

## CHAPTER 8: COMPETITION POLICY

### **Objective**

*APEC economies will enhance the competitive environment to increase consumer welfare in the Asia-Pacific region, taking into account the benefits and challenges of globalization, developments in the New Economy and the need to bridge the digital divide through better access by ICT, by:*

- a. introducing or maintaining effective and adequate competition policy and/or laws and associated enforcement policies;*
- b. promoting cooperation among APEC economies, thereby maximizing, inter-alia, the efficient operation of markets, competition among producers and traders, and consumer benefits; and*
- c. improving the ability of competition authorities, through enhanced capacity building and technical assistance, to better understand the impact of globalization and the New Economy.*

### **Guidelines**

*Each APEC economy will:*

- a. review its respective competition policy and/or laws and the enforcement thereof taking into account the “APEC Principles to Enhance Competition and Regulatory Reform”;*
- b. enforce competition policies and/or laws (including those prohibiting anticompetitive practices that prevent access to ICT and other new technologies) to ensure protection of the competitive process and promotion of consumer welfare, innovation, economic efficiency and open markets;*
- c. implement and maintain standards consistent with the APEC Transparency Standards;*
- d. disclose any pro-competitive efforts undertaken (e.g. enactment of competition laws, whether comprehensive or sectorial);*
- e. implement as appropriate technical assistance in regard to policy development, legislative drafting, and the constitution, powers and functions of appropriate enforcement agencies;*
- f. establish appropriate cooperation arrangements with other APEC economies, including those intended to address the digital divide; and*
- g. undertake additional step as appropriate to support the development of the New Economy and to ensure the efficient functioning of markets.*

### **Collective Actions**

*APEC economies will:*

- a. gather information and promote dialogue on and study;*
  - (i) the objectives, necessity, role and operation of each APEC economy's competition policy and/or laws and administrative procedures, thereby establishing a database on*

## CHAPTER 8: COMPETITION POLICY

*competition policy;*

- (ii) competition policy issues that impact on trade and investment flows in the Asia-Pacific region;*
  - (iii) exemptions and exceptions from the coverage of each APEC economy's competition policy and/or laws in an effort to ensure that each is no broader than necessary to achieve a legitimate and explicitly identified objective;*
  - (iv) areas for technical assistance and the modalities thereof, including exchange and training programs for officials in charge of competition policy, taking into account the availability of resources; and*
  - (v) the inter-relationship between competition policy and/or laws and other policies related to trade and investment;*
- b. deepen competition policy dialogue between APEC economies and relevant international organizations;*
  - c. continue to develop understanding in the APEC business community of competition policy and/or laws and administrative procedures;*
  - d. continue to develop an understanding of competition policies and/or laws within their respective governments and within relevant domestic constituencies, thereby fostering a culture of competition;*
  - e. encourage cooperation among the competition authorities of APEC economies with regard to information exchange, notification and consultation;*
  - f. contribute to the use of trade and competition laws, policies and measures that promote free and open trade, investment and competition;*
  - g. encourage all APEC economies to implement the "APEC Principles to Enhance Competition and Regulatory Reform and the APEC Transparency Standards on Competition Law and Policy; and*
  - h. undertake capacity building programs to assist economies in implementing the "APEC Principles to Enhance Competition and Regulatory Reform".*

*The current CAP relating to competition policy can be found in the Competition Policy Collective Action Plan*

### **Japan's Approach to Competition Policy in 2009**

Japan has actively been conducting competition policy, focusing on vigorous enforcement of the Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (Antimonopoly Act: AMA), since it was enacted in 1947 with a view to promoting free and fair competition.

The AMA mainly prohibits following types of business practices: (a) unreasonable restraint of trade, (b) private monopolization, (c) unfair trade practices and (d) anti-competitive M&A.

The Japan Fair Trade Commission (JFTC) is in charge of enforcing the AMA.

With a view to rendering the Japanese market more competitive and internationally open by further promoting fair and free competition, the government of Japan has been taking measures against AMA violations summarized as follows.

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
<p><b>General Policy Framework, including Implementation of APEC Leaders' Transparency Standards on Competition Law and Policy*</b></p>	<p>The bill to amend the AMA was submitted to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009.</p> <p>The JFTC published the "Survey of actual condition on animation industries" in January 2009.</p> <p>The JFTC published the "Survey on actual condition on import and export of international air freight" in April 2009.</p>	<p>Continued efforts shall be made to strengthen the enforcement of the AMA including such measures as to reinforce the JFTC in terms of investigative and other resources.</p> <p>Strict and vigorous measures, including criminal accusations, shall be taken against price cartels, bid-riggings and other types of violations of the AMA.</p> <p>An injunction relief system against the AMA violations (relating to the unfair trade practices) enables victims to file a lawsuit to seek a suspension on such practices. The victims can make use of the injunction relief system and damage system so that they can be compensated for losses and furthermore, deter such illegal practices eventually.</p> <p>The JFTC addresses violations with international dimensions in a strict, prompt and vigorous manner.</p> <p>In case where anticompetitive practices are based on or facilitated by the administrative guidance restricting competition, the JFTC and other governmental ministries and agencies concerned will continue to undertake a review of such guidance promptly.</p>	<p>The JFTC is determined to continue to take strict and active measures against practices that violate the AMA, as it becomes increasingly important to maintain and promote fair and free competition with the progress in the deregulation.</p> <p>The JFTC is also determined to improve the quality of its opinions sought by a court when a damages suit under Article 25 is filed.</p> <p>The JFTC, in collaboration with other agencies when appropriate, will issue or revise guidelines, as necessary, to promote conduct in public utility and other sectors undergoing regulatory reform that is procompetitive and consistent with the AMA(or other related business laws).</p> <p>The JFTC will prepare/revise the Cabinet Ordinances, the JFTC Rules and the Guidelines as necessary, in</p>

**\* Economies should report against the actual language in the APEC Leaders' Transparency Standards on Competition Law and Policy, which can be found in the Appendix at the end of this document.**

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		<p>Actively advocate competition policy by conducting surveys and making necessary proposals on business fields where entry is restricted by regulations such as demand-supply control regulations.</p> <p>Continue to conduct surveys by the JFTC on the entry barriers instituted by local governments. Where necessary, the JFTC has been submitting its proposals and undertaking appropriate adjustments with the administrative agencies concerned.</p> <p>The JFTC has been adding data on concentration ratios of productions and shipments in Japan to its databases every two years.  <a href="http://www.jftc.go.jp/ruiseki/top-page.htm">http://www.jftc.go.jp/ruiseki/top-page.htm</a></p> <p>Competition laws, regulation, guidelines and administrative rulings of general application are promptly made available to the public through our web site.  <a href="http://hrsk.jftc.go.jp/dk/">http://hrsk.jftc.go.jp/dk/</a></p> <p>The JFTC broadly provides databases of its decisions and court judgments related to AMA violations through the internet.  <a href="http://snk.jftc.go.jp/">http://snk.jftc.go.jp/</a></p>	<p>order to implement the Amended AMA.</p>

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		<p>The JFTC began in June 1997 to provide information on competition law and policy in English on website.  <a href="http://www.jftc.go.jp/e-page/index.html">http://www.jftc.go.jp/e-page/index.html</a></p> <p>The AMA guarantees respondent's defense at hearing procedures. A respondent or its agent may, at hearings, state the reason why the original administrative measures pursuant to the provisions of the AMA by the JFTC in regard to the said case are unfair.(Article 59)</p>	
<b><i>Reviews of Competition Policies and/or Laws</i></b>	<p>The bill to amend the AMA was submitted to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009. .</p> <p>The major points of the bill, which are to strengthen the enforcement power of the AMA, are as follows;</p> <p>1. Surcharge Payment Order / Cease and Desist Order  (1) Introduction of surcharge imposed on those entrepreneurs that engage in:  (a) Exclusionary type of private monopolization  (b) Unfair trade practices  - (i)concerted refusal to trade,  (ii)discriminatory pricing, (iii)unjust low price sales, and (iv)resale price restriction (levied only on and after second offense as to the</p>	<p>The Act concerning Elimination and Prevention of Involvement in Bid Rigging etc. (Bid Rigging Involvement Prevention Act) came into effect on January 6, 2003. The Act authorizes the JFTC to demand the head of ministries and agencies etc. to take improvement measures to eliminate continued complicity of its officials in bid rigging activities, and to report such measures to the JFTC. The Act also contains provisions concerning disciplinary action against officials who have participated in "dango" (bid riggings) and compensation for overcharges when the officials caused damage to the government due to willful or grave negligence.</p> <p>The bill to amend the AMA was passed by the Diet on April 20, 2005.  The amended AMA includes the following items which strengthened the enforcement</p>	<p>The JFTC will continue to review competition policies and laws appropriately.</p> <p>The JFTC will take appropriate measures to enforce the injunction system smoothly.</p> <p>The JFTC will prepare/revise the Cabinet Ordinances, the JFTC Rules and the Guidelines as necessary, in order to implement the Amended AMA.</p> <p>The Government of Japan will thoroughly review the provisions of the AMA regarding to the hearing</p>

