

A G R E E M E N T
between the Government of the Russian Federation and
the Government of the People's Republic of China on Cooperation
in the Field of Antimonopoly Law Enforcement and
Competition Policy

The Government of the Russian Federation and the Government of the People's Republic of China, hereinafter referred to as "the Parties",

reaffirming the commitment to the principles and spirit of bilateral relations, enshrined in the Treaty of Good-Neighborliness and Friendly Cooperation between the Russian Federation and the People's Republic of China of July 16, 2001;

expressing the intention to develop mutually beneficial cooperation in the field of control over the compliance with the antimonopoly legislation of the States of the Parties;

aiming at creating favorable conditions for the development of bilateral relations and expansion of trade and economic cooperation of the States of the Parties;

taking into account the key role of competition for the effective social and economic development of the States of the Parties, promotion of innovation processes and manufacturing of high quality products;

considering that in the context of globalization of economic activities, anticompetitive actions in the territory of one of the States of the Parties can affect the interests of the State of the other Party;

having regard to the provisions of the Agreement between the Government of the Russian Federation and the Government of the People's Republic of China on Cooperation in the field of Countering of Unfair Competition and Antimonopoly Policy of April 25, 1996,

have agreed as follows.

Article 1

Purpose and Definitions

1. The purpose of the present Agreement shall be the development and strengthening of cooperation between the Parties in the field of antimonopoly policy and law enforcement, including with regard to general issues of implementation of antimonopoly policy, investigations of actions of economic entities that affect competition in the territory of the States of the Parties, as well as the application of antimonopoly legislation of the States of the Parties to economic entities of third countries, activities of which affect competition in the markets of the States of the Parties.

2. For the purposes of the present Agreement the terms set out below shall have the following meaning:

“antimonopoly legislation” - the legislation of the States of the Parties, establishing the organizational and legal framework for maintaining a competitive environment, countering monopolistic activities;

“antimonopoly law enforcement” - the antimonopoly law enforcement activities of the competent authorities of the Parties responsible for the implementation of the present Agreement, related to identifying violations of the

antimonopoly legislation, undertaking measures to terminate violations of the antimonopoly legislation, to eliminate their consequences, and to ensure accountability for these actions;

“anticompetitive actions” - actions (or inactions) of economic entities that are prohibited under the antimonopoly legislation of the States of the Parties;

“confidential information” - all types of information, access to which is limited by regulatory legal acts of the States of the Parties, except for information that constitutes a State secret (State secrets) in accordance with legislation of the States of the Parties;

“territory of the State of the Party” - the territory where the antimonopoly legislation of the State of the Party is applied.

Article 2

Competent Authorities

The Competent Authorities of the Parties responsible for the implementation of the present Agreement:

for the Russian Party – the Federal Antimonopoly Service;

for the Chinese Party – the State Administration for Market Regulation.

If the Party changes its Competent Authority, it shall immediately inform the other Party thereof in written form through diplomatic channels.

Article 3

Cooperation on General Issues

1. Cooperation between the Parties is carried out in the following directions:
 - (1) improvement of the legal framework of competition policy;
 - (2) exchange of experience on the implementation of practical measures of antimonopoly regulation and development of a competitive environment;
 - (3) exchange of experience in the field of conducting investigations related to violations of the antimonopoly legislation of the States of the Parties;
 - (4) interaction in law enforcement;
 - (5) exchange of information on the influence of digitalization on competition in the national markets;
 - (6) exchange of views on multilateral issues of international cooperation in the field of the antimonopoly legislation and competition policy;
 - (7) competition advocacy.
2. Within the framework of cooperation in the field of antimonopoly policy, the Parties:
 - (1) provide each other with statistics and data on their activity, methodological recommendations on the principal directions of the Parties' activity and other relevant materials on the development of the antimonopoly legislation on annual basis;
 - (2) provide methodological assistance, exchange results of the studies and hold consultations;

(3) engage specialists of the other Party in consultations with the aim of experience exchange when investigating individual violations of the national antimonopoly legislation;

(4) provide assistance in establishing relations with legislative, executive and judiciary Authorities of their States;

(5) organize meetings to discuss prospects and trends for further development of bilateral cooperation;

(6) engage specialists of the other Party in participating in educational processes and trainings with the aim of experience exchange;

(7) hold bilateral symposia, conferences and workshops;

(8) participate in the activities of international organizations dealing with issues of competition policy.

3. Cooperation between the Competent Authorities of the Parties is based on two-year programmes.

4. The Competent Authorities of the Parties support their territorial bodies in establishing direct contacts with their counterparts of the other Party, provide guidance and facilitate cooperation between them.

Article 4

Interaction in Antimonopoly Law Enforcement

1. The Parties recognize that interaction in law enforcement activities facilitates the capacity building of both Parties to achieve objectives of the law enforcement of the Competent Authorities.

2. Interaction of the Competent Authorities of the Parties in law enforcement is carried out by submitting notifications, requests for information and consultations.

3. The Competent Authorities of the Parties provide assistance to each other in law enforcement within their competence and available material and information resources.

