



Knowledge Co-Creation Program (Group & Region Focus)

GENERAL INFORMATION ON COMPETITION LAW AND POLICY

-Laying the Foundation for Investment Promotion-
課題別研修「競争法・政策－投資を促進するための基盤づくり－」
JFY 2016

NO. J1604386 / ID: 1684620

Course Period in Japan: From July 31, 2016 to August 20, 2016

This information pertains to one of the JICA Knowledge Co-Creation Program (Group & Region Focus) of the Japan International Cooperation Agency (JICA), which shall be implemented as part of the Official Development Assistance of the Government of Japan based on bilateral agreement between both Governments.

'JICA Knowledge Co-Creation (KCC) Program' as a New Start

In the Development Cooperation Charter which was released from the Japanese Cabinet in February 2015, it is clearly pointed out that *"In its development cooperation, Japan has maintained the spirit of jointly creating things that suit partner countries while respecting ownership, intentions and intrinsic characteristics of the country concerned based on a field-oriented approach through dialogue and collaboration. It has also maintained the approach of building reciprocal relationships with developing countries in which both sides learn from each other and grow and develop together."* We believe that this 'Knowledge Co-Creation Program' will serve as a center of mutual learning process.

I. Concept

Background

A successfully functioning market economy requires functioning competition laws as a basic rule for economic activities. Generally, competition laws prohibit a variety of anticompetitive practices, such as cartels, anticompetitive mergers, and exclusionary acts by firms with monopoly power/dominant positions, for protecting the competitive process, ultimately benefiting consumers.

Once a country introduced a competition law, the country would face difficulties such as how to build their capacity to detect, investigate, and remedy anticompetitive conducts. Successful enforcement of a competition law requires not only theoretical knowledge, but also practical knowledge and experience.

As increasing countries introduce a competition law, many countries have shown strong interests in learning from Japan's 60 year experience in implementing competition policy and law. Responding to their needs, JICA decided to implement this training course working with the Japan Fair Trade Commission (JFTC) for officials of competition related authorities in countries which have newly introduced or planned to introduce a competition law.

For what?

This course aims to contribute to effective implementation of competition law, review of the existing competition policy and law, and drafting a new competition law or amendments of the existing competition law, and eventually promotions of competitive environments in the participating countries, by providing an opportunity to obtain the knowledge and expertise on the implementation of competition policy and law, and its related legislation in Japan.

For whom?

This program is offered to mid-level government officials of competition related authorities and other authorities responsible for regulating anti-competitive activities, since this program aims to foster core personnel who have the capability of implementing competition policy and law in participating countries in the future.

How?

Participants shall have opportunities to learn competition policy and law in Japan, the US, Korea and Chinese Taipei, and experience in investigating actual violation cases through both theoretical and practical perspectives. Participants will also have opportunities to gain knowledge on the latest issues and discussion in the field of competition policy, and compare Japan's competition legislation with other countries' ones. The experience and knowledge obtained through the program are expected to contribute to develop the competition law and policy in each country.

II. Description

1. **Title (J-No.): Competition Law and Policy**
-Laying the Foundation for Investment Promotion- (J1604386)
2. **Course Period in JAPAN**
July 31, 2016 to August 20, 2016
3. **Target Regions or Countries**
China, Cape Verde, Indonesia, Iraq, Kenya, Mongolia, Montenegro, Myanmar, Philippines, Samoa, Serbia, Tajikistan, Timor-Leste, Ukraine
4. **Eligible / Target Organization**
This program is designed for governmental organization in charge of implementing competition policy and law or governmental organization in charge of drafting comprehensive competition laws.
5. **Course Capacity (Upper limit of Participants)**
17 participants
6. **Language to be used in this program:** English
7. **Course Objective**
By the end of the program, the participants are expected to:
1) enhance their knowledge on competition policy and law of Japan and other countries, and 2) consider how to promote effective enforcement of competition policy and law.
8. **Overall Goal**
Strengthening skills of the participants to promote effective enforcement of competition policy and law in their country in order to enhance market economy.
9. **Expected Module Output and Contents:**
This program consists of the following components. Details on each component are given below:

(1) Preliminary Phase in a participant's home country

Participating organizations make required preparation for the Program in the respective country.

Output	Activities
Country report	Formulation and submission of country report

(2) Core Phase in Japan

Participants dispatched by the organizations attend the Program implemented in Japan.

STEP1	<p>[Objective] To be able to understand and explain the contents, history, features of competition policy and law in Japan</p> <p>[Contents (examples)]</p>	<ul style="list-style-type: none"> • Lectures (Theoretical Focus) • Country Report (Presentation by participants)
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	<ul style="list-style-type: none"> • Introduction to the Antimonopoly Act (AMA) • Mergers and Acquisitions • Unfair Trade Practices • Monopolization • Cartels and Bid Riggings • Industrial Policy and Competition Policy • Country Report Presentation 	
STEP2	<p>[Objective] To be able to explain actual operation and enforcement of competition policy and law in Japan</p> <p>[Contents (examples)]</p> <ul style="list-style-type: none"> • Organization and Training System of the JFTC • Procedures/Techniques of Case Investigation • Leniency Program • Realities of Case Investigation • Appeal Procedures • Activities of Prevent Violations • Enforcement of Competition Law in the US and/or Korea and Taiwan. • Policy Coordination with other regulatory authorities • Realities of M&A Review • Public Relation Activities by the JFTC 	Case study Study presentation

【Course Objectives】

The participants are expected to 1) enhance their knowledge on competition policy and law of Japan and other countries, 2) consider how to promote effective enforcement of competition policy and law in order to strengthen market economy of their countries.