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
	<p>same type of infringement)  - abuse of dominant bargaining position  (2) Increase in surcharge rates by 50% imposed on entrepreneurs that have played a leading role in cartels, bid-riggings, etc. (e.g. 10 %=&gt; 15%)  (3) Review of the leniency program  (a) Increase in the number of leniency applicant from a maximum of 3 to a maximum of 5  (b) Introduction of joint application system for affiliated entrepreneurs who implicate in the same infringement  (4) Introduction of provisions that allow the JFTC to issue administrative orders against those entrepreneurs who succeed the offender's business by means of division, acquisition of business, etc.  (5) Extension of the statute of limitations* for administrative orders from current three-year to five-year  * Maximum period between termination date of infringement and issuance of such order</p> <p>2. Increase in Maximum Jail Term for Cartels and Bid-riggings  Increase in maximum term of sentence for those who committed a crime of cartel and bid-rigging from 3 years to 5 years</p> <p>3. Notification and Report to the JFTC as to Business Combination</p>	<p>power of the AMA.</p> <p>(1)Increase of surcharge rate in case of violation of AMA</p> <ul style="list-style-type: none"> <li>• Manufactures, etc.: Large-sized enterprises: 6%→10% of affected sales; Small and Medium-sized enterprises : 3%→4% of affected sales.</li> <li>• Wholesalers : Large-sized enterprises : 1%→2% of affected sales ; Small and Medium-sized enterprises : 1% of affected sales(no change).</li> <li>• Retailers : Large-sized enterprises : 2%→3% of affected sales ; Small and Medium-sized enterprises : 1%→1.2% of affected sales.</li> <li>• Imposing 50% higher rate of surcharge on repeat offender enterprises.</li> <li>• Enlarging the range of conducts subject to surcharges. (ex. private monopolization through control of other firms)</li> <li>• Introduction of an adjustment clause (Half of the amount of criminal fines shall be deducted from the surcharges if the violating firm is subject to both a fine and also a surcharge.).</li> </ul> <p>(2)Introduction of a leniency program</p> <ul style="list-style-type: none"> <li>• Immunity from or reduction in surcharge payment shall be afforded to first, second and third informants  Before the start of investigation;</li> </ul>	<p>system and take necessary measures within FY 2009.</p>

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
	<p>(1) Introduction of pre-notification system on business combination by acquiring shares (currently ex-post reporting system), similar to the notification system on other types of business combination such as mergers</p> <p>(2) Revision of notification standard</p> <p>(a) Change of notification thresholds from "Total Assets" to "Total Sales Revenue"</p> <p>(b) Simplification of notification thresholds from the current 3-step approach (10%+, 25%+, and 50%+) to 2-step approach (20%+ and 50%+)</p> <p>4. Others</p> <p>(1) Introduction of a provision which stipulates conditions to be satisfied when the JFTC exchanges information with foreign competition authorities</p> <p>(2) Limitation of a scope of access to case records by interested persons if there is a justifiable reason for such limitation</p> <p>(3) Introduction of special rules, similar to the ones in the Patent Act, etc., to allow litigants to ask the court to issue document production orders for a broader range of document in private injunction suits than in usual civil lawsuit cases</p> <p>(4) Abolishment of the notification requirement imposed on trade associations</p> <p>(5) Increase in criminal fine imposed on JFTC officials who infringe secrecy obligation</p>	<p>100% immunity to the first informant 50% reduction to the second informant 30% reduction to the third informant After the start of investigation; 30% reduction as to the first, the second and the third informants</p> <p>(3)Introduction of compulsory powers for criminal investigations, etc</p> <ul style="list-style-type: none"> <li>• Introduction of compulsory powers for criminal investigations</li> <li>• Abolishment of the exclusive jurisdiction of the Tokyo High Court for criminal matters.</li> <li>• Introduction of severe punishment for corporations that violate of elimination orders.</li> <li>• Strengthening of penalties for interference with inspections, etc.</li> </ul> <p>(4)Change in procedures, etc. The JFTC can issue elimination orders without having hearing procedures.</p> <ul style="list-style-type: none"> <li>• Hearing procedures shall be started upon objection to the elimination order (Recommendation system was abolished.).</li> <li>• Surcharge payment order not to be canceled even when hearing procedures are initiated (delinquent interest shall be added on the amount of surcharges when the order is revalidated after hearing procedures.).</li> </ul>	

*Japan's Approach to Competition Policy in 2009*

<b>Section</b>	<b>Improvements Implemented Since Last IAP</b>	<b>Current Competition Policies / Arrangements</b>	<b>Further Improvements Planned</b>
		<p>In the telecommunications field, based on changes in the market environment caused by transition to IP-based networks, including the progress of broadband market deployment, transition from PSTN (Public Switched Telephone Networks) to IP (Internet Protocol) networks and diversification of business models, "New Competition Promotion Program 2010" was formulated as a roadmap of measures to be implemented from the viewpoint of setting out fair competition rules by the early 2010's in order to further promote competition in telecommunications markets, and to secure user benefits.</p> <p>The specific policies are currently under discussion on the following items:</p> <ul style="list-style-type: none"> <li>(1) Promotion of facility-based competition</li> <li>(2) Review of designated telecommunications facilities system (dominant regulations)</li> <li>(3) Review of calculation method for interconnection charges of NTT East/West</li> <li>(4) Competition promotion in the mobile communications market</li> <li>(5) Review of tariff policies</li> <li>(6) Review of universal service system</li> <li>(7) Study concerning the framework for network neutrality</li> <li>(8) Strengthening dispute settlement functions</li> </ul>	

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		(9) Review of market exit rules (10) Other issues including international conformity in competition rules	
<b><i>Competition Institutions (Including Enforcement Agencies)</i></b>	<p>The JFTC received a net increase of 30 persons in its staff for FY 2008, resulting in a total staff level of 795 people as of March 31, 2009.</p> <p>In order to strengthen its ability of analysis of the economic and legal implications of suspected anticompetitive conduct, the JFTC is endeavoring to improve the analytical capabilities of its staff through recruitment efforts and training of the existing staffs. As of April 2009, sixteen (16) JFTC staffs hold post-graduate degrees in economics. Twenty-one (21) JFTC staffs hold post-graduate degrees in laws.</p> <p>Twenty (20) JFTC staffs are qualified as lawyers, including two (2) who were judges before joining the JFTC and now each of them is working as a hearing examiner. The JFTC will increase the number of staffs with post-graduate degrees in economics, as well as those with post-graduate degrees in laws.</p>	<p>Japan has reinforced the power of the JFTC in terms of organizational structure and personnel from the point of ensuring strict enforcement of competition laws and policies.</p> <p>The JFTC has following authority (Administrative Authority) The following steps are carried out under the administrative authority:</p> <ul style="list-style-type: none"> <li>• Issue cease and desist orders and surcharge payment orders against violators of the AMA</li> <li>• Receipt and certification of various notifications and reports from firms based on the AMA.</li> <li>• General surveys of business activities, economic conditions and monopolistic situations.</li> <li>• Acceptance of prior consultation from firms and trade associations.</li> <li>• Preparation of guidelines that explicitly discuss the implementation of laws.</li> <li>• Coordination of problems on economic laws or orders and administrative guidance with other organs from the viewpoint of the AMA.</li> <li>• Discussions and exchange of opinions</li> </ul>	The Government of Japan will continue to strengthen the structure of the JFTC.

