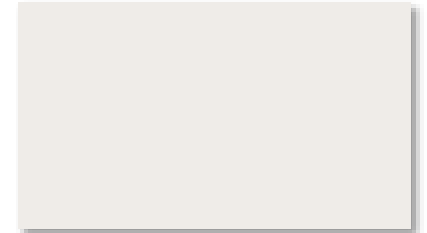
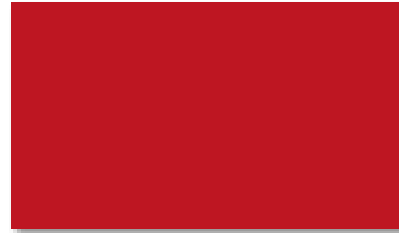


## China's new government set-up

What the decisions at the National People's Congress 2018 mean for foreign business



Matthias Stepan  
Head of program  
Public Policy  
MERICS

OAV Webinar  
June 7, 2018



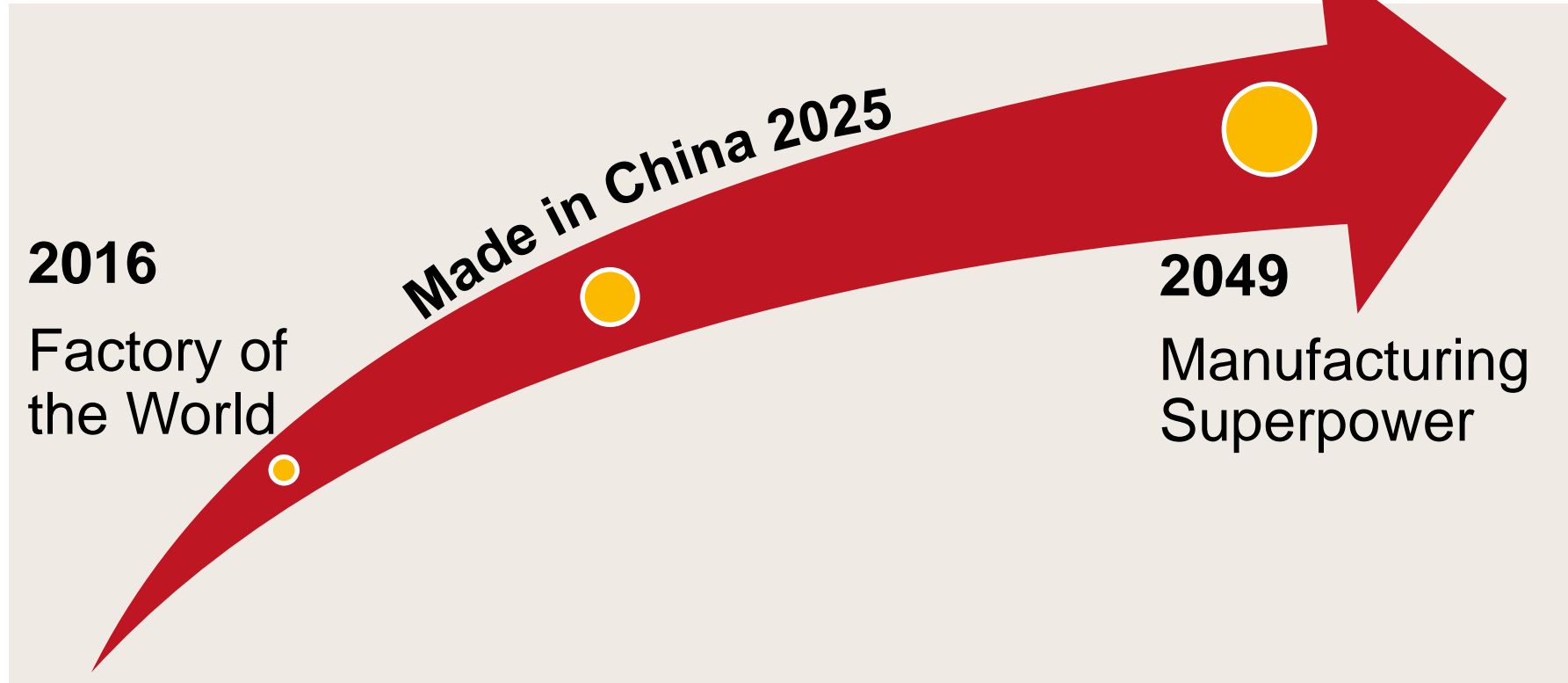
# Summary

## An overhaul of the instruments to regulate and steer “the market”

- **The March 2018 session of China’s National People’s Congress** marked the official start of the second term of Xi Jinping as head of state and of Li Keqiang at the helm of the state executive.
- **The most decisive restructuring of China’s state apparatus in decades** is the result of long-standing research and internal deliberations.
- The merger and the establishment of organs such as the State Administration for Market Regulation (SAMR) have the potential of rendering regulation and monitoring more efficient.
- The 2018 legislative plan includes items that might have strong implications for foreign **businesses’ operations in China, including the E-commerce Law**, a revision of the Patent Law, the Civil Code, and the Foreign Investment Law.