4. The Competent Authority of one of the Parties, which received request within the framework of interaction in law enforcement, has the right to refuse to execute the request if its execution can harm the interests of its State or contradicts the legislation of its State.

5. The activities under the request of the Competent Authority of one of the Parties are carried out in accordance with the legislation of the State of the requested Competent Authority.

6. The Competent Authority of either Party can limit or terminate interaction at any stage of antimonopoly law enforcement if its implementation may affect the interests of its State or contradicts the legislation of its State by notifying in written form the Competent Authority of the other Party in 14 calendar days in advance. In this case, the Competent Authorities of the Parties undertake law enforcement activities separately in accordance with their national legislations.

Article 5

Notifications

1. The Competent Authority of the Party, which has found that the actions of economic entities in the territory of its State, including transactions of economic concentration, affect or could affect competition in the territory of the State of the other Party, shall notify the Competent Authority of the other Party thereof.

2. The Competent Authority of the Party, which has found that the actions of economic entities taken place in the territory of the State of the other Party affect or could affect competition in the territory of the State of the former Party, shall notify the Competent Authority of the other Party thereof.

3. Notification shall be sent in written form and shall contain a brief summary of the actions, references to applicable national laws and regulations, and other information, which the sending Party considers to be necessary for the notification.

4. The Competent Authority of the notified Party shall consider the possibility of taking appropriate measures pursuant to the requirements of its national legislation and shall inform the Competent Authority of the other Party on the results of such a consideration.

Article 6

Request for Information

1. During the investigations by the Competent Authority of one of the Parties of anticompetitive actions of economic entities, which affect or could affect competition in the territory of its State, this Competent Authority shall have

the right to send to the Competent Authority of the other Party a request for information on the activities of the economic entities registered in the territory of the State of the other Party. The requested information can be used solely for the purposes specified in the request and consistent with the implementation of the present Agreement.

2. The request for information shall be submitted in written form and shall contain the purpose of the request, description of the circumstances of the investigation with the attachment of necessary documents.

3. The requested information shall be provided in the time limit specified in the request, but not later than three months after the date of its receipt. Should any circumstances arise, which could result in failure to meet the deadline for providing the information or should it be impossible to provide the requested information, the Competent Authority of the requested Party shall inform the Competent Authority of the other Party thereof. Refusal to provide information shall be accompanied by a statement of reasons.

Article 7

Consultations

1. During the investigation of anticompetitive actions of economic entities that affect or could affect competition in the territory of the States of the Parties, the Competent Authority of each Party shall have the right to request the other Party to hold consultations on any of the matters related to the investigation.

2. The Competent Authority of the Party interested in holding consultations shall submit a written request for consultations to the Competent Authority of the other Party with the attachment of necessary documents, reasons for and modalities of holding such consultations.

3. The Competent Authorities of the Parties shall hold the consultations not later than three months after the receipt of the request unless otherwise agreed by the Parties.

4. The Competent Authority of the requested Party has the right to submit a reasoned refusal to hold consultations, if the consultations could harm the interests of its State or contradicts the legislation of its State.

Article 8

Confidentiality

1. The Parties shall not disclose the information received in the process of joint activities under the present Agreement unless otherwise agreed by the Parties.

2. Notwithstanding any other provisions of the present Agreement, neither Party is required to communicate information to the other Party if communication of such information is prohibited by laws of the State of the Party possessing such information.

3. Unless otherwise agreed by the Parties, each Party shall fully ensure confidentiality of any information communicated by the other Party under the present Agreement. Each Party shall disclose information received from the other Party under the present Agreement to third parties only with the written consent of the Party providing such information.

Article 9

Correlation with other International Agreements

The present Agreement shall prevail in the Parties' cooperation in the field of competition policy. The present Agreement shall not affect the rights and obligations of each Party related to cooperation in other fields than the field of antimonopoly regulation stipulated by the Agreement between the Government of the Russian Federation and the Government of the People's Republic of China on Cooperation in the field of Countering of Unfair Competition and Antimonopoly Policy of April 25, 1996.

Article 10

Financial Matters

All activities provided for in the present Agreement are subject to the availability of funds and each Party's budget priorities. The present Agreement does not stipulate the allocation of funds. Unless otherwise agreed by the Parties in advance in written form, each Party shall be responsible for bearing its own costs and expenses in carrying out any cooperation activities under the present Agreement.

Article 11

Settlement of Disputes

Disputes between the Parties related to interpretation and/or application of the provisions of the present Agreement shall be settled through holding consultations and negotiations.

Article 12
Concluding Provisions

1. The present Agreement shall enter into force from the date of its signature and remain effective for six months from the date of the receipt by either Party of a written notification from the other Party indicating its intention to terminate the Agreement.

2. Obligations of the Parties on protection of the confidential information received under the present Agreement remain valid after the termination of the present Agreement.

3. Amendments to the present Agreement shall be made by mutual agreement of the Parties in written form.

Done in _____ 20__ in two original copies each in Russian, Chinese and English, all three texts being equally authentic.

For
the Government of
the Russian Federation

For
the Government of
the People's Republic of
China