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		<p>with international organizations and competition authorities in foreign countries.</p> <p>(Compulsory Investigation Authority) The JFTC has authority to carry out compulsory investigation of premises, etc based upon court-issued warrants.</p> <p>(Quasi-legislative Authority) The JFTC has the authority to designate unfair trade practices. Also, it may enact internal regulations and regulations concerning the settlement procedures, reporting and certification.</p> <p>(Quasi-judicial Authority) The JFTC takes hearing procedure after issuing cease and desist orders. A hearing procedure similar to an open court trial is conducted by the JFTC in order to ensure the fairness of the procedure.</p>	
<b><i>Measures to Deal with Horizontal Restraints</i></b>	<p>The bill to amend the AMA was submitted to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009. .</p> <p>The bill included following items, which strengthen sanctions and enable efficient investigations against cartels and bid-riggings, and so on;</p> <p>(1) Introduction of surcharge imposed on</p>	<p>Horizontal Arrangements are prohibited as “unreasonable restraint of trade” under the Article 3 of the AMA. Article 2 (6) of the AMA defines the term “unreasonable restraint of trade” as business activities, by which (1) any entrepreneur, by contract, agreement or any other concerted actions, irrespective of its names, with other entrepreneurs, (2) mutually restrict or conduct their business activities in such a manner as to fix, maintain, or increase</p>	<p>The JFTC has been actively enforcing the AMA’s regulation on “unreasonable restraint of trade” under article 3, and will continue to do so.</p> <p>The JFTC has been actively implementing the Bid Rigging Involvement Prevention Act,</p>

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
	<p>those entrepreneurs that engage in concerted refusal to trade</p> <p>(2) Increase in surcharge rates by 50% imposed on entrepreneurs that have played a leading role in cartels, bid-riggings, etc. (e.g. 10 %=&gt; 15%)</p> <p>(3) Review of the leniency program</p> <p>(a) Increase in the number of leniency applicant from a maximum of 3 to a maximum of 5</p> <p>(b) Introduction of joint application system for affiliated entrepreneurs who implicate in the same infringement</p> <p>(4) Introduction of provisions that allow the JFTC to issue administrative orders against those entrepreneurs who succeed the offender's business by means of division, acquisition of business, etc.</p> <p>(5) Extension of the statute of limitations* for administrative orders from current three-year to five-year</p> <p>* Maximum period between termination date of infringement and issuance of such order</p> <p>(6) Increase in Maximum Jail Term for Cartels and Bid-riggings from 3 years to 5 years</p>	<p>prices, or to limit production, technology, products, facilities or customers or suppliers, (3) thereby causing, contrary to the public interest, a substantial restraint of competition in any particular field of trade.</p> <p>When the JFTC finds that there exists any violation of the AMA, it can render a cease and desist order against the respondent to eliminate such conducts (Article 7).</p> <p>The JFTC usually, orders that the party concerned should take certain measures, such as notifying consumers of it by means of newspaper when necessary, not to repeat the same violations in the future and reporting the measures taken complying with order to the JFTC.</p> <p><i>In the case where the JFTC is unable to prove violation but there is some doubt or concern about violation, the JFTC takes an informal measure such as warning or caution.</i></p> <p>In the case where a hard-core cartel or a certain type of private monopolization is conducted, a surcharge is levied on the violating firms or constituent members of a trade association that conducted the violation.</p> <p>The AMA empowers the JFTC to file a criminal accusation with the Public Prosecutor General (Article 74). For instance, those who engaged</p>	<p>and will continue to do so.</p> <p>The JFTC will prepare/revise the Cabinet Ordinances, the JFTC Rules and the Guidelines as necessary, in order to implement the Amended AMA.</p>

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		in unreasonable restraint of trade or private monopolization may be punished by imprisonment of up to 3 years, or fine of up to 5 million yen. In addition to that, the firm and the trade association may be fined up to 500million yen because of the double punishment provision (Article 95).	
<b><i>Measures to Deal with Vertical Restraints</i></b>	<p>The bill to amend the AMA was submitted to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009.</p> <p>The bill included introduction of surcharge to certain types of unfair trade practices which are related to vertical restraints, such as resale price restriction (levied only on and after second offense as to the same type of infringement)</p>	<p>The AMA prohibits conduct, which tends to impede fair competition as “unfair trade practices.” The AMA regulates unfair trade practices by applying Article 19 when firms use unfair trade practices as follows.</p> <ul style="list-style-type: none"> <li>• Refusal to Deal (Item 1,2) The refusal to deal is the act of not dealing with certain firms or not allowing such dealing unjustly. Such conduct is carried out either concertedly (group boycotts) (Item 1) or individually (Item 2). These include such refusals which are carried out as measures to ensure suppliers or customers accept vertical restraints.</li> <li>• Discriminatory Pricing, Discriminatory Treatment (Item 3,4,5) It is unlawful for firms to set unjustly different prices for the same goods or services (Item 3) and to set unjustly different transaction terms (Item4) depending on the region of sales and trading partners. Unjustly Discriminatory Treatment of firms in trade associations is</li> </ul>	<p>The JFTC has been actively enforcing the AMA's regulation on “unfair trade practices” under article 19, and will continue to do so</p> <p>The JFTC will prepare/revise the Cabinet Ordinances, the JFTC Rules and the Guidelines as necessary, in order to implement the Amended AMA.</p>

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		<p>unlawful if such conduct makes it difficult for the firms in question to carry out business activities (Item 5). These include such discrimination which is carried out as measures to ensure suppliers or customers accept vertical restraints.</p> <ul style="list-style-type: none"> <li>• Tie-in Sales (Item 10) It is unlawful if a firm unjustly forces its trading partners to purchase goods or services by tying them to the supply of other goods or services, as a result of which there is a possibility of, for example, unjustly imposing disadvantage to the latter, or foreclosing competitors from the market.</li> <li>• Dealing on Exclusive Terms (Item 11) If exclusive dealing, which makes trading partners handle only one's own goods or services and prohibits dealing with other competitors, has the possibility of unjustly depriving competitors of opportunities of trade and hindering new entry, such conduct would be unlawful.</li> <li>• Resale Price Restriction (Item 12) Since the restriction of the resale price restricts price, the basic means of competition, and restraints competition among sellers, it is unlawful in principle. However, the resale price restriction on copyrighted works (books and magazines, newspapers, records, music</li> </ul>	

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		<p>tapes and music CDs) is permitted as an exception (Article 23).</p> <p>(Note) Although the JFTC considers that the resale price maintenance (RPM) system for copyrighted works (books, magazines, newspaper, records, music tapes and music CDs) should be abolished from the viewpoint of competition policy, it reached the conclusion in March 2001 that it is appropriate to maintain the RPM system for the time being, since many people are against the abolition, arguing that it might adversely affect cultural or public aspect of copyrighted works, and national consensus has not been formed with regard to the abolition.</p> <ul style="list-style-type: none"> <li>• Dealing on Restrictive Terms (Item 13) Carrying out trade on terms that restrict the business activities of trading partners may be unlawful, depending on the trading position of the party in the market and the type of business activities restricted. Conducts deemed unlawful in the past include customer restrictions and sales area restrictions (territory system), in addition to price restrictions.</li> </ul> <p>*1 Establishment of an injunction relief system Any consumers or businesses who has suffered or is likely to suffer serious damages by the AMA violations (relating to unfair trade practices) can file a lawsuit to demand the</p>	

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		<p>suspension on such practices (Article 24)</p> <p>*2 When a lawsuit demanding an injunction is filed, a court in charge may inform the JFTC of the suit and can seek opinions from the JFTC on how the AMA should be applied to the incident concerned and so on. The JFTC is also empowered, with the permission of the court, to express its opinions to the court on how the AMA should be applied to the incident concerned and so on (Article 83-3).</p> <p>*3 A lawsuit demanding an injunction can be filed not only with district courts that have jurisdiction over the areas where the illegal practices occur in accordance with the principles of the Code of Civil Procedure but also with district courts in cities where high courts are located and the Tokyo District Court. Moreover, such a lawsuit filed with a certain court can be transferred, with the judge's authority, to one of the other courts mentioned above (Article 84-2, 87-2).</p> <p>*4 In order to prevent the system on such lawsuits from being abused, the court in charge can order the plaintiffs to provide a certain amount of security when the defendants complain that the suit has been filed for illegal purposes (Article 83-2).</p>	
<i>Measures to Deal with Abuse of</i>	The bill to amend the AMA was submitted	The AMA prohibits private monopolization.	The JFTC has been actively

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
<b><i>Dominant Position</i></b>	to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009. The bill included introduction of surcharge to exclusionary type of private monopolization and abuse of dominant bargaining position.	(Article 3). Private monopolization is understood as business activities by which any entrepreneur excludes or controls the business activities of other entrepreneurs, in the manner contrary to the sound market mechanism, thereby causing establishment, maintenance, or enhancement of market power. Private monopolization often poses a concern about establishment, maintenance, or enhancement of dominant position of violator, although they are not requirements set under the AMA.  The AMA prohibits Abuse of Dominant Bargaining Position (Item 14). It is unlawful for firms in a dominant bargaining position to use their position to make unreasonable requests to trading partners.  The Subcontract Act prohibits abuse of dominant bargaining position in subcontract transactions to ensure fair subcontract transactions and protect the interest of subcontractors.  An injunction relief system against AMA violations was introduced. Please see *1 through *4 in "Measures to Deal with Vertical Restraints".	enforcing the regulation of AMA and subcontract act described on the left column,, and will continue to do so  The JFTC will prepare/revise the Cabinet Ordinances, the JFTC Rules and the Guidelines as necessary, in order to implement the Amended AMA.
<b><i>Measures to Deal with Mergers</i></b>	The bill to amend the AMA was submitted	Chapter 4 of the AMA stipulates various	The JFTC has been

