

Fair Trade Commission Rules No. 1

Pursuant to the provisions of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947), the following Rules on Commitment Procedures by the Fair Trade Commission are hereby established.

January 25, 2017

Kazuyuki Sugimoto, Chairman, Fair Trade Commission

Rules on Commitment Procedures by the Fair Trade Commission

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Chapter I. General Provisions

(Purpose of and Definitions in These Rules)

Article 1 (1) The Commitment Procedures (hereinafter, this refers to the procedures described in Articles 48-2 to 48-9 of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade [Act No. 54 of 1947; hereinafter referred to as the “Act”]) of the Fair Trade Commission (hereinafter referred to as the "Commission") shall follow these Rules in addition to the Act.

(2) The terms used in these Rules that are the same as those used in the Act shall have the same meanings as those used in the Act.

(Calculation of Periods of Time)

Article 2 (1) The calculation of any period of time shall be governed by the provisions related to periods of time in the Civil Code (Act No. 89 of 1896).

(2) If the last day of a period of time falls on any of the days listed in the items of Article 1(1) of the Act on Holidays of Administrative Organs (Act No. 91 of 1988), the period of time shall expire on the immediately following day.

(Language)

Article 3 The Japanese language shall be used for the Commitment Procedures.

(Method of Service by Publication)

Article 4 The Commission may publish the fact that service by publication has been carried out, in an official gazette or a newspaper. With respect to service in a foreign country, the Commission may provide notice that service by publication has been carried out, instead of publishing this in an official gazette or a newspaper.

(Preparation of Documents)

Article 5 (1) Except as otherwise provided, any document that is to be prepared in the Commitment Procedures shall be dated, and shall be affixed with a signature or a name and seal.

(2) Where the document under the preceding paragraph is a transcript that is to be made by the Commission, the official who prepares said transcript shall note in an adjacent location that the transcript is identical to the original copy, shall affix official's name and seal to said transcript, and shall affix official's seal across the boundary of each of the contiguous pages of transcript or take other similar measures.

(Correction of Documents)

Article 6 No character shall be altered in preparing documents for the Commitment

Procedures. If any character is added, deleted or, written in the margin of a page, a seal of approval shall be affixed to it. In this case, any deleted character shall be left visible so that it can be read.

Chapter II. Notice Pursuant to the Provisions of Article 48-2 of the Act (Service of Notices)

Article 7 Notice pursuant to the provisions of Article 48-2 of the Act shall be given to the party that committed the act that was the reason for the suspicion or its agent by serving it with a document stating the matters indicated in each items of that Article.

Chapter III. Exclusion Measures Plan

Section 1. Application for Approval of an Exclusion Measures Plan

(Method of Application for Approval of an Exclusion Measures Plan)

Article 8(1) A party making an application pursuant to the provision of Article 48-3(1) of the Act shall submit to the Commission an application using Form No.1.

(2) The application described in the preceding paragraph shall include the following documents as attachments. In this case, if a document was not prepared in the Japanese language, a Japanese translation there of shall be attached.

(i) Documents showing that the Exclusion Measures are sufficient for excluding the act that was the reason for the suspicion

(ii) Documents showing that the Exclusion Measures are expected to be reliably conducted

(iii) Documents showing other matters which would serve as reference information for the Commission in the approval pursuant to Article 48-3(3) of the Act

Article 9 In the case where there is any change to the matters stated in the application documents, a party who has submitted an application under the provision of Article 48-3(1) of the Act (hereinafter referred to as the “Applicant” from this Section through Section 3) may, until the end of the period described in that paragraph, submit to the Commission a report describing the changes; provided, however, that this does not apply if the measure related to such application has already been made.

Article 10 Documents as provided in the preceding two articles shall be submitted to the Commission using any of methods in the following items or combination of them;

- (i) By bringing them directly;
- (ii) By delivery through registered mail, correspondence which included correspondence delivery services provided for in Article 2 (2) of the Act on Correspondence Delivery by Private Sector Operators (Act No. 99 of 2002) by a general correspondence delivery person as provided in Article 2 (6) of that Act or by a special correspondence delivery person as provided in Article 2 (9) of that Act whose acceptance and delivery is recorded, or other methods equivalent thereto.