<Required Tasks >

As indicated below, this program is designed primarily for competition authorities which is responsible for implementation of competition policy and law, including regulation against cartel, abuse of dominant position, or anticompetitive merger. In order to maximize the impact of the program, the Participating Organizations and participants are required to be engaged in some tasks. The below is the list of the main tasks;

- (1) **Country report submission as application document** (during the Preliminary Phase in a participant's home country) **and presentation after arrival in Japan:** The participants are strongly requested to finalize their country reports, including section 1 and 2, and submit them at the time of application. The participants are also requested to give their presentation based upon section 2 of their country report after their arrival in Japan.
- (2) **Active participation in lectures and discussions, and presentation of case study report** (during the Core Phase in Japan): All participants to this

training program are expected to make contributions by actively engaged in lectures and discussions. They will be also required to make presentations on their case studies in the field of competition policy and/ or law at the end of the program.

- (3) **Sharing the study report:** The participants are expected to make and a study report in the end of the program. After coming back to their country, it is expected for the participants to share their reports with officials at participants' organizations to make use of the knowledge acquired from the program.

III. Conditions and Procedures for Application

1. Expectations for the Participating Organizations:

- (1) This program is designed primarily for organizations that intend to address specific issues or problems identified in their operation. Participating organizations are expected to utilize the program for those specific purposes.
- (2) This program is enriched with contents and facilitation schemes specially developed in collaboration with relevant prominent organizations in Japan. These special features enable the program to meet specific requirements of applying organizations and effectively facilitate them toward solutions for the issues and problems.

2. Nominee Qualifications:

Applying Organizations are expected to select nominees who meet the following qualifications.

(1) Essential Qualifications:

- 1) Current Duties: be either
 - a) government officials in charge of operations at competition authorities in countries with competition laws already in place; or
 - b) government officials in charge of drafting comprehensive competition laws, or competition advocacy in countries without comprehensive competition laws.
- 2) Experience in the relevant field: have more than 5 years' experience in the field
 - a) government officials of competition authorities, which is responsible for implementation of competition law, regulating cartel, abuse of dominant position, and/or anticompetitive merger; or
 - b) government officials in charge of drafting comprehensive competition laws, or competition advocacy in countries without comprehensive competition laws.
- 3) Educational Background: be a graduate of university or the equivalent.
- 4) Language: have a competent command of spoken and written English which is equal to TOEFL iBT 100 or more (This program includes active participation in

discussions, which requires high competence of English ability. Please attach an official certificate for English ability such as TOEFL, TOEIC etc). This program requires high English proficiency for active participation in discussions and presentation.

- 5) Health: must be in good health, both physically and mentally, to participate in the Program in Japan. Pregnant applicants are not recommended to apply due to the potential risk of health and life issues of mother and fetus.

(2) Recommendable Qualifications:

- 1) Age: between the ages of twenty-five (25) and fifty (50) years

3. Required Documents for Application:

(1) Application Form: The Application Form is available at **the JICA office (or the Embassy of Japan)**.

(2) Photocopy of passport: to be submitted with the Application Form, if you possess your passport which you will carry when entering Japan for this program. If not, you are requested to submit its photocopy as soon as you obtain it.

*Photocopy should include the followings:

Name, Date of birth, Nationality, Sex, Passport number and Expiry date.

(3) Nominee's English Score Sheet: to be submitted with the Application Form. Official documentation of English ability (e.g., TOEFL, TOEIC, IELTS), should be attached (or a copy) to the Application Form.

(4) Country Report (Section 1 and 2): to be submitted with the Application Form. Fill in the ANNEX of this General Information.

4. Procedures for Application and Selection :

(1) Submission of the Application Documents:

Closing date for applications: **Please inquire to the JICA office (or the Embassy of Japan)**.

(After receiving applications, the JICA office (or the Embassy of Japan) will send them to **the JICA Center in JAPAN by June 17, 2016**)

(2) Selection:

After receiving the documents through proper channels from your government, the JICA office (or the Embassy of Japan) will conduct screenings, and then forward the documents to the JICA Center in Japan. Selection will be made by the JICA Center in consultation with concerned organizations in Japan. *The applying organization with the best intention to utilize the opportunity of this program will be highly valued in the selection.* Qualifications of applicants who belong to the military or other military-related organizations and/or who are enlisted in the military will be examined by the Government of Japan on a case-by-case basis, consistent with the Development Cooperation Charter of

Japan, taking into consideration their duties, positions in the organization, and other relevant information in a comprehensive manner.

(3) Notice of Acceptance:

Notification of results will be made by the JICA office (or the Embassy of Japan) **not later than July 1, 2016.**

5. Conditions for Attendance:

- (1) to strictly adhere to the program schedule,
- (2) not to change the program topics,
- (3) not to extend the period of stay in Japan,
- (4) not to be accompanied by family members during the program,
- (5) to return to home countries at the end of the program in accordance with the travel schedule designated by JICA,
- (6) to refrain from engaging in any political activities, or any form of employment for profit or gain,
- (7) to observe Japanese laws and ordinances. If there is any violation of said laws and ordinances, participants may be required to return part or all of the program expenditure depending on the severity of said violation, and
- (8) to observe the rules and regulations of the accommodation and not to change the accommodation designated by JICA.

