



**Asia-Pacific  
Economic Cooperation**

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Agenda Item: 8

## **Updates of Competition Law in Japan**

Purpose: Information  
Submitted by: Japan



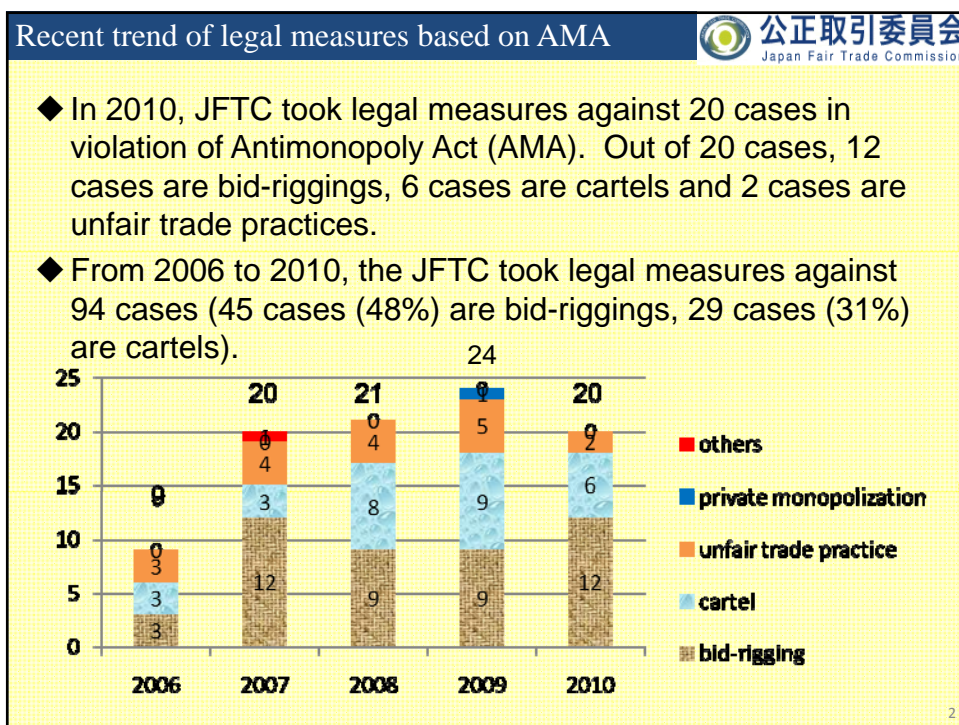
**Competition Policy and Law Group Meeting  
Washington, D.C., United States  
7-8 March 2011**

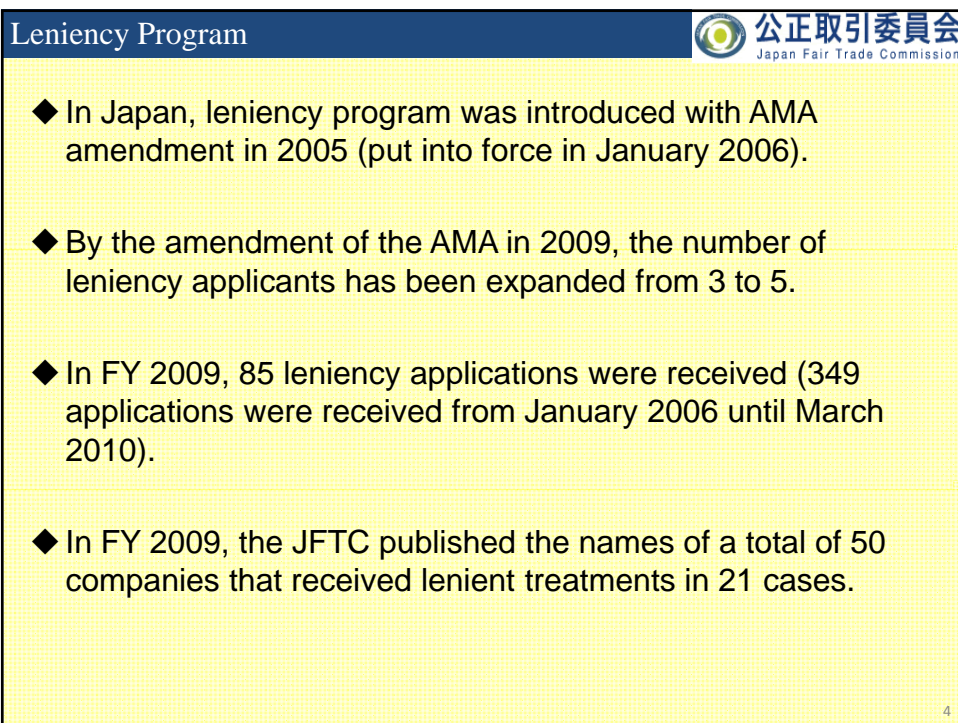
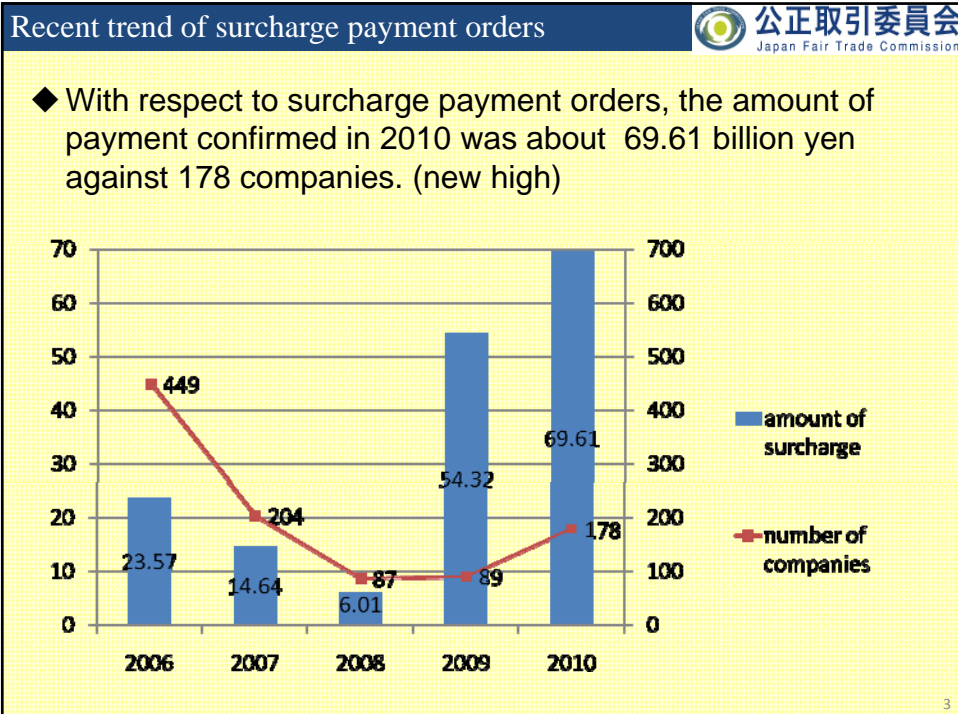
公正取引委員会  
Japan Fair Trade Commission