# Industrial and economic policy for the long term

China wants to become a manufacturing superpower by 2049



NPC 2018: The 19<sup>th</sup> Party Congress in late 2017 set the tone  
CCP prioritizes high-quality socio-economic development and efficient governing



### *Main take away from 19<sup>th</sup> Party Congress*

- Redefinition of principal contradiction (“unbalanced and inadequate development” vs. “people’s ever-growing needs for a better life”)
- Shift in work focus of the Communist Party (from quantitative growth to balanced development)
- Systemic developmental goals for 2035 (“socialist modernization”) and 2049 (“great modern socialist country”)

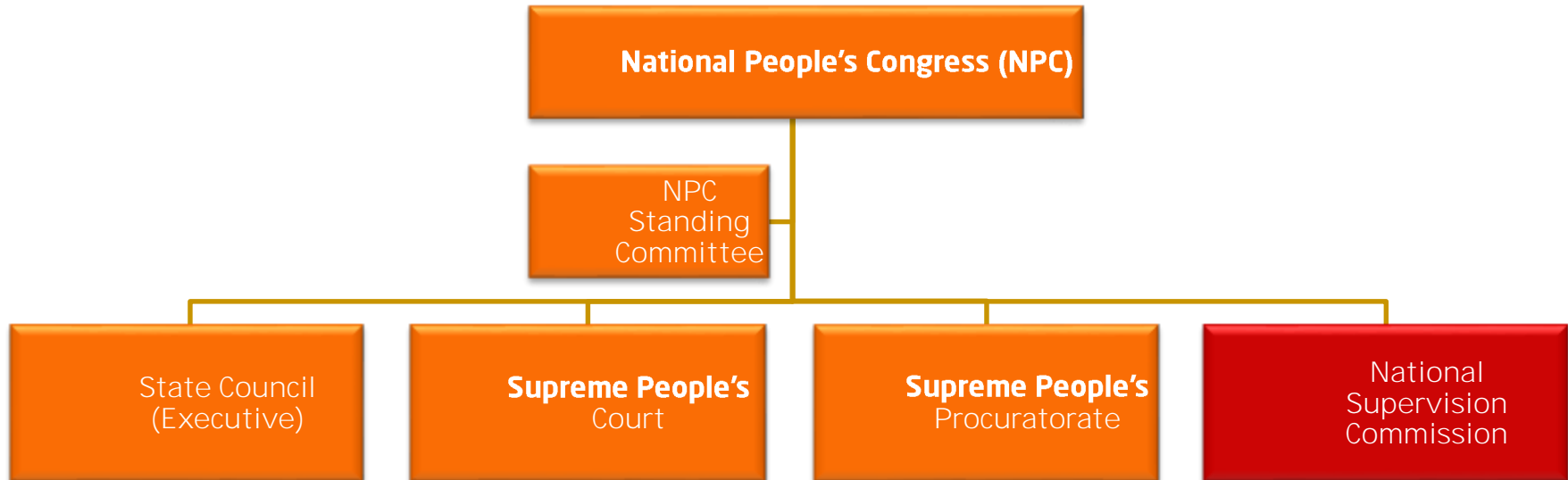
### *Implications for the NPC 2018 and the government agenda*

- Boosting central authority and generating policy from the top down
- Prioritizing political objectives over economic ones
- Focus on policies to improve people’s livelihoods

# Boosting central authority

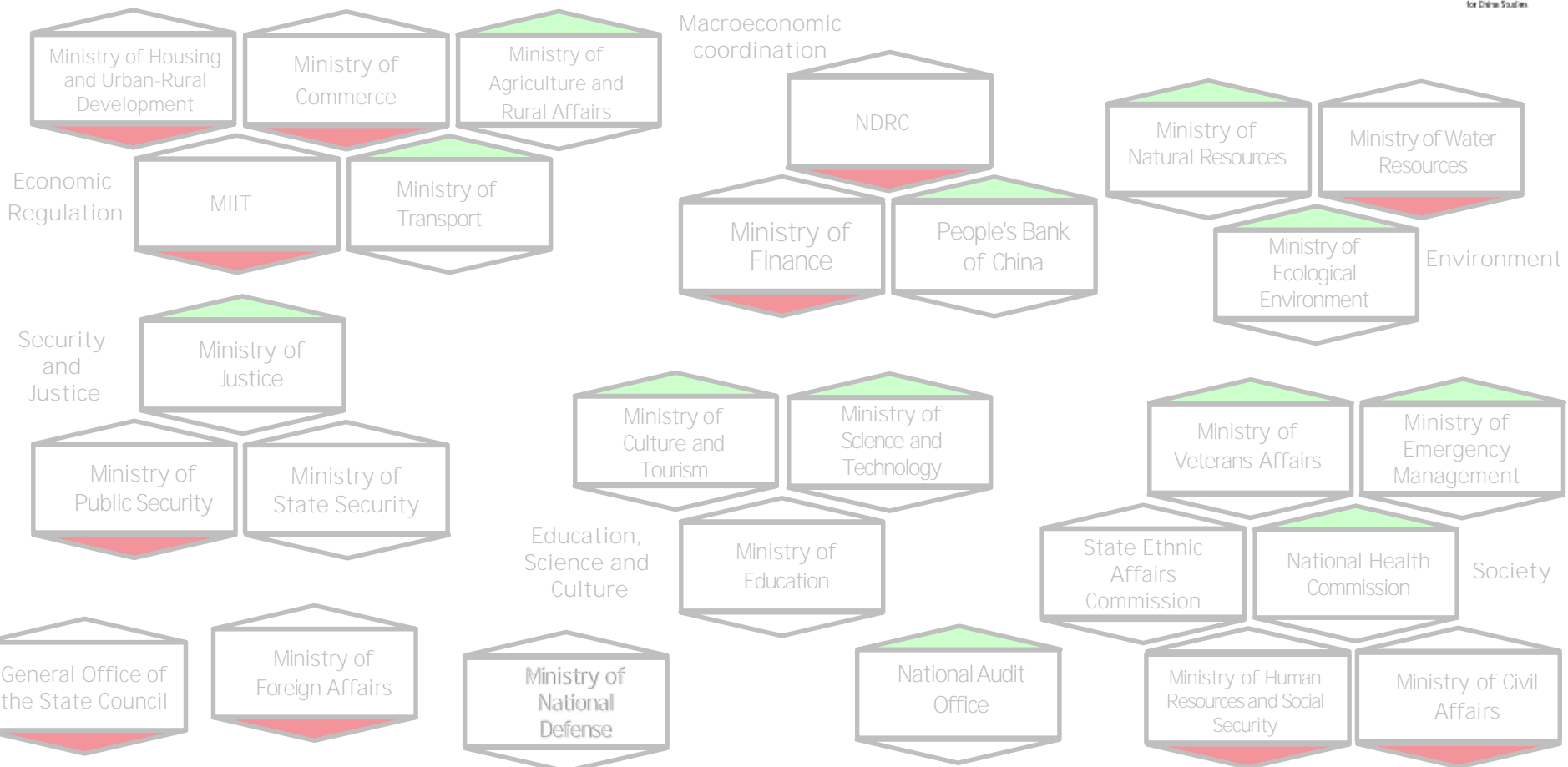
More power for the CCP and supervision organs