IV. Administrative Arrangements

1. Organizer:

(1) **Name:** JICA Kansai

2. **Contact:** Konishi Yoko(Konishi.Yoko.2@jica.go.jp) and jicaksic-unit@jica.go.jp

3. Implementing Partner:

(1) **Name:** Japan Fair Trade Commission (JFTC)

(2) **URL:** <http://www.jftc.go.jp/en/index.html>

4. Travel to Japan:

(1) **Air Ticket:** The cost of a round-trip ticket between an international airport designated by JICA and Japan will be borne by JICA.

(2) **Travel Insurance:** Coverage is from time of arrival up to departure in Japan. Thus, traveling time outside Japan will not be covered.

5. Accommodation in Japan:

JICA will arrange the following accommodations for the participants in Japan:

JICA Kansai

Address: 1-5-2, Wakinohama-kaigandori, Chuo-ku, Kobe, Hyogo 651-0073, Japan

TEL: 81-78-261-0397 FAX: 81-78-261-0465

(where “81” is the country code for Japan, and “78” is the local area code)

If there is no vacancy at JICA Kansai, JICA will arrange alternative accommodations for the participants. Please refer to facility guide of JICA Kansai at its URL, <http://www.jica.go.jp/english/about/organization/domestic/index.html>

Expenses:

The following expenses will be provided for the participants by JICA:

- (1) Allowances for accommodation, meals, living expenses, outfit, and shipping,
- (2) Expenses for study tours (basically in the form of train tickets),
- (3) Free medical care for participants who become ill after arriving in Japan (costs related to pre-existing illness, pregnancy, or dental treatment are not included),
- (4) Expenses for program implementation, including materials.

For more details, please see “III. ALLOWANCES” of the brochure for participants titled “KENSU-IN GUIDE BOOK,” which will be given before departure for Japan.

6. Pre-departure Orientation:

A pre-departure orientation will be held at the respective country’s JICA office (or Embassy of Japan), to provide participants with details on travel to Japan, conditions of the participation in the program, and other matters.

V. Other Information

1. Participants who have successfully completed the program will be awarded a certificate by JICA.
2. For the promotion of mutual friendship, JICA Kansai encourages international exchange between JICA participants and local communities, including school and university students as a part of development education program. JICA participants are expected to contribute by attending such activities and will possibly be asked to make presentations on the society, economy and culture of their home country.
3. Participants are recommended to bring laptop computers for your convenience, if possible. During the program, participants are required to work on the computers, including preparation of study reports, etc. Most of the accommodations have internet access.
4. Allowances, such as for accommodation, living, clothing, and shipping, will be deposited to your temporary bank account (opened by JICA) in Japan after 2 to 5 days after your arrival in Japan. It is highly advised to bring some cash / traveler's check in order to cover necessary expense for the first 2 to 5 days after your arrival.
5. It is very important that your currency must be exchanged to Japanese Yen at any transit airport or Kansai International Airport (KIX) in Osaka, Japan soon after your arrival. It is quite difficult to exchange money after that, due to limited availability of facility or time during the program..

VI. ANNEX: COUNTRY REPORT FOR THE KNOWLEDGE CO-CREATION PROGRAM (GROUP & REGION FOCUS) ON

COMPETITION LAW AND POLICY

- Laying the Foundation for Investment Promotion-

— Competition Law and/or Policy of Your Country —

1. Please fill out “BASIC INFORMATION” and “SECTION 1”.
2. Please prepare a presentation in line with “SECTION 2”. Please read the guide in this Section carefully and prepare MS Power Point presentation material.
3. All documents including the “BASIC INFORMATION”, “SECTION 1” and your presentation material based on “SECTION 2” should be submitted along with the Application Form at the time of application.
4. Example is provided at the end of the section.

BASIC INFORMATION

1. Name of Applicant

2. Relationship Between Your Work [or Duty] and Competition Policy/Law

SECTION 1

1. Existing Comprehensive Competition Laws: YES / NO

2. For Applicants from countries with comprehensive competition laws

2-1 Name of Competition Law: _____

2-2 Year of enactment: ____

2-3 Information on Implementing Organization

(a) Name of Implementing Organization: _____

(b) Organizational Structure: _____

Budget: US\$_____ (Year: ____)

Number of Personnel: _____ (Year: ____)

NOTE: 1. Where possible please attach an organization chart.

(Please include the number of employees of each division)

2. Please provide web-site (in English, if any) address of Implementing Organization

http://www. _____

2-4 Brief description of the latest or major amendment of competition law (if any):

3. For Applicants from countries without comprehensive competition laws

(a) Competition-Related Law Name(s), Year(s) Enacted, and control subjects:

(b) Implementing Organization: _____

Note: Please provide web-site (in English, if any) address of Implementing Organization

http:// _____

(c) Is there any plan to enact a comprehensive competition law? If so, please give us the brief description and the expected schedule of its enactment. _____

4. Overview of Regulations

4-1 Abuse of Market-Dominant Position (Monopolization)

(a) Existing Regulations: YES / NO

(b) Brief description of penalty or relief on it: _____

(c) Brief description of regulation: _____

(d) Major Violation Cases in Recent Years: _____

4-2 Cartels (except bid-riggings)

