

Decision to Commence Hearing Procedures against Seed Distributors

January 17, 2008
Japan Fair Trade Commission

On January 15, 2008, the Japan Fair Trade Commission (JFTC) decided to commence hearing procedures against ten seed-distributors pursuant to Article 49(2) of the Antimonopoly Act (AMA) before amended in 2005, a provision that is applicable in accordance with transitional measures stipulated in the amendment law (Act No. 35 of 2005) of the AMA.

This case concerns a request from ten companies for commencement of JFTC's hearing procedures with regards to a surcharge payment order dated October 30, 2007, which the JFTC issued against Takii & Co., Ltd. and twelve other companies.

1. Outline of the Case

(1) Entrepreneurs

Ten seed-distributors

(2) Violations pertaining to the Surcharge Payment Order

Since March 19, 1998 at the latest, with regards to crossbreed seeds of Chinese cabbage, cabbage, daikon radish and turnip (hereinafter, "four types of crossbreed seed"), 32 companies including Takii & Co., Ltd. (hereinafter, "the 32 companies") had jointly determined the prices for each year as the standard price by which each company determined its selling prices (hereinafter, "the standard price"). All companies determined the selling price for each type of seed in line with fluctuations of the corresponding standard price from the one in the previous financial period, and agreed to sell it to other distributors and consumers at such selling prices.

These conducts, contrary to the public interest, substantially restrained competition in the field of trade for the four types of crossbreed seed in Japan. (Violates Article 3 of the AMA and falls under "Pertaining to consideration of goods" in Article 7-2(1) of the AMA.)

2 Initial Hearing and Venue

(1) Time: 14:00 on Monday March 3, 2008

(2) Venue: JFTC Hearings Court (Central Government Building No. 6, Block B, 19F)

Annex 1: Surcharge Payment Order pertaining to the Decision to Commence Hearing procedures

Name of Business	Payment Order No.	Surcharge
Takii & Co., Ltd.	No. 162 (Payment) 2007	101,890,000 yen
Sakata Seed Corporation	No. 163 (Payment) 2007	35,400,000 yen
Ishii Seed Growers Co. Ltd.	No. 164 (Payment) 2007	11,960,000 yen
Watanabe Seed	No. 165 (Payment) 2007	9,070,000 yen
Nippon Norin Seed Corporation	No. 167 (Payment) 2007	6,310,000 yen
Nanto Seed Co., Ltd	No. 170 (Payment) 2007	3,590,000 yen
Takayama Seed Co., Ltd.	No. 171 (Payment) 2007	1,700,000 yen
Nakahara Seed Co., Ltd.	No. 172 (Payment) 2007	1,450,000 yen
Yamato-Noen Co., Ltd. Seed Retail Division	No. 173 (Payment) 2007	1,040,000 yen
Matsunaga Seed	No. 174 (Payment) 2007	700,000 yen
Total		173,110,000 yen

Annex 2: Outline of the Violation and Applicable Law

1. Outline of the Violation (Facts)

(1) Since March 19, 1998 at the latest (since March 14, 2001 in case of some of the entrepreneurs), the 32 companies had acted together with regards to four types of crossbreed seed to annually set a standard price for each type of seed. All companies determined the selling price for each type of seed in line with fluctuations of the standard price from the one in the previous financial period, and agreed to sell it to other distributors and consumers at the price.

(2) In accordance with (1) above, the 32 companies determined the standard prices of the period from 1998 through 2001 for each of the four types of crossbreed seed sold by their own company in line with fluctuations from the previous financial period in the corresponding standard price, largely raising the prices in FY1998 and FY1999, and largely leaving prices as they were in FY2000 and FY2001.

(3) On August 29, 2001, the JFTC started investigations of the case pursuant to the provisions in the AMA. On October 4, of the said year, 26 of the 32 companies revoked the decision taken on March 14 of the said year concerning the above pricing practices for four types of crossbreed seed, and have since then made arrangements to the effect that they would not hold further discussion about the selling price for crossbreed seed. It is herewith recognized that as of said date the agreement described in (1) above is de facto lapsed.

2. Applicable Law

Concerning four types of crossbreed seed, the 32 companies set a standard price annually, and the all companies determined the selling price for each type of seed in line with fluctuations of the standard price from the one in the previous financial period and agreed to sell it to other distributors and consumers at such selling price. These conducts, contrary to the public interest, substantially restrained competition in the field of trade for the four types of crossbreed seed in Japan. This violates Article 3 of the AMA and falls under unreasonable restraint of trade defined Article 2(6) of the AMA.