



Asia-Pacific
Economic Cooperation

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Agenda Item: 6

Main Features on the Newly Amended Antimonopoly Act

Purpose: Information

Submitted by: Japan



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Figure1

Main Features of the Newly Amended Antimonopoly Act

○ Increase of surcharge rates

- Manufactures, etc.: Large-sized enterprises: 6%→10% of affected sales
Small and Medium-sized enterprises : 3%→4% of affected sales.
- The applicable rates for Wholesalers and Retailers are specially set.
- Imposing 50% higher rate of surcharge on repeat offender enterprises.
- Enlarging the range of conducts subject to surcharges. (ex. private monopolization through control of other firms)
- Introduction of an adjustment clause (Half of the amount of fines shall be deducted from the surcharges if violating firm is subject to both a fine and also a surcharge.).

○ Introduction of a leniency program

- Immunity from or reduction in surcharge payment shall be afforded to first, second and third informants
 - Before the start of investigation; 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 first, second and third informants

1

○ Introduction of compulsory powers for criminal investigations, etc.

- Introduction of compulsory powers for criminal investigations (e.g. search warrant).
- Abolishment of the exclusive jurisdiction of the Tokyo High Court for criminal matters.
- Introduction of severe punishment for corporations that violate of elimination orders.
- Strengthening of penalties for interference with inspections, etc.

○ Change in procedures, etc.

- The JFTC can issue elimination orders without having hearing procedures.
- Hearing procedures shall be started upon objection to the elimination order (Recommendation system was abolished.).
- Surcharge order not to be canceled even when hearing procedures are initiated (interest shall be added to the amount of surcharges when the order is authorized after hearing procedures begin.).

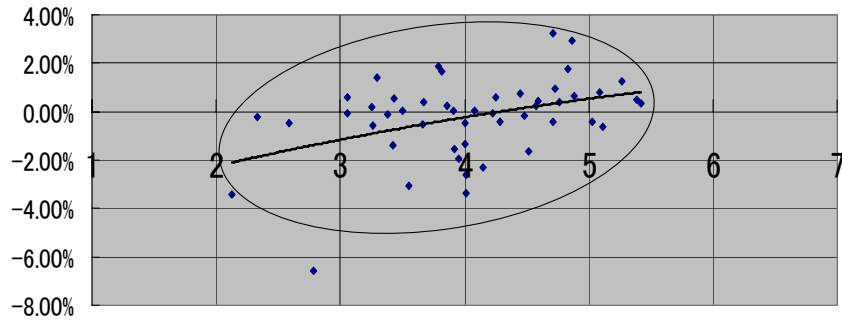
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Figure 2

Relationship between Competition Policy
and Macro Economy (The World Bank)

“Does More Intense Competition Lead to Higher Growth?”
Mark A Dutz, Aydin Hayri, 1998.

economic growth rate



degree of competition enhancement

3

Figure 3

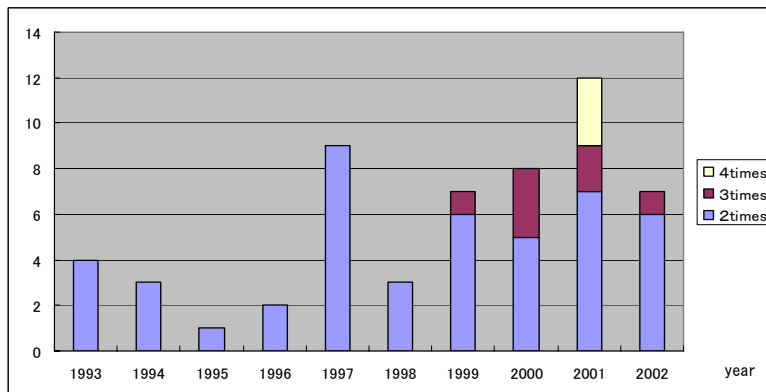
Number of cases where firms have repeatedly violated in Japan and EU

	Japan	EU
Total number of cases (A)	205	94
Number of cases where firms have repeatedly violated (B)	21	3
Percentage of cases involving repeat offenders (B) / (A)	10.2%	3.2%

Footnote: table covers the years from 1993 to 2002.