(a) Existing Regulations: YES / NO

(b) Brief description of penalty or relief on it: _____

(c) Brief description of regulation: _____

(d) Major Violation Cases in Recent Years: _____

4-3 Bid-riggings

(a) Existing Regulations: YES / NO

(b) Brief description of penalty or relief on it: _____

(c) Brief description of regulation: _____

(d) Major Violation Cases in Recent Years: _____

4-4 Mergers and Acquisitions

(a) Existing Regulations: YES or NO

(b) Brief description of penalty or relief on it: _____

(c) Brief description of regulation: _____

(d) Major Violation Cases or Consultation Cases in Recent Years: _____

4-5 Unfair Trade Practices

(a) Existing Regulations: YES or NO

(b) Brief description of penalty or relief on it: _____

(c) Brief description of regulation: _____

(d) Major Violation Cases in Recent Years: _____

4-6 Other regulations

(a) Existing Regulations: YES or NO

(b) Brief description of regulation: _____

5. Performance

5-1 Numbers of Cases Investigated

(a) Abuse of Market-Dominant Position: _ Cases (Year: ____)

(b) Cartels (including bid-riggings): __ Cases (Year: ____)

(c) Unfair Trade Practices: __ Cases (Year: ____)

(d) Mergers/Acquisition Notifications: __ Cases (Year: ____)

(e) Other regulations: __ Cases (Year: ____)

5-2 Number of Legislative Measures

(a) Abuse of Market-Dominant Position: _ Cases (Year: ____)

(b) Cartels(including bid-riggings): __ Cases (Year: ____)

(c) Unfair Trade Practices: _ Cases (Year: ____)

(d) Mergers and Acquisitions _ Cases (Year: ____)

(e) Other regulations: __ Cases (Year: ____)

GUIDE for SECTION 2

Section 2 of the country report will be a material for your Country Report Presentation which you are going to give in this program in Japan. Each participant shall refer either of the following topics in his/ her presentation. Participants are recommended to make their presentation material using MS Power Point Format.

a) For participants from countries with existing competition law:

- i) Outline of the competition law and policy
- ii) The recent status of enforcement of the law
- iii) Case studies
- iv) Challenges your agency is encountering

b) For participants from countries now in the drafting process:

- i) Date of the drafting process started
- ii) Current situation of the process
- iii) Expected date of enactment of competition legislation
- iv) Expected contents of competition legislation
- v) Expected design of competition authority

EXAMPLE OF COUNTRY REPORT

ANNEX I

Sample Report (Japan's case)

**COUNTRY REPORT FOR THE KNOWLEDGE CO-CREATION PROGRAM
(GROUP & REGION FOCUS) ON
COMPETITION LAW AND POLICY
— Competition Law and/or Policy of Your Country —**

BASIC INFORMATION

1. Name of Applicant

[Name], the Investigation Bureau, Japan Fair Trade Commission

2. Applicant's E-Mail Address and Fax Number (Note: Clearly Displayed and Legible)

E-mail: xxxxxx@jftc.go.jp

Fax: +XX-X-XXXX-XXXX

3. Relationship Between Your Work [or Duty] and Competition Policy/Law

The Japan Fair Trade Commission which I work for is in charge of enforcement of the Japanese competition law (AMA: Antimonopoly Act) and my duty is to operate the AMA as an investigator of competition cases such as Cartel and Private Monopolization.

SECTION 1

1. Existing Comprehensive Competition Laws: YES / NO

2. For Applicants from countries with comprehensive competition laws

2-1 Name of Competition Law: Antimonopoly Act (Act concerning Prohibition of Private Monopolization and Maintenance of Fair Trade)

2-2 Year of enactment: 1947

2-3 Information on Implementing Organization

(a) Name of Implementing Organization: Japan Fair Trade Commission (JFTC)

(b) Organizational Structure: Administrative commission comprising a chairman and four commissioners, and assisted by the General Secretariat. The JFTC is attached to the Cabinet Office and in charge of implementing the AMA.

Budget: US Million \$ 11,320 (Year: FY2015)

Number of Personnel: 830 members in secretariat (Year: FY2015)

***NOTE: 1. Where possible please attach an organization chart.
(Please include the number of employees of each division)***

***2. Please provide web-site (in English, if any) address of
Implementing Organization***

<http://www.jftc.go.jp/en/index.html>

2-4 Brief description of the latest amendment of competition law (if any):

The AMA was amended on April 2015 to abolish the JFTC's hearing procedure for administrative appeals and introduce a system in which any appeal suits pertaining to cease and desist orders, etc. shall be subject to the exclusive jurisdiction of the Tokyo District Court, and introduce procedure for hearing, etc.

3. For Applicants from countries without comprehensive competition laws

(a) Competition-Related Law Name(s), Year(s) Enacted, and Control Subjects:

(b) Implementing Organization: _____

***Note: Please provide web-site (in English, if any) address of Implementing
Organization***

<http://> _____

(c) Is there any plan to enact a comprehensive competition law? If so, please give us the brief description and the expected schedule of its enactment. _____

4. Overview of Regulations

4-1 Abuse of Market-Dominant Position (Monopolization)

(a) Existing Regulations: YES / NO

(b) Brief description of penalty or relief on it:

(i) Criminal penalty

- On natural persons: imprisonment up to 5 years or fine up to ¥5 million
(Articles 89(1)1, 89(1)2 and 95 of AMA)

- On judicial persons: fine up to ¥500 million

(ii) Administrative procedure

- Cease and desist order by JFTC

- Surcharge payment order by JFTC:

The amount of surcharge to be paid is calculated by multiplying the sale price of the relevant goods or services by up to 6-10%.

(c) Brief description of regulation:

In Japan, article 3 of the AMA regulates “private monopolization” which is defined as such business activities, by which any entrepreneur, individually or by combination or conspiracy with other entrepreneurs, or by in any other manner, excludes or controls the business activities of other entrepreneurs, thereby causing, contrary to the public interest, a substantial restraint of competition in any particular field of trade.