- Constitutional amendment: Leading role of the party (Article 1)
- Establishment of the National Supervision Commission, state equivalent to Central Commission of Discipline Inspection (CCP)



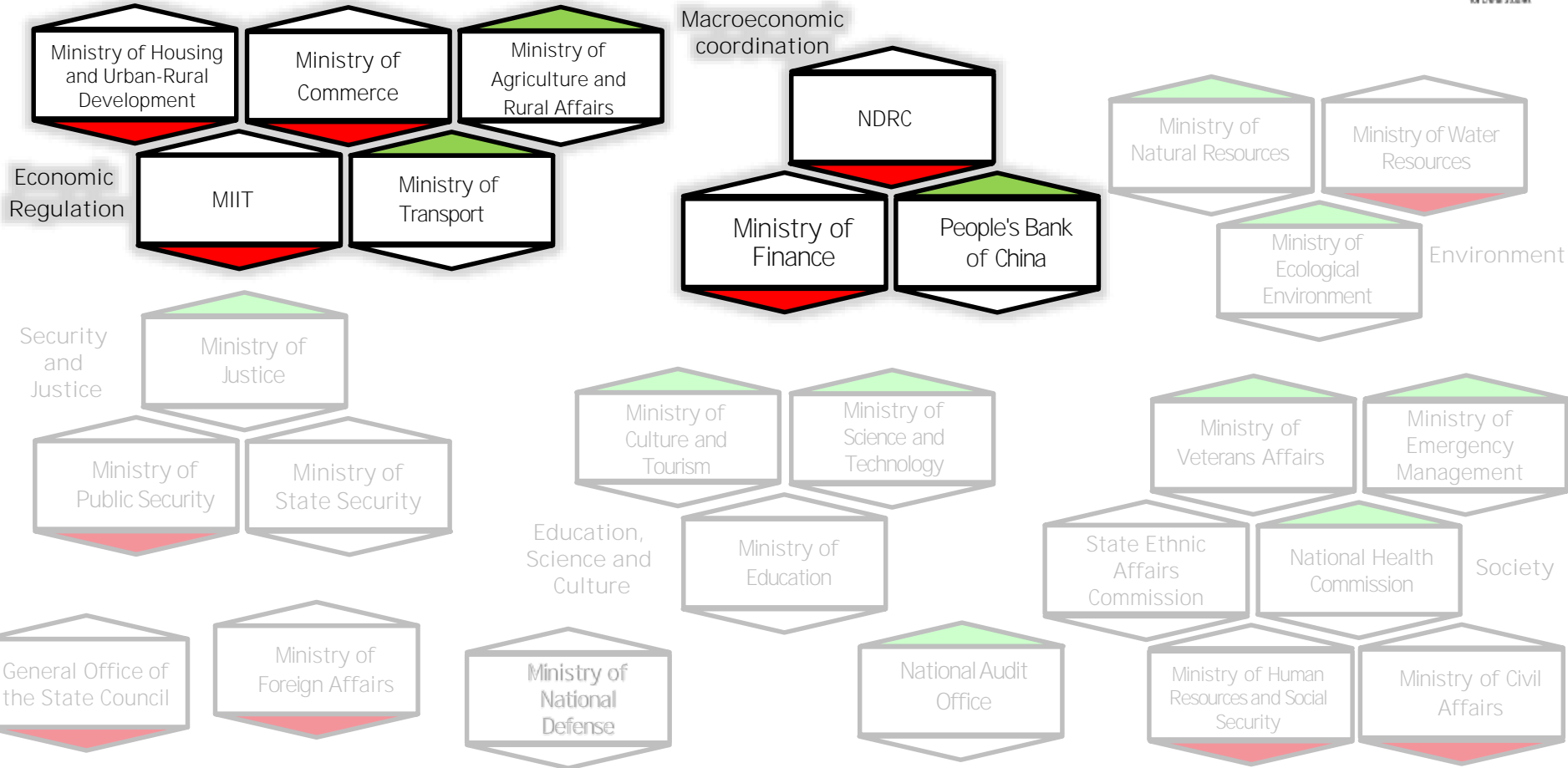
# Streamlining competences

## Gains and losses in the big reshuffle of departmental