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
<i>and Acquisitions</i>	<p>to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009.</p> <p>The bill included review of regulation on business combination such as introduction of pre-notification system on business combination by acquiring shares and revision of notification standard.</p>	<p>restrictions on mergers, divisions, stockholdings, acquisitions of business etc. for the purpose of preventing the formation of an anticompetitive market structure.</p> <ul style="list-style-type: none"> <li>• Restriction of Mergers and Divisions Mergers and divisions are prohibited if they may cause a substantial restraint of competition in any particular field of trade.</li> </ul> <p>Companies, whose total assets or domestic sales exceed what AMA provides, and which plan to conduct a merger, a joint establishment division (meaning establishment division that one company effect jointly with another company) ,or an acquisition division are subject to the prior notification requirements.</p> <ul style="list-style-type: none"> <li>• Restriction of Acquisition of Business Since the acquisition of business among companies has the same effect as mergers, it is treated in the same manner as mergers in the AMA.</li> </ul> <p>Companies whose total assets exceed what AMA provides, and which plan to acquire the whole or substantial part of the business of another company in Japan, are subject to the prior notification requirements.</p> <ul style="list-style-type: none"> <li>• Restriction of Stockholdings No company shall acquire or hold stock of</li> </ul>	<p>reviewing business combinations speedily and transparently, based on guidelines including the revised "Guidelines to the Application of the Antimonopoly Act Concerning Review of Business Combination", and will continue to do so.</p> <p>The JFTC will prepare/revise the Cabinet Ordinances, the JFTC Rules and the Guidelines as necessary, in order to implement the Amended AMA.</p>

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
		<p>companies in Japan where the effect of such acquisition or holding of stock may cause a substantial restraint of competition in any particular field of trade.</p> <p>Every domestic and foreign company whose total assets or sales in Japan exceed what AMA provides is subject to submit a report on the stock they hold within thirty days from the date of the stockholding-</p> <ul style="list-style-type: none"> <li>• Restriction of Interlocking Directorates Interlocking directorates are prohibited if they may cause a substantial restraint of competition in any particular field of trade.</li> </ul>	
<b><i>Other Issues Addressed by Competition Policy</i></b>	<p>The JFTC and the competition related authority of Indonesia co-organized the fourth "APEC Training Course on Competition Policy" in Bali, Indonesia, in November 2008.</p> <p>The JFTC and JICA provided one-month training, two-week training, local workshops (twice) and local seminar, respectively on competition law/policy for officials of Chinese competition related authorities in FY 2008.</p> <p>The JFTC and JICA provided two-week training, local workshop and seminar for officials of Vietnam competition authority,</p>	<p>The JFTC and JICA have organized training course on AMA and competition policy for personnel of competition authorities or of relevant agencies in developing countries, including those in a number of APEC member economies. This training course had been organized annually since 1994.</p> <p>The JFTC and JICA have provided a country-focused training course on AMA and competition policy for countries such as China, Indonesia and Vietnam.</p> <p>The JFTC has sent experts on competition policy to developing countries, including some APEC economies for technical assistance.</p>	<p>Continue to implement training courses relating to competition policy and law.</p> <p>Continue to send experts, including long term advisor on competition policy and law for technical assistance in developing countries, including APEC member economies.</p>

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
	on competition law/policy in FY 2008.		
<b><i>Co-operation Arrangements with other Member Economies</i></b>	<p>The Agreement on Comprehensive Economic Partnership among Japan and Member States of the Association of Southeast Asian Nations, whose signing was completed in April 2008, entered into force in December 2008.</p> <p>The Agreement between Japan and the Socialist Republic of Viet Nam for an Economic Partnership was signed in December 2008 and entered into force in October 2009..</p>	<p>The Government of Japan and the Government of the US signed a bilateral agreement concerning cooperation on anticompetitive activities on October 7, 1999. The agreement has entered into force upon the signature.</p> <p>The Government of Japan and the Government of Canada signed a bilateral agreement concerning cooperation on anticompetitive activities on September 6, 2005. The agreement has entered into force on October 6, 2005.</p> <p>Economic Partnership Agreements (EPA) with Singapore, Mexico, Malaysia, Chile, Philippines, Thailand, Indonesia, ASEAN, and Viet Nam have entered into force, and the EPA with the Vietnam has been signed, all of which contain provisions concerning cooperation for the effective enforcement of competition law.</p>	Continue to explore the possibilities of co-operation with other member economies.
<b><i>Activities with other APEC Economies and in other International Fora</i></b>	<p>The JFTC held bilateral meetings with its counterparts in some APEC economies.</p> <p>The 5th Top Level Officials' Meeting on Competition Policy and the 5th East Asia</p>	<p>The JFTC has been holding bilateral meetings for exchange of views with other APEC economies' competition authorities (e.g. US, Canada, Korea).</p> <p>Since 2004, the JFTC has hosted the Top</p>	Continue to implement bilateral exchange of views with foreign competition authorities, and to contribute to international cooperation

<i>Japan's Approach to Competition Policy in 2009</i>			
<i>Section</i>	<i>Improvements Implemented Since Last IAP</i>	<i>Current Competition Policies / Arrangements</i>	<i>Further Improvements Planned</i>
	<p>Conference on competition law and policy was held by the JFTC, ADBI (Asian Development Bank Institution) and Mongolian Competition Authority on 30 June 2009 in, Uran Bator, Mongolia.</p> <p>The JFTC participated in the discussion of OECD, UNCTAD and ICN.</p>	<p>Level Officials' Meeting on Competition Policy and the East Asia Conference on competition law and policy almost every year, with the aim of exchanging information and views on competition policy among economies in the region.</p> <p>The JFTC has participated in the discussion of OECD Competition Committee (COMP) .</p> <p>In the UNCTAD, the JFTC has participated in the meeting of the Intergovernmental Group of Experts on Competition Law and Policy.</p> <p>Since the establishment of the International Competition Network (ICN), the JFTC has vigorously contributed to it's activities, and encouraged other countries, including APEC member economies, to participate in the ICN.</p>	<p>within various multilateral frameworks.</p>
<b>Collective Actions</b>	-	<p>Contribute to fostering cooperation between APEC and other international framework in the OECD, WTO and UNCTAD in the field of competition policy.</p>	-

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
<b><i>General Policy Position, including Implementation of APEC Leaders' Transparency Standards on Competition Law and Policy*</i></b>	<p>Japan has conducted active competition policy, focusing on strict enforcement of the AMA, since it was enacted in 1947 with a view to promoting free and fair competition.</p> <p>The AMA has following major objectives: (a) prohibition of unreasonable restraint of trade, (b) prohibition of private monopolization, (c) prohibition of unfair trade practices, and (d) prohibition of anti-competitive M&amp;A. The Fair Trade Commission is in charge of applying the AMA.</p> <p>Reforms of Japan's economic structure are now being sought through fuller application of market principles, promoting launch into new business, and technological innovation. The Japanese government, in a series of cabinet decisions, has accordingly made deregulation and to rendering the Japanese market more competitive and internationally open by further promoting fair and free competition.</p> <p>To enhance the transparency of law enforcement and to prevent possible violations, a variety of guidelines are issued and made public internationally. The JFTC also publishes and distributes JFTC/Japan Views, an English-language publication that reports on the enforcement of the AMA, etc.</p>	<p>Japan introduced a system on a court injunction against entrepreneurs violating the AMA regarding unfair trade practices.</p> <p>The JFTC's Study Group on Government Regulations and Competition Policy has been reviewing the appropriate condition for fair competition on the public sector (e.g. electricity sector, gas sector, etc.) in the most of which deregulation is promoted. The JFTC has publicized "The competition policy issues in the electricity sector," "The competition policy issues in the gas sector," "The competition policy issues in the domestic air passenger transportation services sector," "The competition policy issues in the telecommunications sector", "Competition policy for the introduction of competition into postal services" and "Deregulation and competition policy in public utilities sector". The JFTC has issued Guidelines as follows.</p> <ul style="list-style-type: none"> <li>• Guidelines on companies which constitute an excessive concentration of economic power in November 2002.</li> <li>• Guidelines on authorization to hold the right of vote by a financial company in November 2002.</li> <li>• Guidelines on the abuse of Dominant Bargaining Positions in Consigned Service Transactions in March 1998</li> <li>• Guidelines for Proper Electric Power Trade in December 1999</li> <li>• Guidelines for Proper Gas Trade in March 2000</li> <li>• Guidelines for Promotion of Competition in the</li> </ul>

