



**Asia-Pacific
Economic Cooperation**

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Agenda Item: 8

Latest Developments of China's Merger Review Law

Purpose: Information
Submitted by: China



**Competition Policy and Law Group Meeting
Moscow, Russia
12-13 February 2012**



Latest developments of China's Merger Review law

Feb 13, 2012
Moscow, Russia



Framework

I. New supplementary legislation

II. Law enforcement



Year	Supplementary Legislation
2008	<i>Provision on the Notification Thresholds of the Concentration of Undertakings issued by the State Council (the "Provision")</i>
2009	<i>Measures for Calculation of Business Turnovers for the Notification of Concentration of Undertakings in the Financial Sector</i>
	<i>Guideline on Definition of Relevant Market (the "Guideline")</i>
2010	<i>Measures on Notification of Concentration of Undertakings</i>
	<i>Measures on Merger Review of Concentration of Undertakings</i>
	<i>Interim Rule on Implementation of Divestiture of Assets or Shares</i>
2011	<i>Interim Rule on Evaluation of Competitive Effects of Concentrations of Undertakings ("Evaluation Rule")</i>
	<i>Rule on Investigation of Unnotified Concentrations</i>



I. New supplementary legislation

1. Interim Rule on Evaluation of Competitive Effects of Concentrations of Undertakings ("Evaluation Rule")

- classification of article 27 and 28 of Anti-monopoly law
- Improvement of transparency of case handling



I. New supplementary legislation

Two concepts identified by the new evaluation rule

A. Market power

- Market share
- Substitutability of products
- Production capacity of other undertakings in the relevant market
- Ability of controlling sales market and raw material market
- Interchangeability of supplier
- Financial and technical ability
- Purchasing power of downstream customers
- others



I. New supplementary legislation

Two concepts identified by the new evaluation rule

B. Market concentration

- HHI
- CRn



I. New supplementary legislation

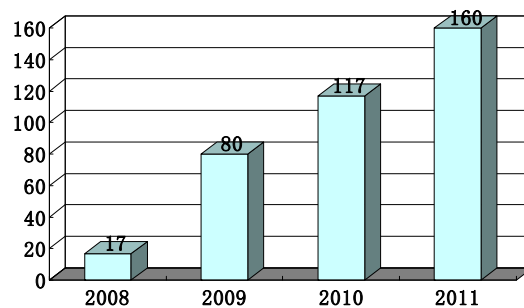
2. Rule on Investigation of Unnotified Concentrations

- classification of article 48 of Anti-monopoly law
- Procedure
 - first phase: 60 days
 - second phase: 180 days



II. Law enforcement

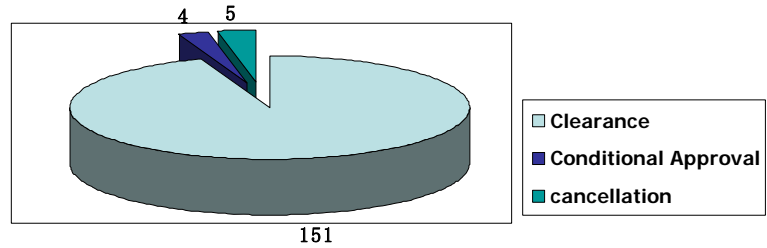
Statistics of cases reviewed from 2008-2011





II. Law enforcement

Outcome of reviewed cases (2011)



II. Law enforcement

- Cases approved with conditions

- ◆ Uralkali / Silvinit
- ◆ Alpha PE / Savio Textile Machinery
- ◆ GE China / China Shenhua Coal Chemical
- ◆ Seagate / Samsung



II. Law enforcement

◆ Uralkali / Silvinit

- background information
 - relevant product: potassium chloride
 - market share: over 1/3
 - market entry: most potassium (raw material) is controlled by potassium chloride manufacturers
- decision
 - approval with conditions: assurance of supplying potassium chloride



II. Law enforcement

◆ Seagate / Samsung

- background information
 - relevant product: hard disc
 - market share: 43%
 - market entry: know-how, scale economy
- decision
 - approval with three key conditions:
 - independence of Samsung for at least 12 months
 - expansion of production capacity
 - investment in R & D



Conclusion

- ◆ More supplementary laws to come
- ◆ Growing number of cases in the foreseeable future
- ◆ Stay top on agenda



Thank you!

Anti-monopoly Bureau, MOFCOM