level state organs



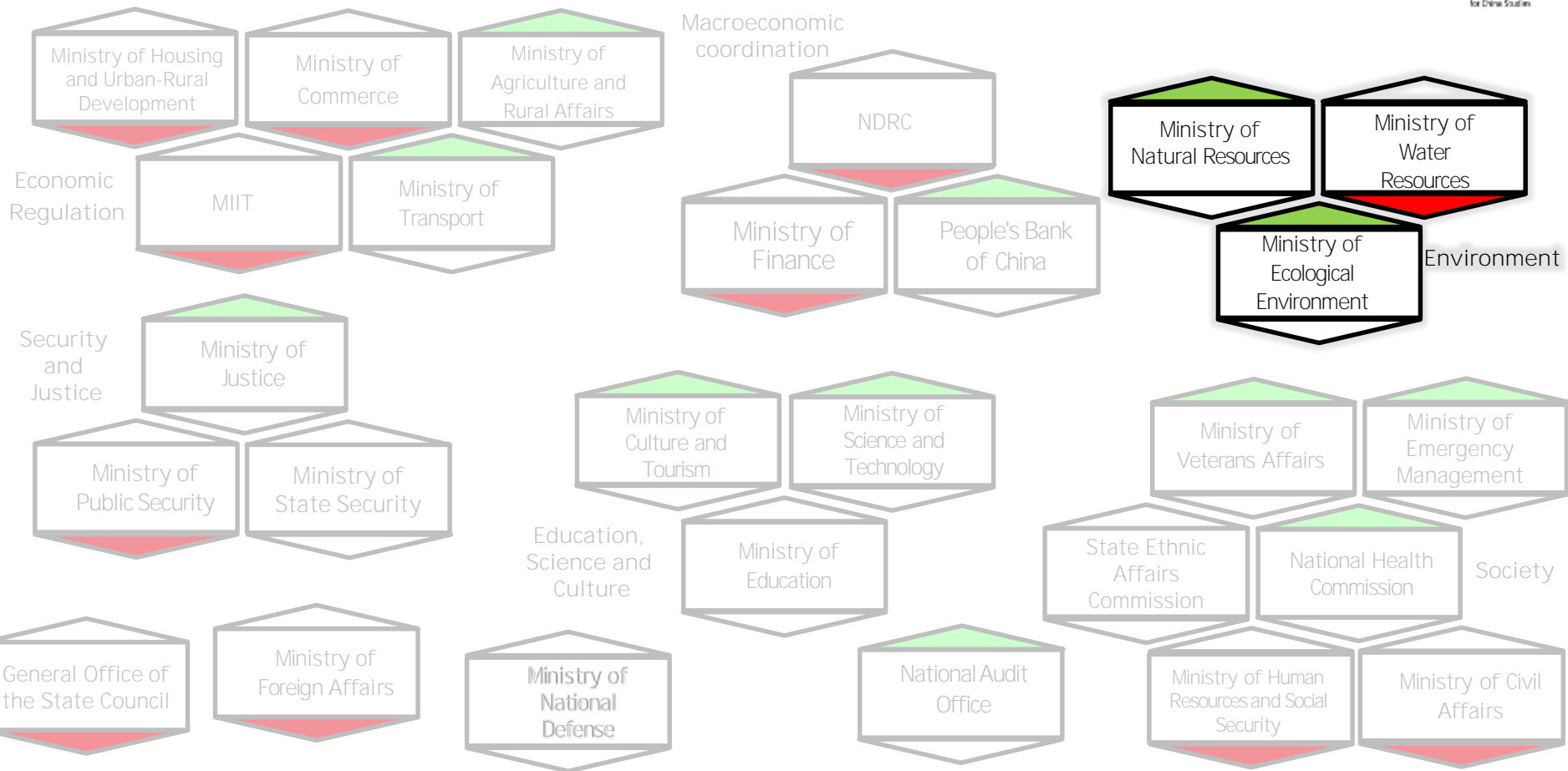
# Streamlining competences

Gains and losses in the big reshuffle of departmental level state organs



# Streamlining competences

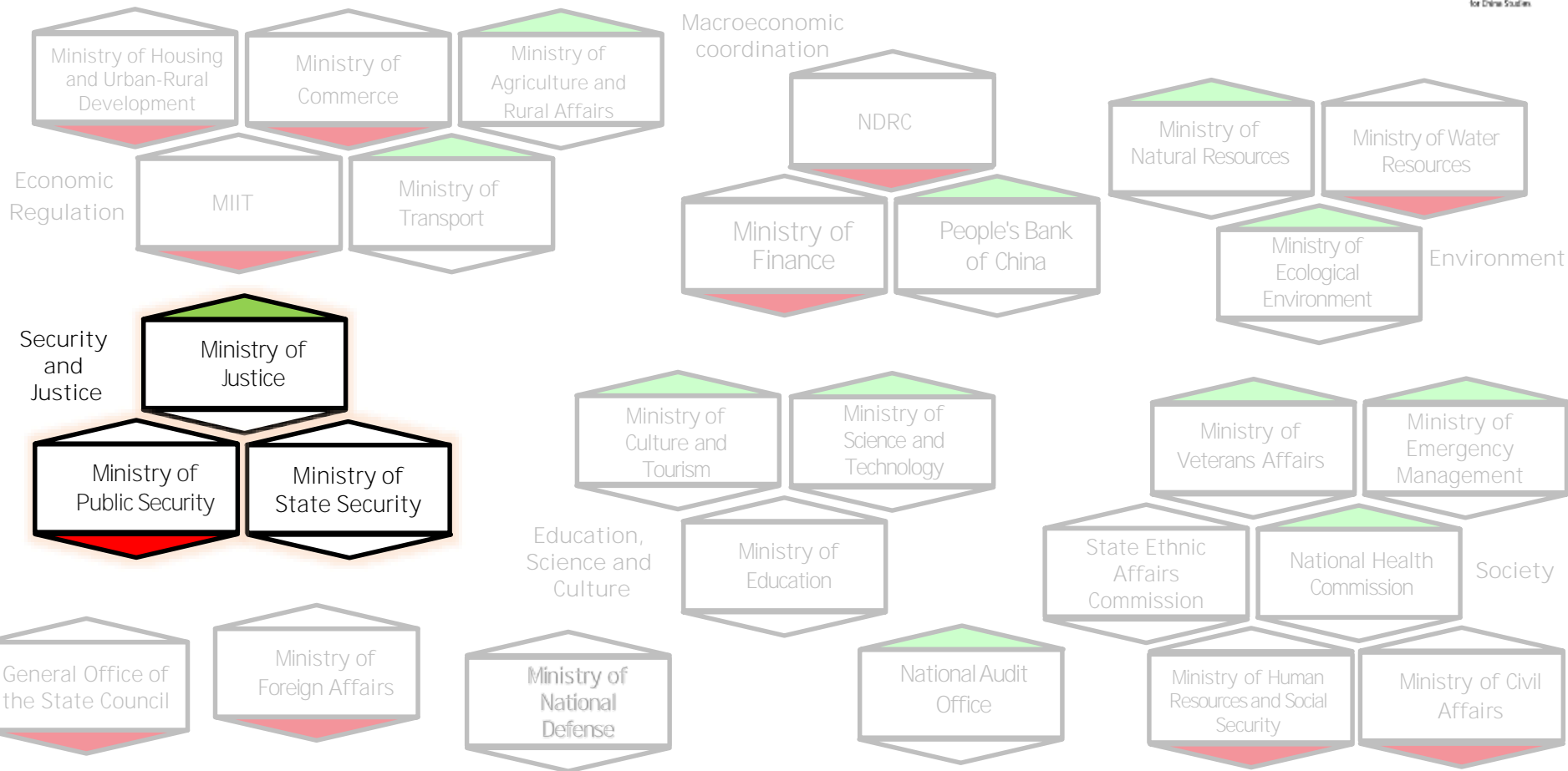
Gains and losses in the big reshuffle of departmental level state organs