**\* Economies should report against the actual language in the APEC Leaders' Transparency Standards on Competition Law and Policy, which can be found in the Appendix at the end of this document. Economies should continue to use 1996 as the base year for previously raised IAP transparency issues, but may use 2003 as the base year for reporting on new transparency commitments per the APEC Leaders' Transparency Standards.**

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
		<p>Telecommunications Business Field in November 2001. (re-revised in August 2008)</p> <ul style="list-style-type: none"> <li>• Guidelines on the Application of the AMA to Reviewing Business Combination in May 2004.</li> <li>• Guidelines for Unfair Trade Practices Associated with Relaxation of Controls over Classification of Business Categories and Expansion of Scope of Business for Financial Institutions in December 2004.</li> <li>• Guidelines concerning the Activities of Agricultural Cooperatives under the Antimonopoly Act in April 2007.</li> <li>• Guidelines for the Use of Intellectual Property under the Antimonopoly Act in September 2007.</li> </ul>
<b>Reviews of Competition Policies and/or Laws</b>	<p>The AMA was amended in June 1996 to strengthen the organization of the Fair Trade Commission. As a result of this amendment aimed at a fundamental strengthening of the staff, office and organization, the former Executive Office was replaced by the General Secretariat, which consists of the Secretariat, the Economic Affairs Bureau and the Investigation Bureau. Also, under the Economic Affairs Bureau, the Trade Practices Department was established; and under the Investigation Bureau, the Special Investigation Department was established. Further, in order to appoint people from a wider sphere, the retirement age of the Chairman and the Commissioners was raised from 65 to 70 years.</p> <p>Regarding exemptions on resale price maintenance (RPM), successive Cabinet decisions have announced a policy of reviewing such exemptions.</p>	<p>Japan has been reviewing the AMA exemption system for resale price maintenance in certain commodities. In April 1997, the JFTC abolished all notifications that had designated several commodities as exempted. In March 1998, it was confirmed that the exemption system in the area of copyrighted works was limited in scope to books, magazines, newspapers, records, music tapes and music CDs.</p> <p>Japan reviewed cartels and other systems exempted from the application of the AMA under individual laws. As a result, 35 exemption systems under 20 laws were abolished or limited in scope by establishing the Omnibus Act in June 1997. And 6 exemption systems under 6 laws were abolished or amended by individual laws concerned from 1996 to 1998.</p> <p>The notification system for international contracts was abolished in consideration of economic globalization and the reduction of the burden on business community (June 1997).</p> <p>As regards regulation on holding companies, establishing or</p>

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
		<p>transforming into a holding company had been totally prohibited. In December 1997, however, the AMA was amended, and establishing or transforming into a holding company is banned when such a practice constitutes an excessive concentration of economic power.</p> <p>As regards mergers and acquisitions, measures such as introduction or raise of a minimum threshold were taken in notification system for mergers and acquisitions of business and in the reporting system for stockholdings of other companies. These changes were made from the viewpoint of achieving more efficiently the aims of regulation on concentration operations, of reducing the burden of enterprises, and of bringing harmonization with international regulatory practices. (The Bill was passed in the Diet by May 1998, and was put into effect in January 1999.)</p> <p>Necessary measures have been taken to enforce the Convention on Combating Bribery of Foreign Public Officials in International Business Transaction (the amendment of the Unfair Competition Prevention Law took effect on February 15, 1999).</p> <p>A bill was put into effect in July 1999 with the objective of repealing exemption systems (i.e., depression cartels and rationalization cartels), abolishing the Act concerning AMA Exemptions, and amending other laws.</p> <p>A bill including amendment of the AMA to stipulate the regulations for corporate divisions, which are similar to the regulations for mergers and acquisitions, etc. was enacted. (It was promulgated on May 31 2000).</p> <p>In accordance with the deregulation of the electricity and gas</p>

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
		<p>sectors, a bill concerning the amendment of the AMA, including deletion of the provision of Article 21 (the exemption for businesses constituting monopolies by the inherent nature of the businesses), was submitted on March 21, 2000 and put into effect on June 19, 2000.</p> <p>A bill concerning the amendment of the AMA, which would permit private parties to seek and obtain injunction orders from courts against parties engaged in activities in violation of the unfair trade practices provisions of the AMA and would improve the current damage compensation system against the AMA violations, was submitted to the Diet on March 21, 2000 (it was promulgated on May 19 2000, and has been put into effect on April 1, 2001).</p> <p>The JFTC introduced into the 154th Diet the bill concerning the amendment of the AMA, and it was promulgated on May, 2002.</p> <ul style="list-style-type: none"> <li>-The upper limit of criminal fine against a juridical person breaches Article 3 (private monopolization or unreasonable restraint of trade) etc. was pulled up from 100 million yen to 500 million yen. (Article 95)</li> <li>-The scope of violations, to which the JFTC may take measures necessary to ensure elimination of them even when the violations have already ceased to exist, was extended. (Article 7, 8-2, 48, 54)</li> <li>-Instead of the current regulation on holding companies, establishment of (or transformation of an existing company into) a company with "excessive concentration of economic power" will be prohibited.(Article 9)</li> <li>-Restriction on total amount of stockholding by a giant company (Article9-2) will be repealed.</li> <li>-Instead of restriction on stockholding of other company by a financial institution, holding non-financial institutions' rights to vote by a bank or an insurance company will be restricted.</li> </ul>

<b>Improvements in Japan's Approach to Competition Policy since 1996</b>		
<b>Section</b>	<b>Position at Base Year (1996)</b>	<b>Cumulative Improvements Implemented to Date</b>
		<p>(Article 11)</p> <p>The JFTC, recognizing the necessity of sufficient enforcement and deterrence against violations of the AMA, is reviewing the current system of administrative and criminal measures, and established the Study Group on Reviewing the AMA in October 2002 for that purpose. The JFTC Study Group issued a report including its recommendation in October, 2003 on the results of its review of the AMA. The JFTC published the "Outline of Amendment to the AMA" in December 2003 based on the Study Group report and the public comments that were filed thereon. After further consideration, the JFTC, on May 19, 2004, completed the proposal to amend the AMA.</p> <p>The Government of Japan submitted the Bill to amend the AMA to the Diet on October 15, 2004. The bill was approved by the Diet on April 20, 2005.</p> <p>The amendments came into effect in January, 2006 and significantly strengthened JFTC's capabilities to enforce the AMA and to eliminate and deter anticompetitive activities, in particular hard-core cartels and bid rigging activities.</p> <p>The Subcontract Act was amended in June 2003, to be applicable to subcontract transactions in service industry as well as manufacturing industry.</p> <p>The bill to amend the AMA was submitted to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009.</p> <p>The major point of the bill is to strengthen the enforcement power of the AMA.</p>
<b>Competition Institutions (Including</b>	The JFTC has following authority.	After January 6, 2001, Article 27-2 of AMA was revised to

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
<b>Enforcement Agencies</b>	<p>(Administrative Authority) The following steps are carried out under the administrative authority:</p> <ul style="list-style-type: none"> <li>• Issue cease and desist orders and surcharge payment orders against violators of the AMA</li> <li>• Receipt and certification of various notifications and reports from firms based on the AMA.</li> <li>• General surveys of business activities, economic conditions and monopolistic situations.</li> <li>• Acceptance of prior consultation from firms and trade associations.</li> <li>• Preparation of guidelines that explicitly discuss the implementation of laws.</li> <li>• Coordination of problems on economic laws or orders and administrative guidance with other organs from the viewpoint of the AMA.</li> <li>• Discussions and exchange of opinions with international organizations and competition authorities in foreign countries.</li> </ul> <p>(Quasi-legislative Authority) The JFTC has the power to designate unfair trade practices. Also, it may enact internal regulations and regulations concerning the settlement procedures, reporting and certification.</p> <p>(Quasi-judicial Authority) The JFTC takes a hearing procedure before issuing a decision. A hearing procedure similar to an open court trial is conducted by the JFTC in order to ensure the fairness of the procedure.</p>	<p>provide JFTC's jurisdiction of international cooperation regarding JFTC's operations within its jurisdiction.</p> <p>The Government of Japan, in accordance with the Three-Year Program for Promoting Regulatory Reform (Re-revised Version), submitted a bill to 156<sup>th</sup> session of the Diet to change the organizational status of the JFTC to that under the Cabinet Office in order to make its status more appropriate, considering that the Cabinet Office is responsible for promoting regulatory reform and ensuring consumer interests. The bill passed the Diet on April 2 and came into effect on April 9, 2003.</p> <p>The JFTC established "Competition Policy Research Center" (CPRC) "within General Secretariat as a platform of interaction between external intellectual resources (such as experts in law and economics) and JFTC staff to strengthen theoretical foundations for enforcement of AMA and planning, projection and evaluation of competition policy from long and medium term perspective. The CPRC released 3 reports based on such joint studies with visiting researchers in FY2004. The CPRC released 5 reports by a joint research of the JFTC staffs and visiting researchers in FY 2005.</p> <p>The bill to amend the AMA was passed by the Diet in April 2005 and came into effect in January 2006. By this amendment, the JFTC has the power for compulsory investigation for criminal cases,</p>

