AUGUST 2008, RELEASE ONE

GCP
THE ONLINE MAGAZINE FOR GLOBAL COMPETITION POLICY

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Some would argue that the implementation of the Antimonopoly Law is an important milestone along the road of China's transition to a market-orientated economy in which private capital plays a pre-dominant role, just as it does in developed economies in other parts of the world.

In this scenario, the government will continue to retreat from the command economy of the past by continuing to corporatize and then privatize state-owned enterprises and will become an impartial regulator of markets, not a hands-on participatory owner. The judicial system will, in time, become more independent and robust, regulatory agencies and ministries will become benign adjudicators of enterprise conduct and market structure guiding the invisible hand of the market where imperfections intrude and mar efficiency. The consumer, not the producer, will be king and China will become the world's leading economy, eclipsing Europe and the United States in due course given its huge population and geographic extent. The place of China in the world pecking order will be returned to its historical antecedents of two hundred

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years ago when China accounted for 30 percent of global gross domestic product. This is the optimists' scenario.

But it is entirely possible that the economic transition that China has been undoubtedly undergoing for almost 30 years will not result in this outcome. The Chinese authorities would undoubtedly like to achieve the economic success predicted above but they may have a rather different process in mind to achieve that goal. This article argues that the Antimonopoly Law is actually a component part of a strategy to achieve this end.

The optimists have tended to underplay the importance of the political dimension of economic change in China and the influence of the development models adopted by China's close neighbors (Japan, South Korea, and Taiwan) on the policy agenda. The Chinese Communist Party, which created the modern Chinese state, is still firmly committed to retaining political control of the country. To ensure this continued hold on power, the Party is convinced that retaining a leading role in the economic sphere is essential. The Party believes that the intimate nexus between the political and economic power is the key to its continued hegemony.

The Chinese Party has learned from the demise of the Soviet Union that ambitious military and civilian spending must be paid for by a more efficient economic system than the orthodox Marxist-Leninist command economy. It has also learned that the population must enjoy a sufficient standard of living to engender the acceptance, if not the popularity, of continued one-party rule. Surrendering control of the consumer goods and services markets to the private sector, whether indigenous or foreign-owned, has been deemed necessary to ensure adequate supply of the consumer goods and services. This policy has been able to provide many of the urban population with a standard of living that would have been unimaginable to the people of China three decades ago. A flexible, pragmatic, experiential, and less-doctrinaire process has been the hallmark of China's incremental economic development journey. The former Premier, Zhu Rongji, coined the slogan "let go of the small, retain the big," which acknowledged that de facto privatization of non-core state businesses would enhance rapid development but that the state would retain predominance in large scale or strategic industries.

But this retreat from the provision of the material necessities of life and the micromanagement of the everyday economic and private lives of its citizens has done nothing to diminish the Party's belief that strong state control of the economic infrastructure and the commanding heights of the economy is essential, both for the continuation of its hold on power and to ensure the enhancement of China's economic status.

The Party seeks to regain the preeminence that China held for so long and lost in the 19th century as Europe and the United States embraced the upheaval of the industrial revolution and the utilization of the fruits of scientific and technological advances. China discovered the compass, paper-making, and gunpowder, but the steam engine, the widespread use of the factory system of manufacturing, industrial chemistry, and the harnessing of electricity were exclusively Western inventions. China is now undergoing its own industrial revolution, but in addition to the creation of a modern manufacturing base, China also seeks to move up the value chain and develop advanced innovation-driven technology industries and value-added services. To achieve these outcomes, the Chinese government believes that a strong role for the state is essential. Whether this outcome is achievable and if so, how soon, is highly debatable but that appears to be the goal of China's industrial policy.

This formulation of the proper role of the state is reminiscent of Lenin's New Economic Policy. When the Bolsheviks seized power in the 1917 revolution they soon embraced an economic policy of near complete state control of the economy. By 1921, the economy was in ruins and virtually paralyzed following the civil war, famine stalked the country and the complete collapse of the Soviet state appeared to be close. In March 1921, Lenin announced the New Economic Policy which lowered the effective taxation of food production and allowed the reestablishment of small-scale private enterprise while retaining state control of large-scale industry, banking, and foreign trade. In Lenin's famous phrase, the state would continue to control the "commanding heights of the economy." After Lenin's death and Stalin's rise to autocratic power, the New Economic Policy was dismantled and orthodoxy was re-imposed via a Socialistic Offensive to spur wide-scale industrialization. A pogrom was also launched against the bourgeoisie and the "kulaks" (successful peasant farmers). These are the antecedents of China's "open door" reform policy of the last 30 years.

The influence of the economic development models of China's near neighbors (Japan, South Korea, and Taiwan) on China's future economic policy should also not be underestimated. From the ruins of defeat in the Second World War, Japan has risen to become the world's second largest economy. After regaining self-governance, Japanese economic development policy from the 1950s to the 1990s was dominated by the pervasive influence of Ministry of International Trade and Industry ("MITI"). Japan did not have a very wide-scale state sector. Instead, it organized an export-led development model, restricted imports, and suppressed domestic competition between private firms by encouraging formal cartelization syndicates or actual combinations which then gave domestic firms scale to enter foreign markets while at the same time perfecting mass production techniques with rigorous quality control systems and the adaptation of theoretical advances into leading worldwide consumer and industrial products. The performance of the Japanese economy is one that China would dearly love to emulate. Politically, the de facto monopoly of power enjoyed by the Liberal Democratic Party in Japan is also one that intrigues the Chinese and this is seen as intimately linked to the successful adoption of their economic development strategy.