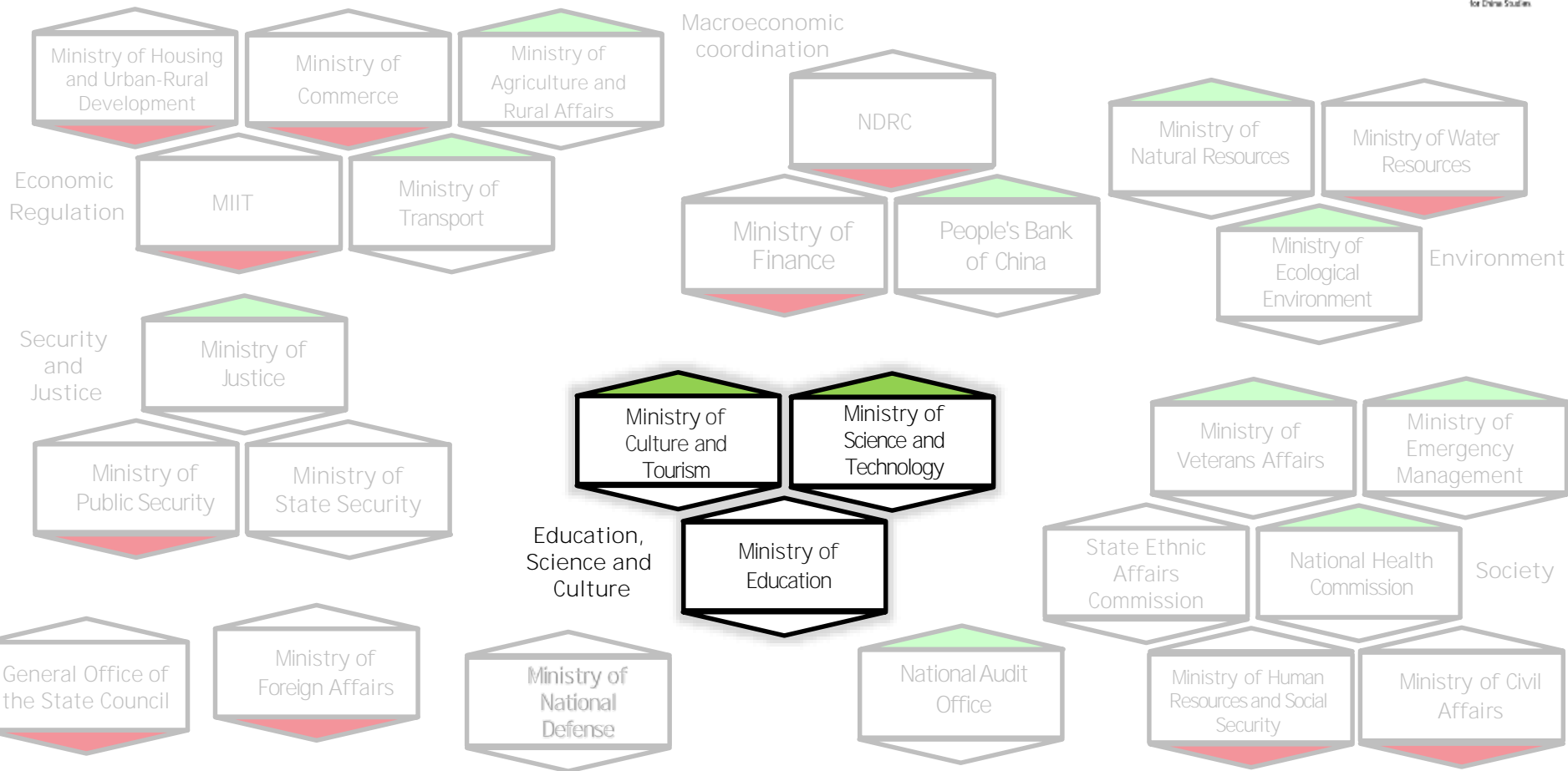
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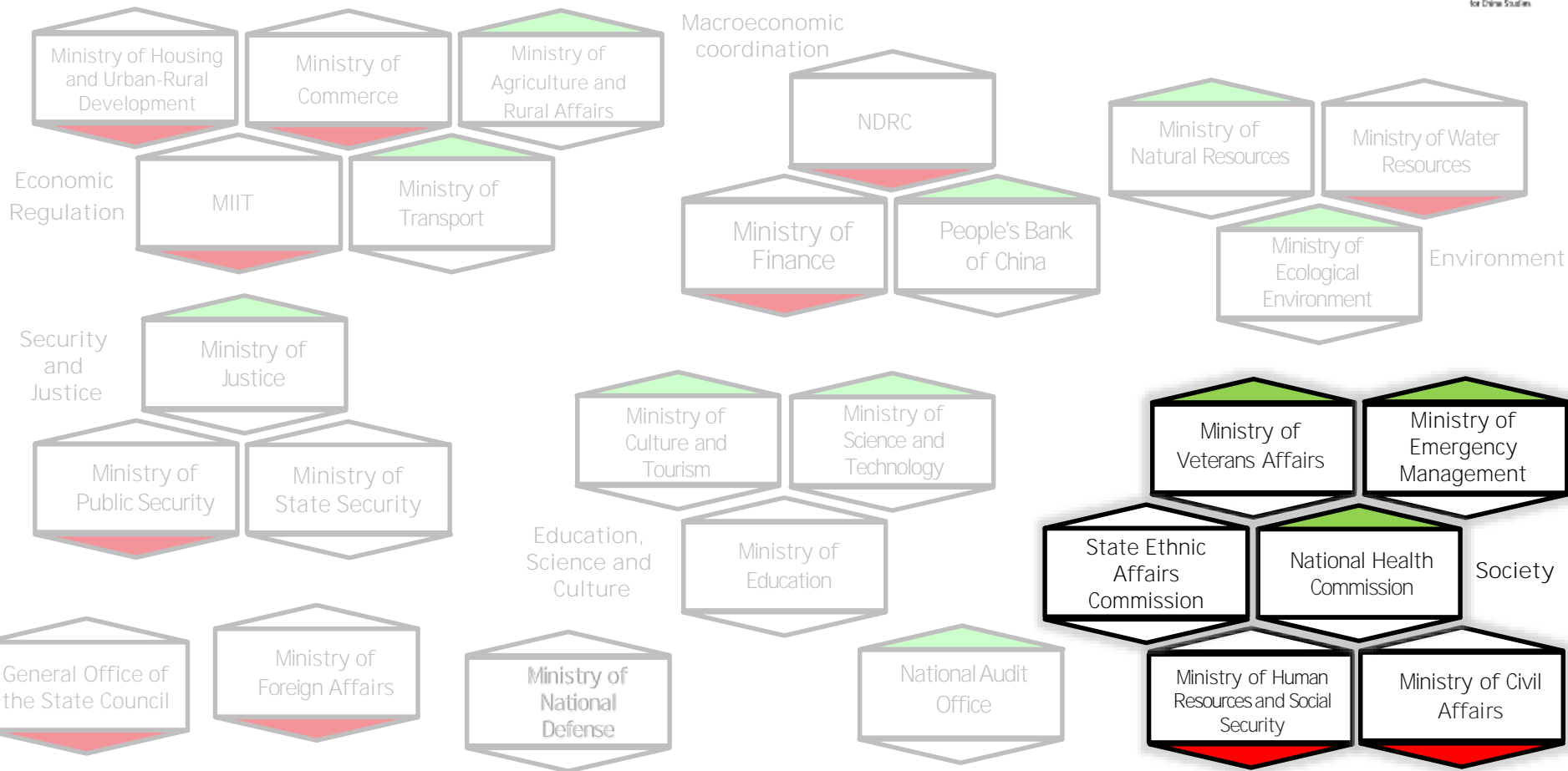