<b>Improvements in Japan's Approach to Competition Policy since 1996</b>		
<b>Section</b>	<b>Position at Base Year (1996)</b>	<b>Cumulative Improvements Implemented to Date</b>
<b>Measures to Deal with Horizontal Restraints</b>	<p>Horizontal Arrangements are prohibited as “unreasonable restraint of trade” under the Article 3 of the AMA. Article 2 (6) of the AMA defines the term “unreasonable restraint of trade” as business activities, by which (1) any entrepreneur, by contract, agreement or any other concerted actions, irrespective of its names, with other entrepreneurs, (2) mutually restrict or conduct their business activities in such a manner as to fix, maintain, or increase prices, or to limit production, technology, products, facilities or customers or suppliers, (3) thereby causing, contrary to the public interest, a substantial restraint of competition in any particular field of trade.</p> <p>When the JFTC finds that there exists any violation of the AMA, it can render a cease and desist order against the respondent to eliminate such conducts (Article 7).</p> <p>The JFTC usually, at first, recommends that the party concerned take certain measures to eliminate the violation, such as notifying consumers of it by means of newspaper when necessary, not to repeat the same violations in the future and reporting the measures taken complying with order to the JFTC.</p> <p>In the case where the JFTC is unable to prove violation but there is some doubt or concern about violation, the JFTC takes an informal measure such as warning or caution.</p> <p>In the case where a price-related cartel is conducted, a surcharge is levied on the cartel members and constituent members of a trade association that conducted the cartel.</p> <p>The AMA empowers the JFTC to file a criminal accusation with the Public Prosecutor General (Article 73). For</p>	<p>The Government of Japan introduced into the 154<sup>th</sup> Diet the bill concerning the amendment of the AMA, and it was promulgated on May, 2002.</p> <p>-The upper limit of criminal fine against a juridical person breaches Article 3 (private monopolization or unreasonable restraint of trade) etc. will be pulled up from 100 million yen to 500 million yen. (Article 95)</p> <p>-The scope of violations, to which the JFTC may take measures necessary to ensure elimination of them even when the violations have already ceased to exist will be extended. (Article 7, 8-2, 48, 54)</p> <p>The Act concerning Elimination and Prevention of Involvement in Bid Rigging etc. (Bid Rigging Involvement Prevention Act) came into effect on January 6, 2003. That Act authorizes the JFTC to demand central and local government commissioning agencies to take corrective measures to prevent continued complicity of its officials in bid rigging activities, and to report such measures to the JFTC. The Act also contains provisions concerning disciplinary action against officials who have participated in “<i>dango</i>” (bid riggings) and compensation for overcharges when the officials caused damage to the government due to willful or grave negligence.</p> <p>The Government of Japan submitted the Bill to amend the AMA to the Diet on October 15, 2004. The bill was approved by the Diet on April 20, 2005. The amendments came into effect in January, 2006 and are expected to significantly strengthen JFTC's capabilities to enforce the AMA and to eliminate and deter hard-core cartels and bid rigging activities.</p> <p>The Bid Rigging Involvement Prevention Act was amended and came into effect in March 2007. The amendments included introduction to criminal penalties against officials of</p>

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
	instance, those who engaged in unreasonable restraint of trade or private monopolization may be punished by imprisonment of up to 3 years, or fine of up to 5 million yen. In addition to that, the firm and the trade association may be fined up to 100 million yen because of the double punishment provision (Article 95).	procurement agencies, enlargement of the scope of bid rigging involvement conducts, and so on.  The bill to amend the AMA was submitted to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009. The bill included increase in surcharge rates for entrepreneurs that have played a leading role in cartels etc., strengthening criminal penalties for cartels, etc., review of the leniency program, and so on.
<b><i>Measures to Deal with Vertical Restraints</i></b>	<p>The AMA prohibits conduct, which tends to impede fair competition as “unfair trade practices.” The AMA regulates unfair trade practices by applying Article 19 when firms use unfair trade practices as follows.</p> <ul style="list-style-type: none"> <li>• Refusal to Deal (Item 1,2) The refusal to deal is the act of not dealing with certain firms or not allowing such dealing unjustly. Such conduct is carried out either concertedly (group boycotts) (Item 1) or individually (Item 2).</li> <li>• Discriminatory Pricing, Discriminatory Treatment (Item 3,4,5) It is unlawful for firms to set unjustly different prices for the same goods or services (Item 3) and to set unjustly different transaction terms (Item4) depending on the region of sales and trading partners. Unjustly Discriminatory Treatment of firms in trade associations is unlawful if such conduct makes it difficult for the firms in question to carry out business activities (Item 5).</li> <li>• Tie-in Sales (Item 10)</li> </ul>	<p>Japan has been reviewing the AMA exemption system for resale price maintenance in certain commodities. In April 1997, the JFTC abolished all notifications that had designated several commodities as exempted. In March 1998, it was confirmed that the exemption system in the area of copyrighted works was limited in scope to books, magazines, newspapers, records, music tapes and music CDs.</p> <p>Although the JFTC considers that the resale price maintenance (RPM) system for copyrighted works (books, magazines, newspaper, records, music tapes and music CDs) should be abolished from the viewpoint of competition policy, it reached the conclusion in March 2001 that it is appropriate to maintain the RPM system for the time being, since many people are against the abolition, arguing that it might adversely affect cultural or public aspect of copyrighted works, and national consensus has not been formed with regard to the abolition.</p> <p>The bill to amend the AMA was submitted to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009. The bill included introduction of surcharge to certain types of</p>

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
	<p>It is unlawful if a firm unjustly forces its trading partners to purchase goods or services by tying them to the supply of other goods or services, as a result of which there is a possibility of, for example, unjustly imposing disadvantage to the latter, or foreclosing competitors from the market.</p> <ul style="list-style-type: none"> <li>• Dealing on Exclusive Terms (Item 11) If exclusive dealing, which makes trading partners handle only one's own goods or services and prohibits dealing with other competitors, has the possibility of unjustly depriving competitors of opportunities of trade and hindering new entry, such conduct would be unlawful.</li> <li>• Resale Price Restriction (Item 12) Since the restriction of the resale price restricts price, the basic means of competition, and restraints competition among sellers, it is unlawful in principle. However, the resale price restriction on copyrighted works is permitted as an exception (Article 24-2).</li> <li>• Dealing on Restrictive Terms (Item 13) Carrying out trade on terms that restrict the business activities of trading partners may be unlawful, depending on the trading position of the party in the market and the type of business activities restricted. Conducts deemed unlawful in the past include customer restrictions and sales area restrictions (territory system), in addition to price restrictions.</li> </ul>	<p>unfair trade practices which are related to vertical restraints, such as resale price restriction (levied only on and after second offense as to the same type of infringement).</p>
<i>Measures to Deal with Abuse of Dominant Position</i>	<p>The AMA prohibits Abuse of Dominant Bargaining Position (Item 14). It is unlawful for large firms in a dominant bargaining position to use their position to make unreasonable requests to trading partners.</p>	<p>The JFTC released AMA guidelines Concerning the Abuse of Dominant Bargaining Positions in consigned Service Transactions in March 1998. The guidelines were worked out to regulate abuses of dominant bargaining positions in consigned service transactions, to contribute to preventing</p>

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
	<p>The Subcontract Act prohibits abuse of dominant bargaining position in subcontract transactions (in order) to ensure fair subcontract transactions and protect the interest of subcontractors.</p>	<p>AMA violations, and to promote sound business practices in this sector. Amendment of the Subcontract Act concerning provision of the content of the order and preservation of the record of the subcontract transaction by using information technology was to come into force on April 1, 2001.</p> <p>The JFTC published the revised "Guidelines concerning the franchising under the AMA " to specifically describe in the transaction between franchiser and franchisee on April 24, 2002. The major points of the revision of the Guidelines are as follows:</p> <p>(1)The revision amplified the types of information desirable for the franchiser to provide applicants.</p> <p>(2)The Guidelines clarified the types of franchiser's conduct which may violate the AMA after entering into the franchise agreement.</p> <p>The Subcontract Act has been amended in June 2003, to be applicable to subcontract transactions in service industry as well as manufacturing industry.</p> <p>Reflecting the amendment of the Subcontract Act, "Guidelines concerning Abuse of Dominant Position in Consignment of Service Trade under the Antimonopoly Act" was revised in March, 2004.</p> <p>The JFTC published "Designation of Specific Unfair Trade Practices when Specified Shippers Assign the Transport and Custody of Articles" in February 2004 in order to regulate abuse of dominant bargaining position by Specified Shippers effectively. The Designation came into effect in April, 2004.</p> <p>The JFTC published "Designation of Specific Unfair Trade Practices by Large-Scale Retailers' Relating to the Trade with</p>

