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Shell's Purchase of BG Will Test the Transparency and Assertiveness of China's Young Antitrust Regime

By Bo Griffith, J.D. Candidate 2016 | April 30, 2015

Shell announced a $70 billion acquisition of Britain's BG group. But it is liquefied natural gas ("LNG")—not oil—that drove the historic deal. The two energy giants will surpass ExxonMobil as the biggest player in this volatile and niche market.

China is expected to absorb much of the LNG expected to come online in the near future, and the country's consumption of natural gas is expected to nearly double by 2019 according to the International Energy Agency. Both Shell and BG have significant production operations in China as well as long-term deals to supply China with LNG. BG alone will account for 28% of China's imports of natural gas by 2017.

China's competition policy, administered by China's Ministry of Commerce ("MOFCOM"), has become a wildcard in cross-border deals where natural resources are involved. These antitrust laws allow MOFCOM to take into account whether a merger would impact China's national industrial goals.

Since China's antimonopoly law took effect in 2008 it has outright rejected or forced change to several global deals. In 2013 China required mining giant Blencore to divest its Las Bambas copper project in Peru before approving a combination with Xstrata PLC, even though neither company owned assets in China. Then, just last year, China blocked an alliance among European-based shippers.

China's main concern seems to be stability and higher import cost, while those outside China are concerned with the transparency of the Commerce Ministry: the United States and Europe have criticized China in the past for using competition policy to further its own strategic interest and protect domestic businesses. Last December China attempted to reassure critics by stating that they would enforce anti-monopoly laws with greater transparency and focus on pure competitive threats. China's next moves in regard to Shell and BG are still unknown.

For now, Shell and BG must work to temper the concerns of Chinese bureaucrats that the combination will not lead to price volatility in China's natural gas market which could harm its economy. While it is unlikely that this situation will lead to forced asset sales or heavy concessions by Shell, MOFCOM's decisions will certainly set the stage for future anti-competitive proceedings in the country.