

The JFTC closes its investigation into BHP Billiton's proposed acquisition of Rio Tinto's shares

<Tentative Translation>

December 3, 2008

Japan Fair Trade Commission

On December 2, 2008, the Japan Fair Trade Commission (“**JFTC**”) closed its investigation under the Antimonopoly Act into the proposed acquisition of all issued shares of Rio Tinto Limited and Rio Tinto plc by BHP Billiton Limited and BHP plc (“**BHP Billiton**”), which was announced by BHP Billiton on February 6, 2008 (“**Proposed Acquisition**”), as BHP Billiton, on November 27, 2008, announced that it had abandoned the Proposed Acquisition.

The JFTC commenced the formal investigation into the Proposed Acquisition at the end of July 2008 on suspicion that the Proposed Acquisition, if implemented, would have substantially restrained competition in some fields of trade where iron ore and coal (coking/metallurgical coal) have been supplied by seaborne trade (a suspicion of violation of Article 10 (1) of the Antimonopoly Act). The JFTC conducted the investigation based upon information provided by BHP Billiton following the JFTC's order to report, and its competitors and customers inside and outside Japan in response to the JFTC's requests.

The JFTC will continue to proactively respond to merger cases between foreign companies, as well as those between domestic companies, if they would have a great influence on competition in markets in Japan.