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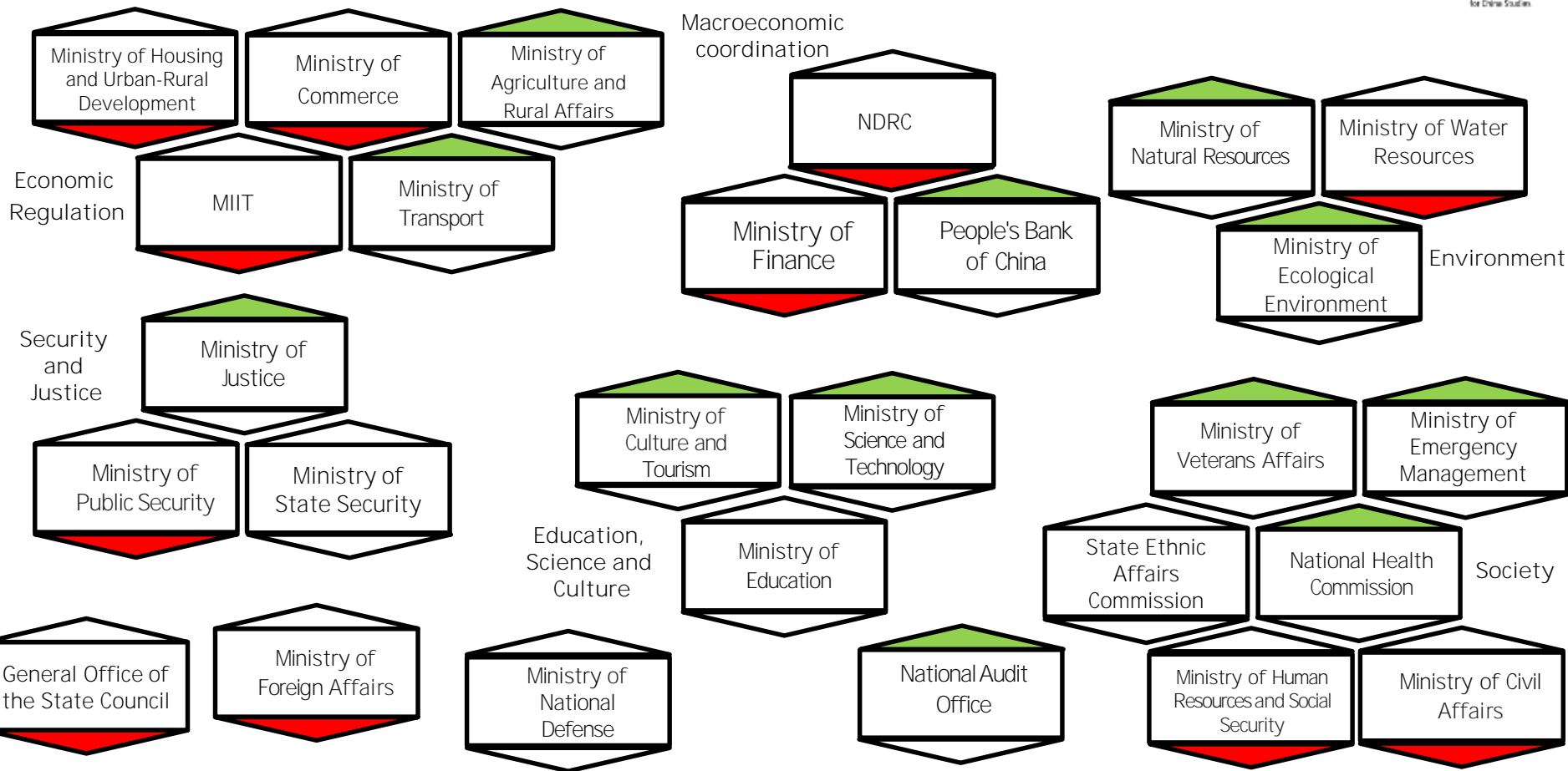
# Streamlining competences