Article 11. The Applicant may submit additional documents as described in the provision of Article 8 (2) (iii) at any time from the date of the application until the measure related to the application has been made.

Section 2. Approval of an Application

(Service of the Statement of Approval)

Article 12 The certified copy of the statement of approval under the provision of Article 48-3(5) of the Act shall be served to the Applicant or that person's agent.

Section 3. Dismissal of an Application

(Service of the statement of decision, etc.)

Article 13 (1) The certified copy of the statement of decision under the provisions of Article 48-3(5) of the Act, applied mutatis mutandis by replacing certain terms pursuant to Article 48-3(7) of the Act shall be served to the Applicant or that person's agent.

(2) The statement of decision described in the preceding paragraph shall include the following contents;

- (i) A statement that the application for approval of the Exclusion Measures Plan has been dismissed
- (ii) The reason for the dismissal.

Section 4. Modification of the Approved Plan for Exclusion Measures

(Method of Application for Approval of modification of the Approved Plan for Exclusion Measures)

Article 14 (1) A party that has received approval pursuant to Section 48-3, Paragraph (3) of the Act and intends to modify the approved Exclusion Measures Plan (hereinafter referred to as the "Approved Exclusion Measures Plan" in this section)

under the provisions of Paragraph (8) of that Article shall submit to the Commission an application using Form No.2.

(2) The application described in the preceding paragraph shall include the following documents as attachments. In this case, if a document is not prepared in the Japanese language, a Japanese translation of the document shall be attached.

(i) Documents showing that the Exclusion Measures are sufficient for the excluding the act that was the reason for the suspicion

(ii) Documents showing that the Exclusion Measures are expected to be reliably conducted

(iii) Documents showing other matters which would serve as reference information for the Commission in the approval of modifications described in Article 48-3(8) of the Act

Article 15 In the case where there is any change to the matters stated in the application documents, a party who has submitted an application for certification of modifications to an Approved Exclusion Measures Plan (hereinafter referred to as the “Applicant” in this section) may submit to the Commission a report describing the changes, until the measure related to such application has been made.

Article 16 The provisions of Article 10 shall apply mutatis mutandis to when submitting documents under the provisions of the two preceding articles.

Article 17 The Applicant may submit additional documents described in the provisions of Article 14(2) (iii) at any time from the date of the application until the measure related to the application has been made.

(Service of the statement of approval)

Article 18 The certified copy of the statement of approval under the provisions of Article 48-3 (5) of the Act, applied mutatis mutandis pursuant to Article 48-3(9) of the Act, shall be served to the Applicant or that person's agent.

(Service of the statement of decision, etc.)

Article 19 (1) The certified copy of the statement of decision under the provision of Article 48-3 (5) of the Act, applied mutatis mutandis by replacing certain terms pursuant to Article 48-3 (7) of the Act, themselves applicable under Article 48-3 (9)

of the Act, shall be served to the Applicant or that person's agent.

(2) The statement of decision described in the preceding paragraph shall include the following content:

- (i) A statement that the application for Approval of modification of the Approved Exclusion Measures Plan has been dismissed
- (ii) The reason for the dismissal.

Chapter IV. Rescission of Approval of an Exclusion Measures Plan

(Service of the Statement of decision, etc.)

Article 20 (1) The certified copy of the statement of decision under the provision of Article 48-3 (5) of the Act, applied mutatis mutandis by replacing certain terms pursuant to Article 48-5(2) of the Act, shall be served to the recipient of the approval or that person's agent.

(2) The statement of decision described in the preceding paragraph shall include the following contents:

- (i) A statement that the approval of an Exclusion Measures Plan has been rescinded
- (ii) The reason for the Rescission.

Chapter V. Notifications Pursuant to the Provisions of Article 48-6 of the Act

(Service of Notices)

Article 21 Notifications pursuant to the provision of Article 48-6 of the Act shall be made by serving to the party described in Paragraph (1) of that Article or that person's agent a document containing the items described in Item (ii) of that Article.