Note: the regulation on abuse of dominant position is to control against entrepreneurs’ practice in order to creates, maintains and reinforces their market power through such conducts as “Exclusion” or “Control”. Please note that monopolistic market situation itself dose not constitute violation of the Antimonopoly Act. With regard to the interpretation of Market-Dominant position, the JFTC does not employ any concrete numerical criteria such as market share.

(d) Major Violation Cases in Recent Years:

- Exclusionary conduct (discriminatory treatment to rivals) by Nippon Telegraph And Telephone East Corporation. (December, 2010)

4-2 Cartels (except bid-riggings)

(a) Existing Regulations: YES / NO

(b) Brief description of penalty or relief on it:

(i) Criminal penalty

- On natural persons: imprisonment up to 5 years or fine up to ¥5 million (Articles 89(1)1, 89(1)2 and 95 of AMA)
- On judicial persons: fine up to ¥500 million

(ii) Administrative procedure

- Cease and desist order by JFTC
- Surcharge payment order by JFTC:
The amount of surcharge to be paid is calculated by multiplying the sale price of the relevant goods or services by up to 10%.

(c) Brief description of regulation:

Article 3 of AMA prohibits “unreasonable restraint of trade” which is defined as such business activities, by which any entrepreneur, in concert with other entrepreneurs, mutually restrict or conduct their business activities in such a manner as to fix prices etc., contrary to the public interest, a substantial restraint of competition in any particular field of trade.

It may include price cartels, supply cartels, market-dividing cartels, bid rigging, standard-setting or product-type-limiting cartels, etc.

(d) Major Violation Cases in Recent Years:

- Price fixing by international ocean shipping companies(Cease and desist, and surcharge payment orders in March 2015)
- Criminal accusation on price-fixing cartels case concerning snow-melting equipment engineering works for Hokuriku Shinkansen ordered by the Japan Railway Construction, Transport and Technology Agency(March 2014)

4-3 Bid-riggings

(a) Existing Regulations: YES / NO

(b) Brief description of penalty or relief on it: (Same as 4-2 above)

(c) Brief description of regulation: (Same as 4-2 above)

(d) Major Violation Cases in Recent Years:

- Rigging in bids for the Country Elevator Works and the Rice Milling Facility Works ordered by the Agricultural Cooperatives(Cease and desist, and surcharge payment orders in March 2015).

4-4 Mergers and Acquisitions

(a) Existing Regulations: YES or NO

(b) Brief description of penalty or relief on it:

- Cease and desist order by JFTC

(c) Brief description of regulation:

AMA prohibits business combinations including mergers, shareholdings, demergers, interlocking directorates, acquisition of business etc. which may be substantially to restrain competition in any particular field of trade. In the case of M&As over a certain size, the party must notify the JFTC ex-ante.

(d) Major Violation Cases or Review Cases in Recent Years:

- Violation Cases:
There was no violation case for over a decade.
- Review Cases:
Integration in Thermal Power Generation Systems Businesses of Mitsubishi Heavy Industries, Ltd. and Hitachi, Ltd. (December 2013)

4-5 Unfair Trade Practices

(a) Existing Regulations: YES or NO

(b) Brief description of penalty or relief on it:

- Cease and desist order by JFTC

- Surcharge payment order by JFTC:

Certain types of unfair trade practices are subject to surcharge. The amount to be paid is calculated by multiplying the sale price of the relevant goods or services by up to 3%.

- Injunctive remedy by civil court (private suit)

(c) Brief description of regulation:

Article 19 of the AMA prohibits the unfair trade practices by entrepreneurs including group boycott, unilateral refusal to deal, predatory pricing, discriminatory treatment

(d) Major Violation Cases in Recent Years:

- Abuse of their superior bargaining position against their suppliers by RALSE Company, which operates a retail business in Hokkaido
- Resale price maintenance against their retailers by Adidas Japan

4-6 Other regulations

(a) Existing Regulations: YES or NO

(b) Brief description of regulation:

- Subcontract Act
- Act on Elimination and Prevention of Involvement in Bid Rigging, etc. and Punishments for Acts by Employees that Harm Fairness of Bidding, etc.

5. Performance

5-1 Numbers of Cases Investigated

- (a) Abuse of Market-Dominant Position: Cases (FY 2015) (*nonpublic)
- (b) Cartels (including bid-riggings): Cases (FY 2015) (*nonpublic)
- (c) Unfair Trade Practices: Cases (FY 2015) (*nonpublic)
- (d) Mergers/Acquisitions Notifications: 264 Cases (FY 2015)
- (e) Other regulations: Cases (Year:)

5-2 Number of Legislative Measures

- (a) Abuse of Market-Dominant Position: 0 Cases (FY 2015)
- (b) Cartels (including bid-riggings): 17 Cases (FY 2015)
- (c) Unfair Trade Practices: 1 Cases (FY 2015) (including the number of the cases Abuse of superior bargaining position described above)
- (d) Mergers and Acquisitions 0 Cases (FY 2015)
- (e) Other regulations: Cases (Year:)

EXAMPLE OF COUNTRY REPORT for Section 2

ANNEX II

(Sample of the presentation material)



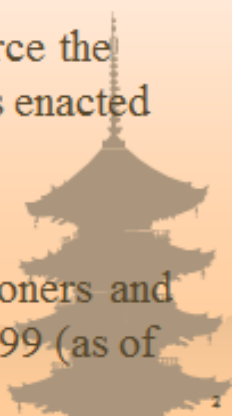
Outline of the AMA and the JFTC

Taro Dokkin
International Affairs Division
Japan Fair Trade Commission
(mailto: xxxx@jftc.go.jp)