Gains and losses in the big reshuffle of departmental level state organs



# Streamlining competences

Gains and losses in the big reshuffle of departmental level state organs



# Overcoming fragmentation in regulation and supervision

## Reduction of actors in key sectors

### Banking and insurance

**State Banking  
and Insurance  
Regulatory  
Commission**

CBRC & CIRC merged to form the key supervising actor, yet the PBoC formulates important laws and regulations



### Environment



Functions of former Ministry of Environmental Protection  
+ Climate change and reduction of carbon emissions (previously NDRC)  
+ Responsibility for setting up pollution discharge outlets (previously MWR)

### Health



Functions of former National Health and Family Planning Commission (NHFPC)  
+ healthcare system reform (NDRC+State Council LSG)  
+ Occupational safety and health  
+ Ageing

**State Medical  
Insurance  
Administration**

+ Basic medical insurance and maternity insurance for urban employees and residents (MoHRSS)  
+ Rural cooperative health system (NHFPC)  
+ Managing pricing of drugs and medical services (before partly NDRC)  
+ Medical assistance program

# Establishing a strong market regulator

## Set-up and functions of the State Administration for Market Regulation



国务院食品安全委员会 国务院反垄断委员会  
国家认证认可监督管理委员会 国家标准化管理委员会

Absorbing the following, previously self-standing organizations:

