Sides' competition authorities;
  - (c) Exchange of views with respect to multilateral competition initiatives;
  - (d) Exchange of experiences on competition advocacy including on raising awareness of companies and the wider public of competition and anti-monopoly legislation;
  - (e) Exchange of views and experiences regarding a coordinated approach to technical cooperation between the EU and China in the area of competition law.
- 2.2. For the duration of, and in the framework of the EU-China Trade cooperation projects, both Sides will endeavour to support the objectives of this Memorandum of Understanding with appropriate and coordinated competition-related technical cooperation activities for the efficient use of available resources.
- 2.3. Should the two Sides pursue enforcement activities concerning the same or related matters, they may exchange non-confidential information, experiences views on the matter and coordinate directly their enforcement activities, where appropriate and practicable.

## **3. Existing laws and confidentiality**

- 3.1. Cooperation between the Sides under this Memorandum of Understanding is subject to the respective laws of each Side's jurisdictions.
- 3.2. No Side is required to communicate information to the other if such communication is prohibited by the laws or regulations of the Side 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.

## **4. Costs**

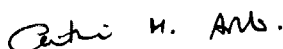
- 4.1. Each Side covers its own costs, including transportation costs for international travelling, travelling between cities and accommodation.
- 4.2. Each side will provide support and assistance to the other whenever requested.

**5. Final provisions**

- 5.1. The working languages under this Memorandum of Understanding will be English and Chinese.
- 5.2. The Sides will apply the provisions of this Memorandum of Understanding on a voluntary basis.
- 5.3. The provisions of this Memorandum of Understanding are not designated to create legal rights or obligations under international law.
- 5.4. The sides will review the operation of this Memorandum of Understanding not more than three years from the date of signature.
- 5.5. 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 20 September 2012 in three copies, each in English and Chinese..

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



**Catherine ASHTON**

Vice-President

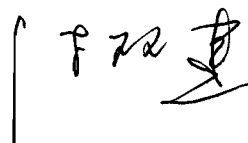
**For the National Development and  
Reform Commission**



**ZHANG Ping**

Chairman

**For the State Administration for  
Industry and Commerce**



**FU Shuangjian**

Vice-Minister