What is the Japan Fair Trade Commission (JFTC)

- JFTC is an independent administrative commission under Cabinet Office.
- JFTC was established in 1947 to enforce the Antimonopoly Act (AMA), which was enacted in 1947.
- JFTC consists of 1 Chair, 4 Commissioners and staff members in General Secretariat 799 (as of 2012)



Organization of the JFTC



Main Regulation of Antimonopoly Act

- AMA prohibits mainly following activities by entrepreneurs.
 - Private Monopolization
(Control type and Exclusionary type)
 - Unreasonable Restraint of Trade
(Cartels and Bid-Riggings)
 - Unfair Trade Practices
 - Anticompetitive business combinations (M&As)
- There are 2 complementary laws for AMA
 - Subcontract Act (enacted in 1956)
 - Premiums and Representations Act (enacted in 1962)
- Act concerning Elimination and Prevention of Involvement in Bid-Rigging etc.

3 main regulations by AMA

Private Monopolization

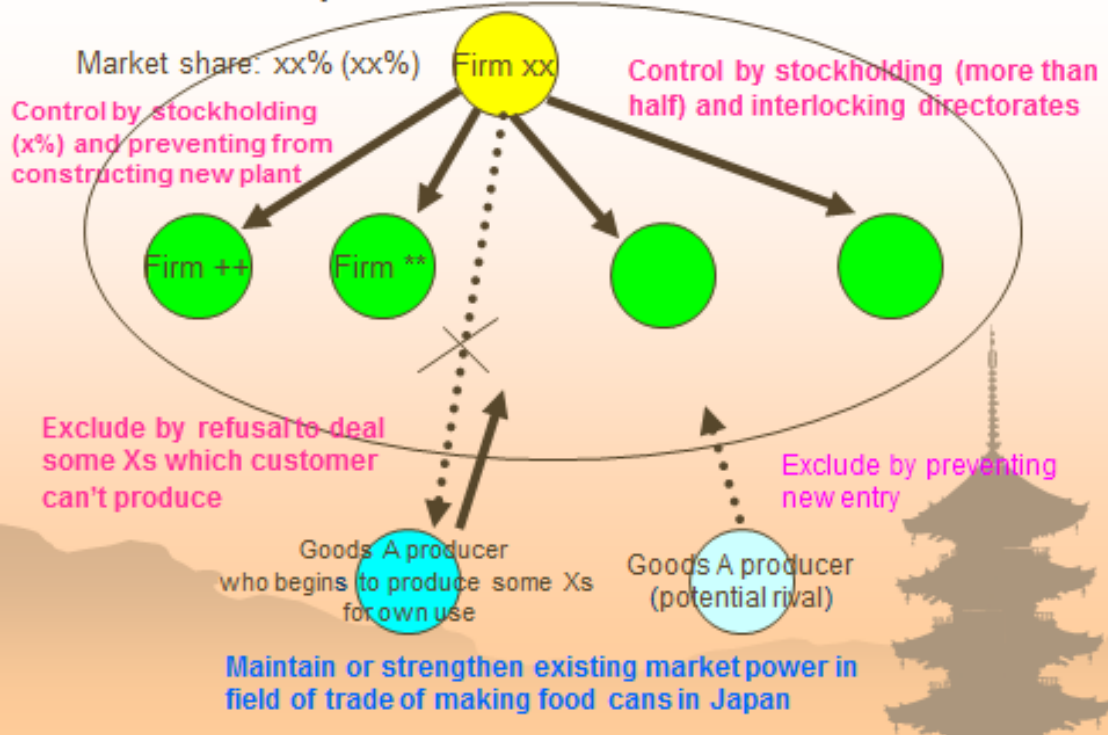
1. Requirements

- **Control or exclusion** of business activities of other entrepreneurs
- **Causing substantial restraint on a particular field of trade** (establishment, maintenance, or enhancement of market power)

2. Examples

- Control: xxx Case
- Exclusion: xxx Case

Case Example: xxx Case (dd/mm/19xx)



Unreasonable Restraint of Trade

1. Requirements

- Mutual restriction
- Causing substantial restraint on a particular field of trade
(establishment, maintenance, or enhancement of market power)

2. Case Examples

- xxx Case (Cartel)
- xxx Case (Bid-rigging) ...

Case Example on Unreasonable Restraint of Trade : xxx Case (dd/mm/20xx)