**Number of firms that have repeatedly violated
in the past 10 years in Japan**

number of involvement



4

Figure 4

number of cases

Estimate of Cartel Profits

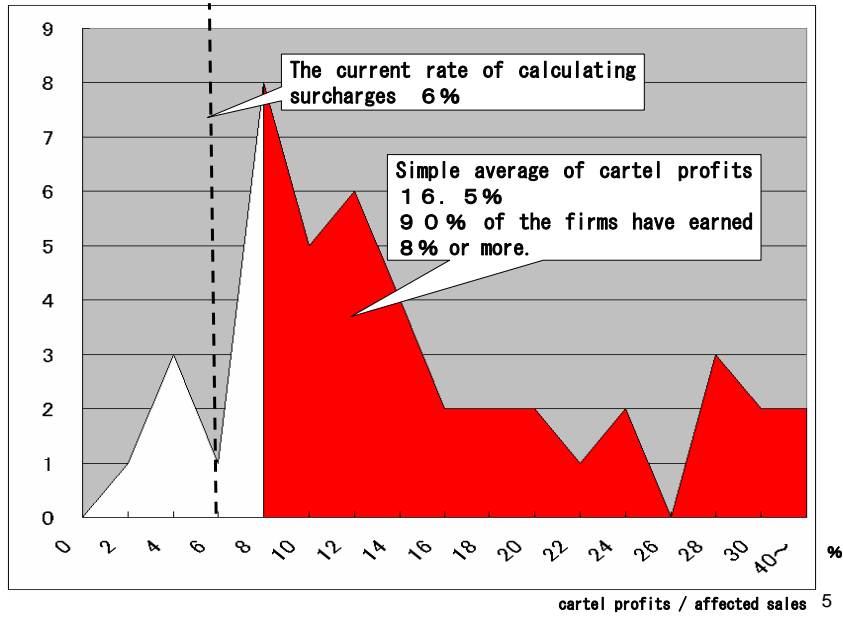
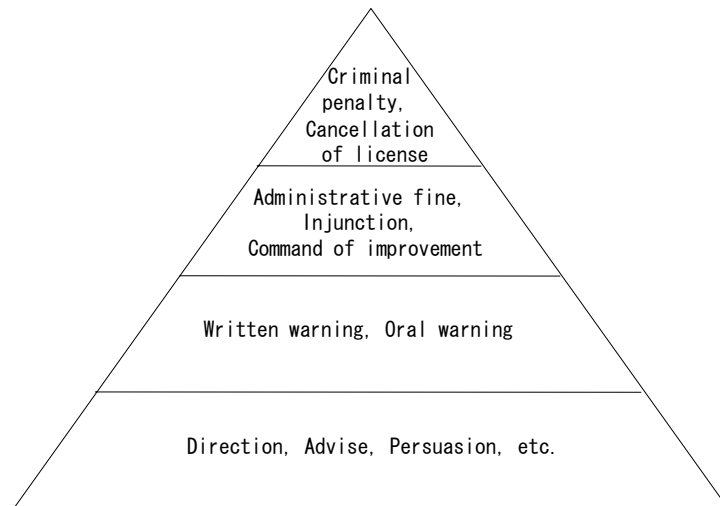


Figure 5

Enforcement Pyramids



(Reference : Robert Baldwin and Martin Cave, 'Understanding Regulation' Oxford University Press, 1999.)

Figure 6

Criminal Penalty or Surcharge would be Imposed on Violating Firms

Enforcement Systems for violations of law in Japan

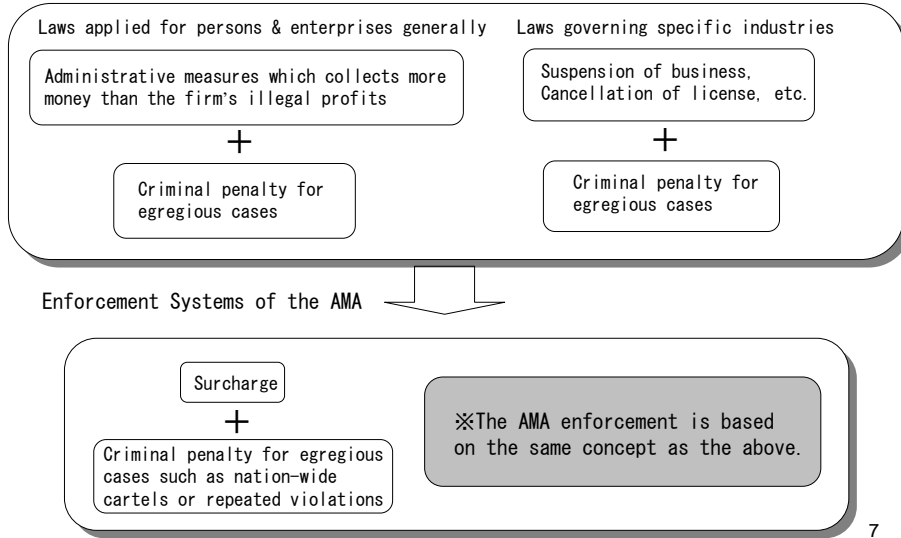
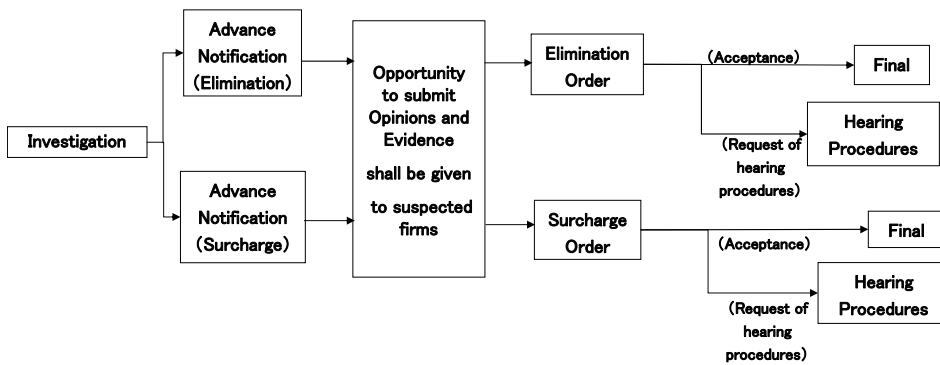


Figure 7

Investigation and Hearing procedures in revised AMA



【Reference : Current provision】