South Korean economic policy also followed the Japanese lead but with the significant difference of the development of a small number of diversified family-controlled conglomerates ("chaebols"). These sprawling enterprises also crucially controlled in-house banks that in part led to reckless expansion at almost any price and ultimately contributed to the partial implosion in the Korean economy as a result of the 1998 Asian Financial Crisis (though a decade on there is no doubt that some of the chaebols have made a substantial comeback).

When Taiwan became detached politically and economically from mainland China after the 1949 Communist victory in the civil war, the governing Nationalist Kuomintang Party established single-party rule which lasted until the mid 1980s. During that time, the party-state acquired control of many parts of the utility, energy, and transport sectors while allowing family-owned business to concentrate on small-scale manufacturing and, more significantly, the export trade. Noticeable reduction of the states' role in the domestic economy only began in the late 1980s.

In the three development models sketched above, the state played a major role in setting economic strategy and enforcing it through administrative action whether by direct ownership of assets or through more or less mandatory policy guidance. However, there are a number of differences between the economic and geopolitical environment faced by Japan, South Korea, and Taiwan during the Cold War years and China's situation today. None of these three ever had a full-blown commitment to socialism, all allowed and encouraged private enterprise to develop and compete in world markets while being sheltered in their domestic arena, and all three were staunch U.S. allies against communism which gave them preferential terms of trade with the United States and European Union. Japan and South Korea have also suffered severe economic shocks in the last two decades as a result of the inherent defects in their dirigiste policies. The extent of China's state ownership of swathes of the domestic economy is also different as is the fact that most of these cosseted state behemoths have not been sent out into the international market to compete and even where this is the case, they may well have access to the deep pockets of the state to underwrite losses or to accept minimal dividend payments for protracted periods of time.

Consequently, internal and external economic features that China's neighbors faced are very different to those of the Chinese colossus. Despite these divergences, China appears to consider that it should:

1. administratively encourage mergers and consolidation in many fragmented state-owned sectors;
2. continue to protect these progeny from too harsh competitive pressure; and
3. maintain direct state ownership of "pillar" industries indefinitely.

Indeed this is exactly what the National Development and Reform commission proposed in December 2006, some six months before the finalization of the new Antimonopoly Law. The new national champion policy was unveiled just as the end of the 5-year transitional period for its World Trade Organization ("WTO") membership expired. It seems that the end of its transitional WTO arrangements, the announcement of the new national champion policy, and the late rapid progress toward finalization of the Antimonopoly Law are all in extricable linked.

China learned that for decades its East Asian neighbors soft peddled either the enactment (in the case of Taiwan) or the enforcement (in the case of Japan and South Korea) of antitrust statutes. In Japan's case, the anti-cartel provisions of the U.S.-inspired Antimonopoly Act of 1947 were suspended from operation in the early 1950s. MITI sponsored administrative guidance trumped the encouragement of competition. The military regimes in South Korea had price control powers, but supported chaebol expansion as a way of encouraging rapid industrialization. Taiwan did not enact a fair trade law which had pro-competition measures until 1992.

China took 15 years to legislate and bring into force the Antimonopoly Law. The reasons for the long gestation were many, but included a diversity of views on the role of the law in economic development, the ambit of its reach, the industries that should not be affected by the law, the utility of the law to act as a screen to prevent to great foreign control over sectors considered to be of strategic significance, and which bureaucracy should wield the enforcement powers.

Tackling the real anticompetitive problems in the Chinese economy (e.g., state-owned and sponsored monopolies, government sponsored cartels, and the widespread abuse of administrative powers for local or sectional protectionist ends) were ultimately sacrificed on the altar of bureaucratic expediency and self-interest as the specific provisions of the law indicate. For example, Article 4 states that competition rules should be suitable for a socialist market economy, Article 5 promotes industrial consolidation, Article 7 specifies protection for state-owned monopolies, and Article 11 promotes “self-strengthening” by industry associations. Administrative abuses by government organs are prohibited and a detailed list of prohibited conduct is supplied in Articles 32 to 37, but Article 51 grants power to investigate breaches of these provisions to the errant body’s superior entity, not the competition agency. Penalties are minimal and effective enforcement is a distant prospect. In addition to the competition assessment of a merger, when foreign capital is involved, an additional “national security” review is also required, though the sectors of the economy subject to this additional scrutiny have not been specified.

The political and ideological context of the adoption of the Antimonopoly Law, the newly espoused national champion policy, the experience of China's East Asian neighbors with antitrust laws and their models of economic growth, and the content of the new law and its likely enforcement priorities, all seem to point toward a competition regime with distinctly Chinese characteristics. That does not mean that China will use the new law in a necessarily heavy-handed way to the prejudice of foreign investors, but there must be little doubt that China's economic and political policy are closely interrelated with the ultimate objective of recovering the Middle Kingdom's perceived rightful place in the pantheon of nations. Antitrust law is but one of the means by which the Chinese authorities will seek to achieve that goal. The ambition to top the medal table at the Beijing Olympics is but a sporting analogy for the far more important competition: winning the economic race. By doing so, China seeks to obtain the political laurels too.