

**Report of the Study Group on International Affairs
of the Antimonopoly Act and Competition Policy
“Role of Competition Policy in Strengthening Economic
Partnership with East Asian Countries” -Summary-
(tentative translation)**

September 24, 2002

The Japan Fair Trade Commission

The Japan Fair Trade Commission has held meetings of the “Study Group on International Affairs of the Antimonopoly Act and Competition Policy” (Chairman: Professor Akira Goto of the University of Tokyo, Research Center For Advanced Economic Engineering) since March, 2002, to consider the role of competition policy in strengthening economic partnership with East Asian countries in view of the emergence of East Asian economies (ASEAN, China, etc.), the increase in studies on strengthening economic partnership between Japan and East Asian countries, and the increasing demand for trade remedies as imports of specific items from East Asian countries have increased. The Study Group has concluded discussions and published its report.

The executive summary of the report are as follows.

1. Role of competition policy and international cooperation in this area in the liberalization of trade and investment in the East Asian region

(1) Liberalization of trade and investment and need to promote competition policy

In accordance with the progress of liberalization of trade and investment, there is an increasing need to control anti-competitive practices such as cartels and abuse of dominant positions in order to maximize the benefits of liberalization.

For instance, in the East Asian region where mutual economic relations have become closer, it is important to establish a framework for common understanding and cooperation so that the East Asian countries including Japan take appropriate measures in accordance with their competition laws and regulations against anti-competitive activities in

the respective market which may hinder the flow of trade and investment (import cartels, unreasonable exclusive trade practices, etc.) as well as anti-competitive activities accompanied by closer economic interdependence such as international cartels (cartels by multinational corporations, abuse of dominant positions, anti-competitive mergers, etc.).

(2) Assistance for the development and enforcement of competition law and policy for ensuring fair and competitive markets

Japan should actively promote technical assistance with due consideration to the diversity of the development stages of and approaches to competition laws and regulations in each country recognizing that many East Asian countries are increasingly preparing the development and effective enforcement of competition laws and policies. In particular, Japan should continue to organize training courses and dispatch experts and promote the exchange of information and experiences by organizing a “Regional Competition Policy Seminar (tentative name)” or by building a “Regional Competition Policy Network (tentative name)” in order to contribute to strengthen economic partnership with East Asian countries, and thereby promote cooperative activities to meet the needs for technical assistance in each recipient country.

Japanese government should also consider providing Japanese firms that are interested in investing into East Asian markets with information on the latest developments in competition laws and policies of those countries in order to support the smooth operation of their business activities.

(3) Introduction of competition policy provisions into the economic partnership agreement: promotion of cooperation in the development and enforcement of competition laws and policies

In the framework to strengthen economic partnership between Japan and East Asian countries, promoting competition policy should be considered as one of important elements so that the framework encourages competition in the market. The following three principles should be considered in view of the diverse development stages of and

approaches to competition laws and regulations in East Asian countries with reference to the competition policy provisions in The Japan-Singapore Economic Agreement for a New Age Partnership. “Comprehensiveness” which covers from commitments to control anti-competitive activities, to the framework of cooperation and technical assistance, “flexibility” on the scope of cooperation, and “progressivity” in accordance with the development stages of competition laws and regulations.

(4) Promotion of international cooperation in competition policy under a multilateral framework

With regards to ongoing discussions on competition policy in multilateral fora, including the WTO, Japan should clarify priority issues in each forum, as well as frameworks for bilateral and regional cooperation, and make use of these frameworks in promoting cooperation and actively contribute to the discussions.

2. Relationship between trade remedies against increasing imports from East Asian countries and competition policy

(1) Evaluation of trade remedies in terms of competition policy

Firms in Japan are increasingly calling for trade remedies such as safeguard and anti-dumping measures. Such trade remedies are permitted by the WTO, but require appropriate evaluation from the viewpoint of competition policy since these measures are likely to somewhat restrain free market competition and affect the interest of users and consumers, depending on how the measures are implemented.

(2) Proposal on trade remedies in terms of competition policy

The JFTC should investigate how implementing trade remedies affects market competition as well as users and consumers, and *inter alia*, should propose that the measures be reviewed if there are concerns regarding competition policy following implementation of actual measures. It will also need to monitor firms to ensure they do not conduct anti-competitive activities by using the trade remedies as a means to encourage participation in international cartels or to devise

export controls by forming export cartels.

In addition, the further clarification of implementation standards and requirements should be considered in order to minimize the harmful impacts on users and consumers in view of competition under the current framework of trade remedies.

3. Development of human resources and strengthening cooperation with external experts & organizations in the field of competition policy

In strengthening the cooperation with East Asian countries in the field of competition policy, it is important to train staffs and experts in related fields and to build a good relationship with eminent experts. The JFTC should consider expanding its training program in order to upgrade staff skills as well as building a system of cooperation with academic groups, etc.

(Reference)

The Study Group on International Affairs of the Antimonopoly Act and Competition Policy

The Study Group on International Affairs of the Antimonopoly Act and Competition Policy is a research and advisory body for the Deputy Secretary General (in charge of international affairs) of the Japan Fair Trade Commission. It aims to exchange views on international affairs of the Antimonopoly Act and competition policy as well as to propose issues to be addressed by JFTC in future.

The study group has had intensive discussions and held four working sessions since March, 2002, focusing on the role of competition policy in strengthening economic partnership with East Asian countries.

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