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
		<p>Suppliers" in April 2005 in order to regulate abuse of dominant bargaining position by Large-Scale Retailers effectively. The Designation came into effect in November, 2005.</p> <p>In order to enhance transparency and predictability, the JFTC made public "Guidelines Concerning Designation of Specific Unfair Trade Practices in Large-Scale Retailers' Relating to the Trade with Suppliers" in June, 2005. The Guidelines came into effect in November, 2005.</p> <p>The bill to amend the AMA was submitted to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009.</p> <p>The bill included introduction of surcharge to exclusionary type of private monopolization and abuse of dominant bargaining position.</p>
<b><i>Measures to Deal with Mergers and Acquisitions</i></b>	<p>Chapter 4 of the AMA stipulates various restrictions on mergers and acquisition for the purpose of preventing the formation of an anticompetitive market structure.</p> <ul style="list-style-type: none"> <li>• Restriction of Mergers Mergers are prohibited if they may cause a substantial restraint of competition in any particular field of trade.</li> </ul> <p>Every company in Japan, which plans to conduct a merger, is subject to the prior notification requirements.</p> <ul style="list-style-type: none"> <li>• Restriction of Acquisition of Business Since the acquisition of business among companies has the same effect as mergers, it is treated in the same manner as mergers in the AMA.</li> </ul>	<p>As regards regulation on holding companies, establishing or transforming into a holding company had been totally prohibited. In December 1997, however, the AMA was amended, and establishing or transforming into a holding company is banned when such a practice constitutes an excessive concentration of economic power.</p> <p>As regards mergers and acquisitions, measures such as introduction or raise of a minimum threshold were taken in notification system for mergers and acquisitions of business and in the reporting system for stockholdings of other companies. These changes were made from the viewpoint of achieving more efficiently the aims of regulation on concentration operations, of reducing the burden of enterprises, and of bringing harmonization with international regulatory practices. (The Bill was passed in the Diet by May</p>

<b>Improvements in Japan's Approach to Competition Policy since 1996</b>		
<b>Section</b>	<b>Position at Base Year (1996)</b>	<b>Cumulative Improvements Implemented to Date</b>
	<p>Every company in Japan, which plans to acquiring the whole or substantial part of the business of another company in Japan, is subject to the prior notification requirements.</p> <ul style="list-style-type: none"> <li>• Restriction of Stockholdings No company shall acquire or hold stock of companies in Japan where the effect of such acquisition or holding of stock may be substantially to restrain competition in any particular field of trade.</li> </ul> <p>Every domestic and foreign company in Japan whose total assets exceed two billion yen is subject to submit a report regarding all stock they hold within three months from the end of each business year.</p> <ul style="list-style-type: none"> <li>• Restriction of Interlocking Directorates Interlocking directorates are prohibited if they may substantially restrain competition in any particular field of trade.</li> </ul> <p>Every officer or employee of a company who holds concurrently the position of an officer in another company or companies in Japan † which is competitive in Japan, shall, in case the total assets of either one company exceed two billion yen, file, a report thereof with the JFTC within thirty days as from the date of assuming the position of such an officer</p>	<p>1998, and was put into effect in January 1999).</p> <p>A bill including amendment of the AMA to stipulate the regulations for corporate divestitures, which are similar to the regulations for mergers and acquisitions, etc. was enacted. (It was promulgated on May 31 2000, and was put into effect in April 2001).</p> <p>The JFTC (the Japanese Government) introduced into the 154<sup>th</sup> Diet the bill concerning the amendment of the AMA, and it was promulgated on May, 2002.</p> <ul style="list-style-type: none"> <li>-Instead of the former regulation on holding companies, establishment of (or transformation of an existing company into) a company with “excessive concentration of economic power” would be prohibited.(Article 9)</li> <li>-Restriction on total amount of stockholding by a giant company (Article9-2) would be repealed.</li> <li>-Instead of restriction on stockholding of other company by a financial company, holding non-financial companies’ rights of voting by a bank or an insurance company would be restricted. (Article11)</li> </ul> <p>To meet the demands for further improvements in both the speed and transparency of the JFTC’s examinations regarding prior consultation on enterprise combination, the JFTC has undertaken a review of its policies, and will, to the extent possible, deal with prior consultation currently being undertaken in line with them.</p> <p>(Main Points of policy)</p> <p>(1) Beginning with the day on which materials showing the concrete contents of the enterprise combination plans are submitted, the JFTC will, as a general rule, within 30 days notify the companies to the effect that there are no concerns</p>

<b>Improvements in Japan's Approach to Competition Policy since 1996</b>		
<b>Section</b>	<b>Position at Base Year (1996)</b>	<b>Cumulative Improvements Implemented to Date</b>
		<p>relating the AMA or to the effect that a detailed examination is required.</p> <p>(2) Following the above, within 90 days from the day on which the required detailed materials are submitted, the JFTC will, as a general rule, undertake to provide a response regarding the examination results, including the reasons for those results. Also, the JFTC will provide a written response to the prior consultation for which the detailed examination was undertaken as well as make public the result of the investigation in detail.</p> <p>The JFTC revised the guidelines on merger review, "Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination" on May 31, 2004, in order to further enhance transparency and predictability</p> <p>The JFTC published on March 28, 2007 the revision of the "Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination" and "Policies Dealing with Prior Consultation Regarding Business Combination Plans" in order to enhance transparency and predictability of merger reviews.</p> <p>The bill to amend the AMA was submitted to the 171st Diet session on February 27, 2009. The Diet passed the bill on June 3 2009. . The bill included review of regulation on business combination such as introduction of pre-notification system on business combination by acquiring shares and revision of notification standard.</p>
<b>Other Issues Addressed by Competition Policy</b>	The JFTC and Japan International Cooperation Agency (JICA) have conducted training course for personnel at	The JFTC and JICA have organized training course on AMA and competition policy for personnel of competition authorities

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
	<p>competition authorities in developing economies (including the following four members of APEC: Malaysia, People's Republic of China, Republic of Korea and Thailand). The training programs are scheduled to take place annually for a five-year period, from FY1994 to FY1998</p>	<p>or of relevant agencies in developing countries, including those in a number of APEC member economies. This training course had been organized annually since 1994.</p> <p>The JFTC and JICA have provided a country-focused training course on AMA and competition policy for China every year since 1998.</p> <p>The JFTC and JICA have provided a country-focused training course on AMA and competition policy for Indonesia almost every year since 2004.</p> <p>The JFTC has sent experts on competition policy and law to developing countries including some APEC economies for technical assistance.</p> <p>The JFTC had implemented personnel training program in the field of competition policy as a part of "Partners for Progress (PFP)" training programs. The PFP program was scheduled to be implemented annually for a five-year period from 1996-2000 (Japanese fiscal year). As was originally planned, the last one was held in March, 2001.</p> <p>Japan, Thailand, Vietnam, Malaysia and Indonesia co-organized APEC Training Program on Competition Policy, which consists of five seminars in the coming three years from 2002 to implement "APEC Principles to Enhance Competition and Regulatory Reform. The JFTC and Thai relevant organizations co-organized its first seminar in Bangkok in August 2002. The second seminar was co-organized by the JFTC and Vietnamese relevant organizations in Hanoi, Vietnam and the third seminar was co-organized by the JFTC and Malaysian relevant organizations in KL, Malaysia in 2004.</p>