# Updates of Competition Law in Japan

March 8, 2011  
CPLG Meeting in Washington D.C.  
Japan Fair Trade Commission

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## Major violation cases in 2010



### ◆ Cease and Desist Orders and Surcharge Payment Orders against Manufacturers of office furniture ordered by the Air Self-Defense Force (ASDF) of the Ministry of Defense (MOD)

The JFTC issued cease and desist orders and surcharge payment orders against bid-rigging activities for office furniture ordered by the ASDF of the MOD. Further, the JFTC found the involvement of the officials of the 1st Air Depot of the ASDF in the bid-rigging and issued a demand to the MOD to take improvement measures (March 2010).

### ◆ Cease and Desist Orders and Surcharge Payment Orders against Manufacturers and Distributors of Electric Wires for Construction and Distribution

The JFTC found that companies engaged in manufacturing and distributing electric wires for construction and distribution had been involved in price cartel activities concerning the sales of electric wires for construction and distribution in Japan, and issued cease and desist orders and surcharge payment orders against them (November 2010).

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## Business combination regulations



- ◆ Business combinations which may be substantially to restrain competition in any particular field of trade are prohibited under the AMA.
- ◆ Certain business combinations, which exceed domestic turnover thresholds (e.g. 20 billion yen for acquiring firm, 5 billion yen for acquired firm), are subject to prior notification.
- ◆ Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination were published in 2004 and revised in 2007.
- ◆ Prior consultation is conducted by the JFTC on the basis of Policy dealing with prior consultation regarding business combination plans.
- ◆ Recent major merger review cases are as below. (The JFTC carried out exchange of information with foreign competition authorities in these cases.)
  - ✓ *Panasonic-Sanyo (approved with remedy)*
  - ✓ *BHP Billiton -Rio Tinto (proposed transaction was abandoned after the JFTC had made a notice of problems)*
  - ✓ *Agilent Technologies - Varian (approved with remedy)*

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## Further amendment of the AMA



- ◆ The bill to amend the AMA was submitted to the 174<sup>th</sup> ordinary session of the Diet on March 12, 2010.

The bill includes;

- ✓ Abolition of the JFTC's hearing procedure for administrative appeal
- ✓ Development of provisions for procedures of hearings implemented prior to issuing cease and desist orders

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## Tackling abuse of superior bargaining position



- ◆ The JFTC issued the guidelines concerning abuse of superior bargaining position in November 2010 in light of the amendment of the AMA in 2009 where abuse of superior bargaining position became a target of surcharge payment orders.
- ◆ The guidelines contribute to ensuring transparency of enforcement of the AMA and enhancing predictability for companies by clarifying the JFTC's views on this matters.

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- ◆ The JFTC has contributed to the activities of other international organizations such as ICN (International Competition Network), OECD, etc.
- ◆ In October 2010, the JFTC hosted 2010 ICN Cartel Workshop in Yokohama.

From 4 to 7 October, 2010, the 2010 ICN Cartel Workshop was held in Yokohama hosted by the JFTC. About 150 people which include the officials of competition authorities and non governmental advisors from about 50 countries and regions, particularly from Asia participated in the workshop.

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**Thank you for your kind attention**

(Opinions expressed in this presentation are those of the speaker and are not those of the JFTC)

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