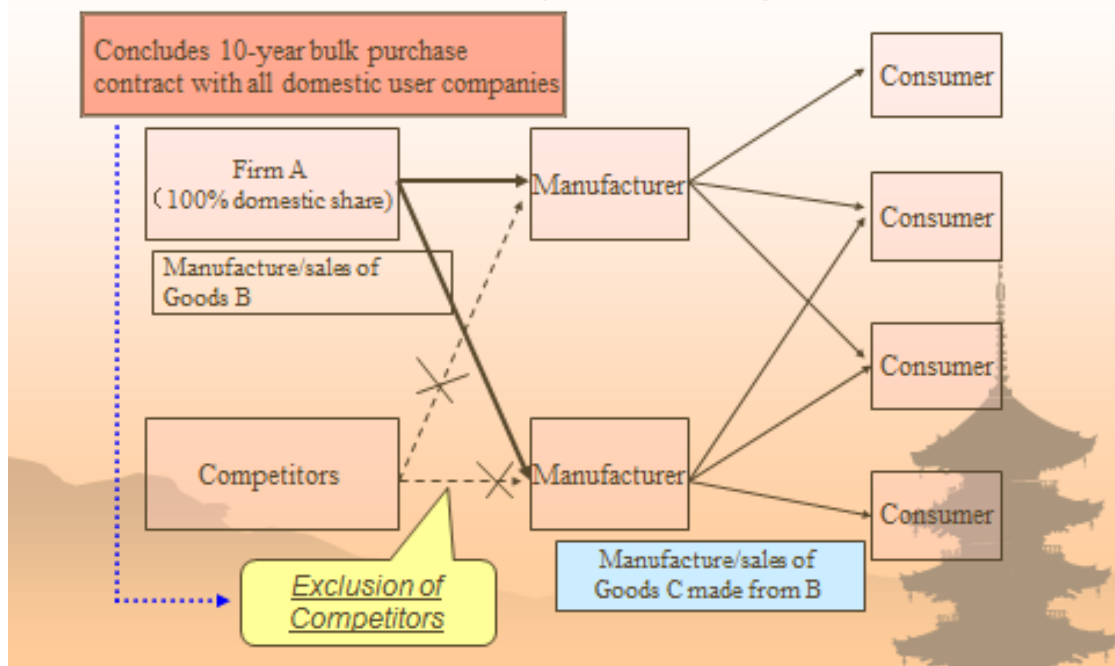
- Bid-riggings by electric companies in the biddings for X facilities procured by A city
- JFTC issued Cease and desist order and surcharge payment order as well as demand to the mayor of Sapporo city for improvement measures against involvement of the said bid-riggings by officials of the City
- Based on the leniency program, Firm 1 received 100% immunity of surcharge, and Firm 2 and Firm 3 received 30% reduction of surcharge

Unfair Trade Practices

1. Requirements

- Tendency to impede fair competition
 - To reduce free competition in the marketplace
 - To use unfair means of competition
 - To infringe the basis for free competition
- Designation by the JFTC
 - Group boycott
 - Individual refusal to deal
 - Predatory Pricing
 -
- Case Examples
 -

Case Example on Unfair Trade Practices : xxx Case (dd/mm/20xx)

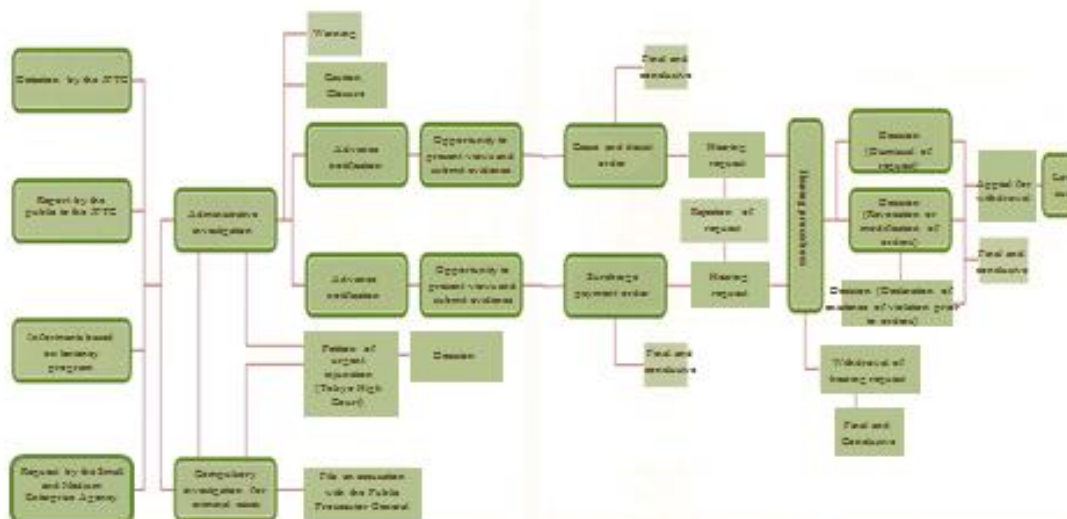


Legal Measures against Violations of AMA etc.

Conducts	Legal Measures
Private Monopolization (Control Type)	Cease and Desist Order Surcharge Payment Order
Private Monopolization (Exclusionary Type)	Cease and Desist Order Criminal Accusation
Unreasonable Restraint of Trade	Cease and Desist Order
Unfair Trade Practices	Cease and Desist Order
Anticompetitive M&A	Cease and Desist Order
Violation of Subcontract Act	Recommendation
Violation of Premiums and Representations Act	Cease and Desist Order

- 1 There is leniency program for unreasonable restraint of trade .
2 M&As which meet certain thresholds have to be notified to JFTC.

Flowchart of Procedures for Handling Illegal Cases



Plenty of Enforcement Guidelines

- There are plenty of enforcement guidelines concerning AMA, Subcontract Act, and Premiums and Representations Act, which show interpretations of individual provision of the Act.

