



**Asia-Pacific
Economic Cooperation**

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Agenda Item: 8

Updates of the Antimonopoly Act (AMA) in Japan

Purpose: Information
Submitted by: Japan



**Competition Policy and Law Group Meeting
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21-22 February 2014**



Updates of the Antimonopoly Act(AMA) in Japan

February 22, 2014

CPLG Meeting in Ningbo

Japan Fair Trade Commission

Enactment of the Bill to Amend the AMA

◆ Approval of the AMA amendment bill by the Diet

The bill was approved by the Diet on 7 December 2013. It contains the abolition of the JFTC's hearing procedure and necessary revisions to develop procedures for hearings prior to the issue of the JFTC's administrative orders, such as cease and desist orders, and so forth.

Enactment of the Bill to Amend the AMA

- ◆ Major points of the Amendment to the AMA
 - ✓ To abolish the JFTC’s hearing procedure for administrative appeals; as well as to eliminate the provision which stipulates that the jurisdiction of the first instance over any appeal suits pertaining to decisions of the JFTC shall lie in the Tokyo High Court.
 - ✓ To introduce a system in which any appeal suits pertaining to cease and desist orders, etc. shall be subject to the exclusive jurisdiction of the Tokyo District Court, and a panel of three or five judges in the Tokyo District Court hears the cases, with a view to ensuring expertise in the court.
 - ✓ To provide expected recipients of orders with an explanation on the content of the expected orders and allow them to inspect and photocopy evidence used by the JFTC, etc., during the procedure for hearing prior to issuing the order, with a view to enhancing procedural fairness.

2

Recent Trend of the AMA enforcement (1)

- ◆ Approximately 90% of legal measures are against unreasonable restraint of trade (price cartels, bid riggings, etc.) cases.
- ◆ In 2013, the JFTC took legal measures against 15 Antimonopoly violation cases.

【Change in Number of Cases Legal Measures Taken】

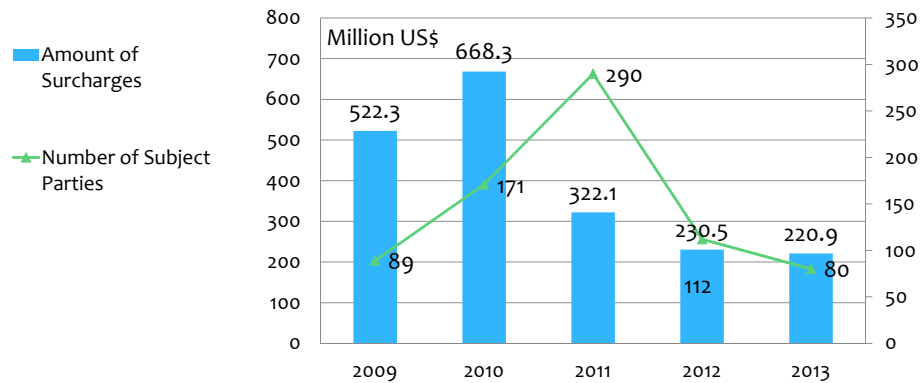
| Year | unreasonable restraint of trade | unfair trade practice | private monopolization | Total |
|------|---------------------------------|-----------------------|------------------------|-------|
| 2009 | 18 | 5 | 1 | 24 |
| 2010 | 18 | 2 | 0 | 20 |
| 2011 | 12 | 3 | 0 | 15 |
| 2012 | 19 | 2 | 0 | 21 |
| 2013 | 14 | 1 | 0 | 15 |

3

Recent Trend of the AMA enforcement (2)

- ◆ The total amount of surcharges confirmed in 2013 was about 22.97 billion yen (about 220.9 million US dollars) against 80 companies.

【Change in the Surcharge Amount (1US\$=104JPY)】



4

Recent Trend of the AMA enforcement (3)

- ◆ The leniency program is an important tool to detect price-fixing cartels and bid-riggings.
- ◆ The leniency program was introduced with the AMA in 2005 (Effective from January 2006).
- ◆ By the amendment of the AMA in 2009, the maximum number of leniency applicants has been expanded from 3 to 5.
- ◆ In FY 2012, 102 leniency applications were received.

【Number of Leniency Applications】

| FY | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | Total |
|--------------|------|------|------|------|------|------|------|------|-------|
| Applications | 26 | 79 | 74 | 85 | 85 | 131 | 143 | 102 | 725 |

(Note) The period of FY2005 is between Jan. 4 and Mar. 31 in 2006.

5

Major cases in 2013 (1)

- ◆ Cases against manufacturers of automotive headlamps and rear combination lamps (March 22, 2013)
 - ✓ Manufacturers of automotive headlamps and rear combination lamps designated successful bidders for automotive headlamps and rear combination lamps ordered by Toyota Motor Corporation and other automobile manufactures, and managed to have the designated bidders receive the orders.
 - ✓ The JFTC issued cease and desist orders and surcharge payment orders. The total amount of the surcharge payments was about 4.7 billion yen (about 45 million US dollars).

6

Major cases in 2013 (2)

- ◆ Case against bearing manufacturers (March 29, 2013)
 - ✓ Manufacturers of industrial machinery bearings and automotive bearings formed and implemented agreements to raise the selling prices.
 - ✓ The JFTC issued cease and desist orders and surcharge payment orders. The total amount of surcharge payments was about 13.4 billion yen (about 129 million US dollars).
 - ✓ The JFTC has filed a criminal accusation with the Public Prosecutor-General against 3 manufacturers of industrial machinery bearings and automotive bearings, as well as against the 7 individuals who were engaged in sales of the above bearings at that time (filed on June 14, 2012).

7

Promotion of activities for International Cooperation

- ◆ International organization
 - ✓ In addition to the APEC, the JFTC has contributed to the activities of the international frameworks such as ICN (International Competition Network), OECD etc.
- ◆ Cooperation among the competition authorities of APEC economies
 - ✓ The JFTC signed Memorandum on Cooperation with the Philippine Department of Justice, and Cooperation Arrangement with the Viet Nam Competition Authority.

8

Thank you for your attention !



Japan Fair Trade Commission
(<http://www.jftc.go.jp/en/index.html>)

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