<b>Improvements in Japan's Approach to Competition Policy since 1996</b>		
<b>Section</b>	<b>Position at Base Year (1996)</b>	<b>Cumulative Improvements Implemented to Date</b>
		<p>The fourth seminar was co-organized by the JFTC and Vietnamese relevant organizations in Ho Chi Minh, Vietnam in August, 2004, and the fifth seminar was co-organized by the JFTC and Indonesian relevant organization in Yogyakarta, Indonesia in December, 2004.</p> <p>The JFTC proposed a training course for the staff of competition related authorities with more concrete scope compared to the previous "APEC Training Program on Competition Policy" in cooperation with Indonesia, Malaysia, the Philippines and Thailand. The first training course was conducted in Manila, the Philippines, in August, 2005. The second course was in Bangkok, Thailand, in August, 2006. The third course was in Singapore, in August, 2007. And the fourth course was in Bali, Indonesia, in November 2008.</p>
<b>Co-operation Arrangements with other Member Economies</b>	Japan has no arrangements or agreements for assistance or co-operation with other Member Economies regarding competition policy.	<p>The Government of Japan and the Government of the US signed a bilateral agreement concerning cooperation on anticompetitive activities on October 7, 1999. The agreement has entered into force upon the signature.</p> <p>In the Agreement Between Japan and the Republic of Singapore for a New-Age Economic Partnership signed in January 2002 and has entered into force in November 2002, the two economies agreed to encourage effective controlling of and to promote cooperation in the field of anticompetitive activities.</p> <p>In the Agreement Between Japan and United Mexican States for the Strengthening of the Economic Partnership signed in September 2004 and has entered into force in April 2005, the</p>

<i>Improvements in Japan's Approach to Competition Policy since 1996</i>		
<i>Section</i>	<i>Position at Base Year (1996)</i>	<i>Cumulative Improvements Implemented to Date</i>
		<p>two economies agreed to promote cooperation and coordination for the effective enforcement of competition laws in each party.</p> <p>On September 6th, 2005, the Governments of Japan and Canada signed "AGREEMENT BETWEEN THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF CANADA CONCERNING COOPERATION ON ANTICOMPETITIVE ACTIVITIES".</p> <p>The JFTC and the Australian Competition and Consumer Commission (ACCC) continued to make discussions on the possibility of a formal cooperation agreement on the anticompetitive activities. Aiming to commence negotiations as early as possible, the JFTC and the ACCC are pursuing continuous dialogue on this issue.</p> <p>In the Agreement Between the Government of Japan and the Government of Malaysia for an Economic Partnership signed in December 2005 and has entered into force in July 2006, the two economies agreed to encourage effective control of and promote cooperation in the field of anti-competitive activities.</p> <p>The Agreement between Japan and the Republic of the Philippines for an Economic Partnership was signed in September 2006 and has entered into force in December 2008.</p> <p>The Agreement between Japan and the Republic of Chile for a strategic Economic Partnership was signed in March 2007 and has entered into force in September 2007. The two economies agreed to promote cooperation for the restriction of the anti-competitive practices.</p>

<b>Improvements in Japan's Approach to Competition Policy since 1996</b>		
<b>Section</b>	<b>Position at Base Year (1996)</b>	<b>Cumulative Improvements Implemented to Date</b>
		<p>The Agreement between Japan and the Kingdom of Thailand for an Economic Partnership was signed in April 2007, and has entered into force in November 2007. The two economies agreed to promote cooperation and coordination for the effective enforcement of respective competition laws.</p> <p>The Agreement between Japan and The Republic of Indonesia for an Economic Partnership was signed in August 2007 and entered into force in July 2008. The two economies agreed to promote cooperation and coordination for the effective enforcement of respective competition laws.</p> <p>The signing of the Agreement on Comprehensive Economic Partnership among Japan and Member States of the Association of Southeast Asian Nations was completed in April 2008 and the agreement entered into force in December 2008. The parties agreed to explore and undertake economic cooperation activities in several fields, including Competition Policy.</p> <p>The Agreement between Japan and the Socialist Republic of Viet Nam for an Economic Partnership was signed in December 2008 and entered into force in October 2009.</p>
<b>Activities with other APEC Economies and in other International Fora</b>	<p>The JFTC has held bilateral meetings for exchange of views with foreign competition authorities regularly (including those of the following three members of APEC: the United States, Canada and Republic of Korea).</p> <p>The conference on Competition Policies among Asian and Oceanic Countries (attended by members of the Asia-Oceanic region, including the 10 APEC members) has been held since 1979.</p>	<p>Since the establishment of the International Competition Network (ICN), the JFTC has vigorously contributed to its activities, and encouraged other countries, including APEC member economies, to participate in the ICN.</p> <p>The JFTC has participated in the discussion of OECD, UNCTAD and WTO, concerning Competition Policy.</p> <p>The JFTC, in cooperation with the Indonesia Commission for</p>

<b>Improvements in Japan's Approach to Competition Policy since 1996</b>		
<b>Section</b>	<b>Position at Base Year (1996)</b>	<b>Cumulative Improvements Implemented to Date</b>
	<p>Since Japan became a member of the OECD in 1964, the JFTC has participated in the Committee on Competition Law and Policy (CLP). (Note) CLP changed its name to the Competition Committee (COMP) in 2001.</p> <p>In the UNCTAD, the JFTC has participated in the conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices and the meeting of the Intergovernmental Group of Experts on Competition Law and Policy.</p>	<p>the Supervision of Business Competition (KPPU), held the 2nd East Asia Conference on Competition Law and Policy and the Top Level Officials' Meeting on Competition Policy in May, 2005, in Bogor, Indonesia.</p> <p>The 3rd East Asia Conference on Competition Law and Policy and the 2nd Top Level Officials' Meeting on Competition Policy were hosted by Department of Internal Trade, Ministry of Commerce of Thailand in cooperation with Japan Fair Trade Commission and Asian Development Bank Institution in June 2006 in Bangkok, Thailand.</p> <p>Similarly,</p> <ul style="list-style-type: none"> <li>➤ The 4th East Asia Conference and the 3rd Top Level Officials' Meeting were held in May 2007 in Hanoi, Viet Nam</li> <li>➤ The 4th Top Level Officials' Meeting was held in April 2008, Japan</li> <li>➤ The 5th East Asia Conference and the 5th Top Level Officials' Meeting were held in June 2009, Mongolia</li> </ul> <p><a href="http://www.jftc.go.jp/eacpf/06_03.html">http://www.jftc.go.jp/eacpf/06_03.html</a>  <a href="http://www.jftc.go.jp/eacpf/07_02.html">http://www.jftc.go.jp/eacpf/07_02.html</a></p>

## **Appendix – APEC Leaders’ Transparency Standards on Competition Law and Policy and Regulatory Reform**

### Introduction

In October 2002, in Los Cabos, Mexico, APEC Leaders adopted the Statement to Implement APEC Transparency Standards (“Leaders’ Statement”), and directed that these standards be implemented as soon as possible, and in no case later than January 2005.

In paragraph 8 of the Leaders’ Statement, APEC Leaders instructed that APEC sub-fora that have not developed specific transparency provisions should do so, and further instructed that such new transparency provisions should be presented to Leaders upon completion for incorporation into the Leaders’ Statement. Accordingly, the following set of transparency standards on competition and deregulation for incorporation into the Leaders’ Statement were developed.

These principles flow from the General Principles on Transparency agreed to by APEC Leaders at Los Cabos, and provide specific guidance for implementation within the context of competition law and policy and regulatory reform.

#### Transparency Standards on Competition Law and Policy:

1. In furtherance of paragraph 1 of the General Principles of the Leaders’ Statement, each Economy will ensure that its competition laws, regulations, and progressively, procedures, administrative rulings of general application and judicial decisions of general application are promptly published or otherwise made available in such a manner as to enable interested persons and other Economies to become acquainted with them.
2. In furtherance of paragraphs 4 and 5 of the General Principles of the Leaders’ Statement, each Economy will ensure that before it imposes a sanction or remedy against any person for violating its national competition law, it affords the person the right to be heard and to present evidence, except that it may provide for the person to be heard and present evidence within a reasonable time after it imposes an interim sanction or remedy; and that an independent court or tribunal imposes or, at the persons request, reviews any such sanction or remedy. Proceedings subject to this paragraph are to be in accordance with domestic law.

#### Transparency Standards on Regulatory Reform:

1. In furtherance of paragraph 1 of the General Principles of the Leaders’ Statement, each Economy will ensure that its laws, regulations, procedural rules and administrative rulings of general application relating to regulatory reform are promptly published or otherwise made available in such a manner as to enable interested persons and other economies to become acquainted with them.
2. In furtherance of paragraphs 2 and 3 of the Leaders’ Statement, Economies recognize the importance of ensuring transparency in the regulatory reform process and of soliciting and responding to inquiries from interested persons and other Economies. Accordingly, each Economy will, where possible (a) publish in advance regulatory reform measures that it proposes to adopt, and (b) provide where applicable interested persons a reasonable opportunity to comment on such proposed measures. In addition, upon request from an interested person or another Economy, each Economy will endeavor to promptly provide information and respond to questions pertaining to any actual or proposed regulatory reform measure.

#### *Confidential Information*

Economies agree that nothing in these standards requires any Economy to disclose confidential information. (Note: The Leaders’ Statement includes a provision for the protection of confidential information. This statement is included here to emphasize the importance of the protection of confidential information in the contexts of both competition law and policy and regulatory reform.)