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