Chapter VI. Plan for Measures to Ensure Exclusion

Section 1. Application for Approval of a Plan for Measures to Ensure Exclusion

(Method of Application for Approval of a Plan for Measures to Ensure Exclusion)

Article 22(1) A party making an application under the provision of Section 48-7(1) of the Act shall submit to the Commission an application using Form No.3.

(2) The application described in the preceding paragraph shall include the following documents as attachments. In this case, if a document is not prepared in the Japanese language, a Japanese translation of the document shall be attached.

- (i) Documents showing that the Measures to Ensure Exclusion is sufficient are for ensuring that the act that was the reason for the suspicion was excluded
- (ii) Documents showing that the Measures to Ensure Exclusion are expected to be reliably conducted

(iii) Documents showing other matters which would serve as reference information for the Commission in the approval pursuant to Article 48-7(3) of the Act

Article 23 In the case where there is any change to the matters stated in the application documents, a party who has submitted the application described in the provisions of Article 48-7(1) of the Act (hereinafter referred to as the “Applicant” from this section through Section 3) may, until the end of the period described in that paragraph, submit to the Commission a report describing the changes; provided however, that this shall not apply if the measure related to that application already has been made.

Article 24 The provision of Article 10 shall apply *mutatis mutandis* when submitting the documents described in the two preceding articles.

Article 25 The Applicant may submit additional documents as described in the provision of Article 22 (2) (iii) at any time from the date of the application until the measure related to the application has been made.

Section 2. Approval of an Application

(Service of the Statement of Approval)

Article 26 The certified copy of the statement of certification under the provision of Article 48-3(5) of the Act, applied *mutatis mutandis* pursuant to Article 48-7(4) of the Act, shall be served to the Applicant or that person's agent.

Section 3. Dismissal of an application

(Service of the Notice of Decision, etc.)

Article 27 (1) The certified copy of the statement of decision under the provision of Article 48-3(5) of the Act, applied *mutatis mutandis* by replacing certain terms pursuant to Article 48-7(6) of the Act, shall be served to the Applicant or that person's agent.

(2) The statement of decision described in the preceding paragraph shall include the following contents:

(i) A statement that the application for Approval of the Plan for Measures to Ensure Exclusion has been dismissed

(ii) The reason for the dismissal.

Section 4. Modification of the Approved Plan for Measures to Ensure Exclusion
(Method of Application for Approval of Modification of the Approved Plan for Measures to Ensure Exclusion)

Article 28(1) A party that has received approval pursuant to Article 48-7(3) of the Act and intends to modify the Plan for Measures to Ensure Exclusion related to such approval (hereinafter referred to as the “Approved Plan for Measures to Ensure

Exclusion” in this section) under the provision of Paragraph (7) of that Section shall submit to the Commission an application using Form No.4.

(2) The application described in the preceding paragraph shall include the following documents as attachments. In this case, if a document is not prepared in the Japanese language, a Japanese translation of the document shall be attached.

(i) Documents showing that the Measures to Ensure Exclusion are sufficient for ensuring that the act that was the reason for the suspicion was excluded

(ii) Documents showing that the Measures to Ensure Exclusion are expected to be reliably conducted

(iii) Documents showing other matters which would serve as reference information for the Commission in the approval of modifications described in Article 48-7 (7) of the Act

Article 29 In the case where there is any change to the matters stated in the application documents, a party who has submitted an application for certification of modifications of the Approved Plan for Measures to Ensure Exclusion (hereinafter referred to as the “Applicant” in this section) may, until the measure related to such application has been made, submit to the Commission a report describing the content of that changes.

Article 30 The provision of Article 10 shall apply mutatis mutandis when submitting documents under the provisions of the two preceding articles.

Article 31 The Applicant may submit additional documents as described in the provision of Article 28(2) (iii) at any time from the date of the application until the measure related to the application has been made.