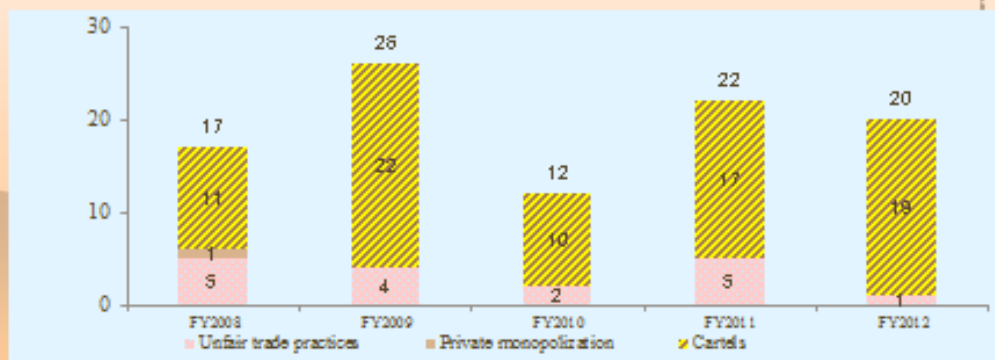
<<Examples of Guidelines>>

- Guidelines concerning Distribution Systems and Business Practices
- Guidelines concerning the Activities of Trade Associations under the Antimonopoly Act
- Guidelines for the Use of Intellectual Property under the Antimonopoly Act
- Guidelines to Applications of the Antimonopoly Act

Legal measures based on AMA

- In FY 2012, JFTC took legal measures in 20 cases in violation of Antimonopoly Act.

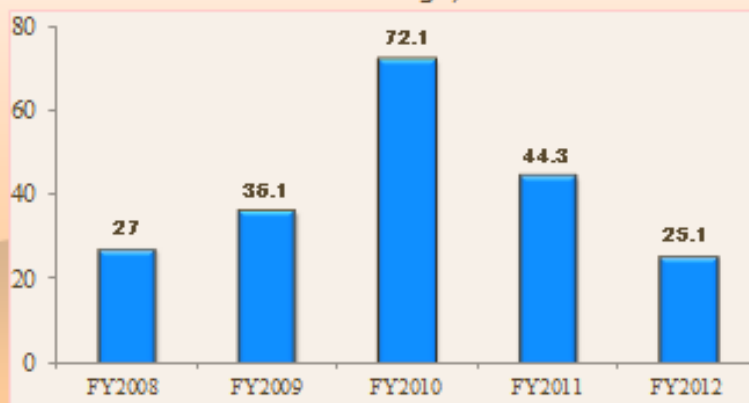
Numbers of cases where legal measures were taken



Surcharge payment orders

- With respect to surcharge payment orders, the amount of payment confirmed in FY 2012 was about 25.1 billion yen .

Trend in amount of surcharge, etc.



Leniency Program

- Leniency program was introduced in the Antimonopoly Act in January 2006.
- Leniency program is a system whereby surcharges are immunized or reduced on condition that the entrepreneurs involved in cartels and bid-riggings voluntarily report to the JFTC.
- In FY 2007, 74 leniency applications were received (179 applications were received from January 2006 until March 2008).
- In FY 2007, JFTC published the names of a total of 37 entrepreneurs that received lenient treatments in 16 cases.

Policy Issues for JFTC

<Grand Design for Competition Policy>

- JFTC made public “Grand Design for Competition Policy”, which states JFTC’s principles to implement competition policy (issued in 2003, revised in 2006)

<AMA Amendment Bill>

- The bill to amend the AMA, which was submitted to the National Diet on May 24th, 2013 for necessary amendments including abolition of the JFTC’s hearing procedure for administrative appeals, was approved by the House of Councilors and enacted on December 7th, 2013. The act is scheduled to be promulgated on December 13th, 2013.

Conclusion

For Your Reference

JICA and Capacity Development

The key concept underpinning JICA operations since its establishment in 1974 has been the conviction that “capacity development” is central to the socioeconomic development of any country, regardless of the specific operational scheme one may be undertaking, i.e. expert assignments, development projects, development study projects, Knowledge Co-Creation programs (until 2015, so called “training”), JOCV programs, etc.

Within this wide range of programs, Knowledge Co-Creation Programs have long occupied an important place in JICA operations. Conducted in Japan, they provide partner countries with opportunities to acquire practical knowledge accumulated in Japanese society. Participants dispatched by partner countries might find useful knowledge and re-create their own knowledge for enhancement of their own capacity or that of the organization and society to which they belong.

About 460 pre-organized programs cover a wide range of professional fields, ranging from education, health, infrastructure, energy, trade and finance, to agriculture, rural development, gender mainstreaming, and environmental protection. A variety of programs are being customized to address the specific needs of different target organizations, such as policy-making organizations, service provision organizations, as well as research and academic institutions. Some programs are organized to target a certain group of countries with similar developmental challenges.

Japanese Development Experience

Japan was the first non-Western country to successfully modernize its society and industrialize its economy. At the core of this process, which started more than 140 years ago, was the “*adopt and adapt*” concept by which a wide range of appropriate skills and knowledge have been imported from developed countries; these skills and knowledge have been adapted and/or improved using local skills, knowledge and initiatives. They finally became internalized in Japanese society to suit its local needs and conditions.

From engineering technology to production management methods, most of the know-how that has enabled Japan to become what it is today has emanated from this “*adoption and adaptation*” process, which, of course, has been accompanied by countless failures and errors behind the success stories. We presume that such experiences, both successful and unsuccessful, will be useful to our partners who are trying to address the challenges currently faced by developing countries.

However, it is rather challenging to share with our partners this whole body of Japan’s developmental experience. This difficulty has to do, in part, with the challenge of explaining a body of “tacit knowledge,” a type of knowledge that cannot fully be expressed in words or numbers. Adding to this difficulty are the social and cultural systems of Japan that vastly differ from those of other Western industrialized countries, and hence still remain unfamiliar to many partner countries. Simply stated, coming to Japan might be one way of overcoming such a cultural gap.

JICA, therefore, would like to invite as many leaders of partner countries as possible to come and visit us, to mingle with the Japanese people, and witness the advantages as well as the disadvantages of Japanese systems, so that integration of their findings might help them reach their developmental objectives.



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