State Administration for Industry and Commerce (SAIC)

General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) - *partially*

- PRC Standardization Administration

- PRC Certification and Accreditation Administration

China Food and Drug Administration (CFDA)

State Intellectual Property Office (SIPO)

- Commercial registration (previously SAIC)
- Antimonopoly issues: Pricing supervision and anti-monopoly enforcement (taking over functions from NDRC, MOFCOM, and the Executive Office of the State Council Anti-Monopoly Commission)
- Inspection, certification, and accreditation (AQSIQ)
- Food and product safety (CDA)
- Medicines and medical device products (CDA)
- Intellectual Property Rights (SIPO)



# Unification of laws and regulations

More transparency for all and less leeway for local governments

- Long-term project: Cutting red-tape and rendering public service more efficient
- Government reshuffle result of party internal debate BUT ALSO long-standing research and deliberation



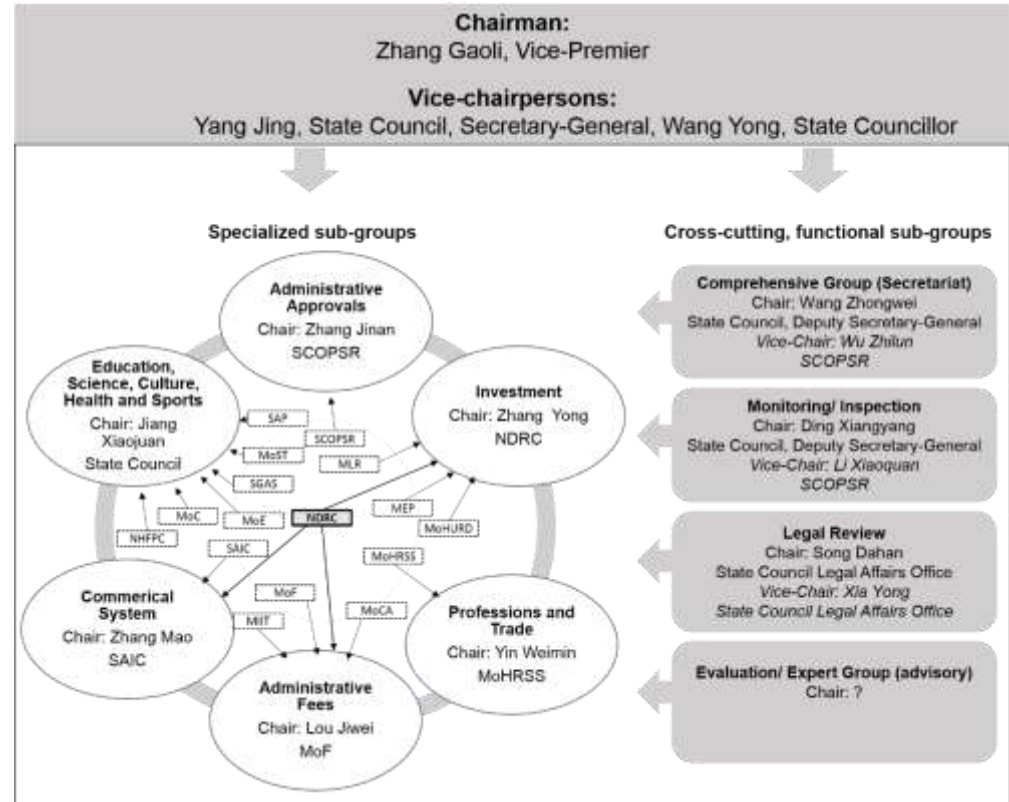
State Council Legal Affairs office has been absorbed

CCP Leading Small group on law-based governance

中央依法治国领导小组



State Council Coordination Group "Transformation of State Capacity" \*2015



# 2018 Legislative agenda



## Highlights for foreign businesses with operations in China

June

- *E-Commerce Law (third deliberation)*: Fills the vacuum of legal protection of personal information. But there is still no uniform law and, particularly, no explicit rule that restricts the government's arbitrary access to personal data.
- *Revision Patent Law*

August 2018

- *Civil Code (individual parts)*: Most probably including parts on property rights and contracts
- *Vehicle Purchase Tax Law*

October

- *Basic Healthcare and Health Promotion Law*
- *Revision of Tax Collection Administration Law*

December

- *Foreign Investment Law*: The law is supposed to replace a number of laws, such as the Chinese-Foreign Equity Joint Ventures Law, Wholly Foreign-Owned Enterprises Law, and Chinese-Foreign Contractual Joint Ventures Law
- *Resource Tax Law*
- *Law on the Prevention and Control of Environmental Pollution by Solid Waste* + Clean Production Promotion Law and the Circular Economy Promotion Law



# In preparation

## *Selection*

### Revisions/amendments:

- *Securities Law* (third deliberation)
- *Copyright Law*
- *Vocational Education Law*
- *Personal Income Tax Law*
- *Workplace Safety Law*

### New laws:

- *Export Control Law*
- *Futures Law*
- *Real Estate Tax Law*

# Outlook

The new structures in operation will tell us more about efficiency and control

- The restructuring has the potential to render governing and regulation more efficient. However, only time can tell, how State Administration of Market Regulation, CBIRC and PBoC, and state supervision organs will interact in practice.
- Central authority vs. local diversity: a productive tension as in the past?
- New legislation: guarantee for a level-playing field, convergence with legislation in other countries?

# Thank you for your attention



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