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Anti-monopoly Law of the People's Republic of China

中华人民共和国反垄断法

Issued By **National People's Congress**
Subject **Anti Monopoly**
Promulgated on **August 30th 2007**
Effective from **August 1st 2007**
Source **www.npc.gov.cn**

The Anti-monopoly Law of the People's Republic of China (the "Law") consists of 57 articles in 8 chapters, namely, General Provisions, Monopoly Agreement, Abuse of Market Dominance, Concentration of Business Operators, Abuse of Administrative Power to Eliminate or Restrict Competition, Investigation into the Suspicious Monopolistic Conducts, Legal Liabilities and the Supplementary Provisions.

This Law shall be applicable to monopolistic conducts in economic activities within the People's Republic of China. This Law shall apply to the conducts outside the territory of the People's Republic of China if they eliminate or have restrictive effect on competition on the domestic market of the PRC.

This Law does not govern the conduct of business operators to exercise their intellectual property rights under laws and relevant administrative regulations on intellectual property rights; however, business operators' conduct to eliminate or restrict market competition by abusing their intellectual property rights shall be governed by this Law. This Law does not govern the ally or concerted actions of agricultural producers and rural economic organizations in the economic activities such as production, processing, sales, transportation and storage of agricultural products.

For the purposes of this Law, "monopolistic conducts" are defined as the following:

1. Monopolistic agreements among business operators;
2. Abuse of dominant market positions by business operators; and
3. Concentration of business operators that eliminates or restricts competition or might be eliminating or restricting competition.

Any of the following monopoly agreements among the competing business operators shall be prohibited:

1. Fixing or changing prices of commodities;
2. Limiting the output or sales of commodities;
3. Dividing the sales market or the raw material procurement market;
4. Restricting the purchase of new technology or new facilities or the development of new technology or new products;

5. Making boycott transactions; or
6. Other monopoly agreements as determined by the Anti-monopoly Authority under the State Council. For the purposes of this Law, "monopoly agreements" refer to agreements, decisions or other concerted actions which eliminate or restrict competition.

Concentration refers to the following circumstances:

1. The merger of business operators; (
2. Acquiring control over other business operators by virtue of acquiring their equities or assets; or
3. Acquiring control over other business operators or possibility of exercising decisive influence on other business operators by virtue of contact or any other means.

Any administrative organ may not abuse its administrative power to set down such provisions in respect of eliminating or restricting competition. Any trade association may not organize the business operators in its own industry to implement the monopolistic conduct as prohibited by this Law.

Where a foreign investor merges and acquires a domestic enterprise or participate in concentration by other means, if state security is involved, besides the examination on the concentration in accordance with this Law, the examination on national security shall also be conducted in accordance with the relevant State provisions.

Rules of the Supreme People's Court on Related Issues concerning the Application of Law in Hearing Foreign-Related Contractual Dispute Cases Related to Civil and Commercial Matters

最高人民法院关于审理涉外民事或商事合同纠纷案件法律适用若干问题的规定

Issued By	The Supreme People's Court
Subject	Foreign Related Contractual Disputes
Promulgated on	July 23rd 2007
Effective From	August 8th 2007
Source	www.court.gov.cn

The law applicable to foreign-related contracts related to civil and commercial matters refers to the substantive law in related countries or regions, excluding the conflict law and

procedural law. The contractual disputes as mentioned in the present Rules include the disputes over the conclusion, validity, performance, alteration, transfer and termination of a contract as well as the liability for breach of contract, etc. To choose a law or alter a choice of law applicable to contractual disputes shall be done by the parties in an explicit manner.

Any elusion of any compulsory provision of the law or administrative regulation of the People's Republic of China by a party shall give no effect to the application of a foreign law, and the contractual dispute shall be subject to the law of the People's Republic of China. In case the application of a foreign law violates any public interests of the People's Republic of China, the foreign law may not apply, and the law of the People's Republic of China shall apply.

The performance of any of the following contracts within the territory of the People's Republic of China shall be subject to the law of the People's Republic of China:

1. Contract on a Chinese-foreign equity joint ventures;
2. Contract on a Chinese-foreign contractual joint ventures;
3. Contract on Chinese-foreign cooperation in the exploration or exploitation of natural resources;
4. Contract on the transfer of shares in a Chinese-foreign equity joint venture, Chinese-foreign contractual joint venture or wholly foreign-funded enterprise;
5. Contract on the operation by a foreign natural person, foreign legal person or any other foreign organization of a Chinese-foreign equity joint venture or a Chinese-foreign contractual joint venture established within the territory of the People's Republic of China;
6. Contract on the purchase by a foreign natural person, foreign legal person or any other foreign organization of share equity held by a shareholder in a non-foreign-funded enterprise within the territory of the People's Republic of China;
7. Contract on the subscription by a foreign natural person, foreign legal person or any other foreign organization to the increased registered capital of a non-foreign-funded limited liability or company limited by shares within the territory of the People's Republic of China;
8. Contract on the purchase by a foreign natural person, foreign legal person or any other foreign organization of assets of a non-foreign-funded enterprise within the territory of the People's Republic of China; and

9. Other contracts subject to the law of the People's Republic of China as prescribed by a law or administrative regulation of the People's Republic of China.

Provisional Administrative Measures of the People's Republic of China on Bonded Port Areas

中华人民共和国海关保税港区管理暂行办法

Issued By	China Customs
Subject	Bonded Port Areas
Promulgated on	September 3rd 2007
Effective From	October 3rd 2007
Source	www.customs.gov.cn

With the purpose of regulating the administration of customs matters in bonded port areas, these Measures have been formulated in accordance with the Customs Law of the People's Republic of China and other relevant laws and regulations. The Bonded port areas as referred to in these Measures means areas under the special regulation and supervision of Customs which are established, with the approval of the State Council, in ports open to foreign countries and other special areas connected to such areas that have port, logistics, processing, etc. functions.

Enterprises located in bonded port areas shall be legal persons capable of paying taxes to Customs and performing other statutory obligations. In special circumstances, corporate enterprises located outside bonded port areas which have been validated by the Customs office of local bonded port area may lawfully establish branches in ports and file records with Customs.

Unless otherwise prescribed in any law or administrative regulation, goods transferred from bonded port areas to areas outside customs territory shall be exempted from export duties. Unless otherwise prescribed in any law, rule or administrative regulation, the inward and outward transfer of goods between bonded port areas and areas outside customs territory shall not be subject to any export quota or certification requirement. No enterprise shall be required to present any original quota or certificate for outgoing goods originally transferred into any bonded port area on the basis of the same quota and certificate as verified by Customs.

No time limit shall apply to the storage of goods in bonded port areas. Any bonded port area enterprise that stores goods for a period of more than two years shall file an annual report with Customs. Where the storage of goods may affect public security, environmental hygiene or public health due to the nature of the goods concerned or other circumstances, Customs shall require the relevant enterprise to complete the relevant formalities and transfer the goods out of the bonded port area.

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