(Service of the statement of approval)

Article 32 The certified copy of the statement of approval under the provision of Article 48-3(5) of the Act, applied mutatis mutandis pursuant to Section 48-7(4) of the Act, themselves applied mutatis mutandis pursuant to applicable under Section 48-7(8) of the Act, shall be sent to the Applicant or that person's agent.

(Service of the statement of decision, etc.)

Article 33 (1) The certified copy of the notice of decision under the provision of Section 48-3(5) of the Act, applied mutatis mutandis by replacing certain terms pursuant to Article 48-7(6), which applied mutatis mutandis pursuant to Article 48-7 (8), shall be sent to the Applicant or that person's agent.

(2) The statement of decision described in the preceding paragraph shall include the following contents:

- (i) A statement that the application for approval of the modifications to the Approved Plan for Measures to Ensure Exclusion has been dismissed
- (ii) The reason for the dismissal.

Chapter VII. Rescission of Approval of a Plan for Measures to Ensure Exclusion

(Service of the Statement of Decision. etc.)

Article 34 (1) The certified copy of the notice of decision under the provisions of Article 48-3 (5) of the Act, applied mutatis mutandis pursuant to the Article 48-9 (2) of the Act following the deemed replacement to them, shall be sent to the recipient of the certification or that person's agent.

(2) The statement of decision described in the preceding paragraph shall include the following contents:

- (i) A statement that the certification approval of the Plan for Measures to Ensure Exclusion has been rescinded
- (ii) The reason for the Rescission.

Chapter VIII. Auxiliary Provisions

(Submission of Documents by Facsimile)

Article 35 (1) Documents to be submitted in Commitment Procedures may be submitted by facsimile, excluding the following documents:

- (i) Application forms
- (ii) Documents attached to application forms (not including those submitted under the provisions of Article 11, Article 17, Article 25, and Article 31)

(iii) Reports

(2) When a document is submitted by facsimile, it shall be deemed to have been submitted to the Commission at the time that the Commission receives the document.

(3) The Commission may, when necessary in a case provided for in the preceding paragraph, have the submitter submit the original of the transmitted documents.

(Omission of signature and seal)

Article 35-2 (1) A signature or a seal may be omitted from documents to be submitted in the Commitment Procedures by affixing a name.

(2) A staff member of the Commission shall, when necessary in a case provided for in the preceding paragraph, verify the details by instructing the submitter submit a document evidencing the authenticity of the document under the preceding paragraph or otherwise.

(Withdrawal of an application)

Article 36(1) An application submitted under the provisions of these Rules may be withdrawn at any time until the measure related to the application has been made.

(2) The withdrawal of an application described in the preceding paragraph shall be conducted in writing.

(Rectification Decision for Corrections)

Article 37 (1) When there is a clerical or other clear error in a notice of approval or a notice of decision, the Commission may correct the error on its own authority or upon petition.

(2) An objection to a correction decision may be filed in writing with the Commission within two weeks from the date the certified copy of the written decision was served.

(3) When the Commission has rejected an objection under the preceding paragraph, it shall notify the petitioner to that effect.

Supplementary Provisions

These Rules shall come into effect as of the date of enforcement of the Act on the Development of Related Legislation Following the Conclusion of the Trans-Pacific Partnership Agreement and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (Act No. 108 of 2016).

Supplementary Provisions

[Fair Trade Commission Rule No.2 of July 18, 2018]

These Rules shall come into effect as of the date of their promulgation.

Supplementary Provisions [Fair Trade Commission Rule No. 1 of May 10, 2019]

These Rules shall come into effect as of the date of their promulgation.

Supplementary Provisions [Fair Trade Commission Rule No. 2 of June 28, 2019]

These Rules shall come into effect as of July 1, 2019.

Supplementary Provisions [Fair Trade Commission Rule No. 7 of December 25, 2020]

These Rules shall come into effect as of December 25, 2020.

Form No. 1 (The size of this form shall be Japanese Industrial Standard A4.)

Form No. 2 (The size of this form shall be Japanese Industrial Standard A4.)

Form No. 3 (The size of this form shall be Japanese Industrial Standard A4.)

Form No. 4 (The size of this form shall be Japanese Industrial Standard A4.)