

Cease and Desist Order and Surcharge Payment Order against
Manufacturers and Sellers of Steel Pipe Piles and Steel Sheet Piles
(Tentative Translation)

June 4, 2008
Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC), in accordance with the provisions of the Antimonopoly Act (AMA), has investigated manufacturers and sellers of steel pipe piles and steel sheet piles and found that they have engaged in activities that violate Article 3 (prohibition of unreasonable restraint of trade) of the AMA. Accordingly, the JFTC has today issued a cease and desist order pursuant to the provisions of Paragraph 2, Article 7 of the AMA and a surcharge payment order pursuant to Paragraph 1, Article 7-2 of the AMA.

1. The numbers of companies involved in the violation and companies subject to the cease and desist order and to the surcharge payment order (The names of companies subject to these orders and the amounts of surcharge payable by individual companies and others are specified in Appendix 1.)

	Number of violating companies	Number of companies subject to the cease and desist order	Number of companies subject to the surcharge payment order	Amount of the surcharge
Steel pipe piles	4	2	3	1,268,550,000 yen
Steel sheet piles	3	1	2	761,510,000 yen
Total				2,030,060,000 yen

2. Outline of the violation

(1) Steel pipe piles

JFE Steel Corporation (hereinafter, "JFE Steel"), Kubota Corporation (hereinafter, "Kubota"), Nippon Steel Corporation (hereinafter, "Nippon Steel") and Sumitomo Metal Industries, Ltd. (hereinafter, "Sumitomo Metal") formed an agreement on specific steel pipe piles ^(Note 1), according to which:

- a Around February 19, 2004, the base prices per kilogram applicable to contracts from April 2004 onwards would be set equivalent or higher than the prices specified in the Price column of Appendix 2 for different categories of constructors to increase the selling prices for constructors from the conventional levels; and
- b By around March 3, 2005, the base prices per kilogram applicable to contracts from April 2005 onwards would be set equivalent or higher than to the prices specified in the Price column of Appendix 3 for different categories of constructors to increase the selling prices for constructors from the conventional levels.

By entering into this agreement, they substantially restrained competition in the field of

sales for specific steel pipe piles in Japan, contrary to the public interest.

(2) Steel sheet piles

JFE Steel, Nippon Steel and Sumitomo Metal formed an agreement on specific steel sheet piles ^(Note 2), according to which:

- a Around March 18, 2004, the base prices per kilogram applicable to contracts from April 2004 onwards would be set at 75 yen or more for constructors operating nationwide (hereinafter, “major general constructors”) and at 77 yen or more for constructors other than the major general constructors to increase the selling prices for constructors from the conventional levels; and
- b Around February 9, 2005, the base prices per kilogram applicable to contracts from April 2005 onwards would be set at 77 yen or more for major general constructors and at 79 yen or more for constructors other than the major general constructors to increase the selling prices for constructors from the conventional levels.

By entering into this agreement, they substantially restrained competition in the field of sales for specific steel sheet piles in Japan, contrary to the public interest.

(Note 1) Refers to piles made solely of steel, including those with joints and other fittings and excluding screwed piles, which are used by constructors contracted to perform construction works by the national government, any local government, any corporation a majority of which is owned by the national government or any local government, Hokkaido Railway Company, East Japan Railway Company, Central Japan Railway Company, West Japan Railway Company, Shikoku Railway Company, Kyushu Railway Company or Japan Freight Railway Company for the construction works.

(Note 2) Refers to those steel sheet piles, excluding those sold to any party engaged in leasing such piles, which are used by constructors contracted to perform construction works by the national government, any local government, any corporation a majority of which is owned by the national government or any local government, Hokkaido Railway Company, East Japan Railway Company, Central Japan Railway Company, West Japan Railway Company, Shikoku Railway Company, Kyushu Railway Company or Japan Freight Railway Company for the construction works.

3. Outline of the cease and desist order

- (1) The companies concerned shall each adopt at their respective boards of directors or other bodies making decisions on business execution a resolution confirming that the agreements mentioned in 2 above have been cancelled and a resolution that they will no longer, among themselves or jointly with any other company, determine the selling prices of the specific steel pipe piles or the specific steel sheet piles for constructors and will separately set such prices at their respective discretion.
- (2) The companies concerned shall each make notification of the measures taken in accordance with (1) above to the other companies concerned as well as to those constructors with which they have transactions and make such measures well-known to their respective employees.
- (3) The companies concerned shall no longer, among themselves or jointly with any other company, determine the selling prices of the specific steel pipe piles or the specific steel sheet piles for constructors.
- (4) The companies concerned shall no longer, among themselves or jointly with any other company, exchange information about a revision to the selling prices of the specific steel

pipe piles or the specific steel sheet piles for constructors.

- (5) The companies concerned shall each take the necessary measures for ensuring that
 - a. Their respective action guidelines on compliance of their activities to sell their products with the AMA will be revised; and that
 - b. Regular training to sales personnel for the specific steel pipe piles or the specific steel sheet piles and regular audits performed by legal affairs personnel will be offered with regard to compliance of their activities to sell their products with the AMA on the basis of the results of the revision mentioned in a. above.

4. Outline of the surcharge payment order

- (1) JFE Steel, Nippon Steel and Kubota shall pay a total amount of 2,030,060,000 yen not later than September 5, 2008 (see Appendix 1).
- (2) In accordance with the provision in Paragraph 2, Article 4 in the Supplementary Provisions of the Amended Antimonopoly Act (Act No. 35 of 2005), a surcharge rate of 6% is applied to the amount of sales earned before January 4, 2006, when the aforementioned legislation came into force, for calculation of the amount of surcharge.

No.	Entrepreneur	Head Office Location	Representative	Cease and Desist Order		Surcharge Payment Order (thousand yen)		Total amount of surcharge (thousand yen)
				Specific steel pipe piles	Specific steel sheet piles	Specific steel pipe piles	Specific steel sheet piles	
1	JFE Steel Corporation	2-3 Uchisaiwaicho 2-chome, Chiyoda-ku, Tokyo	Hajime Bada, Representative Director			710,100	426,680	1,136,780
2	Nippon Steel Corporation	6-3 Otemachi 2-chome, Chiyoda-ku, Tokyo	Shoji Muneoka, Representative Director	-	-	345,540	334,830	680,370
3	Kubota Corporation	2-47 Shikitsu Higashi 1-chome, Naniwa-ku, Osaka	Daisuke Hatakake, Representative Director		/	212,910	/	212,910
4	Sumitomo Metal Industries, Ltd.	5-33 Kitahama 4-chome, Chuo-ku, Osaka	Hiroshi Tomono, Representative Director	-	-	-	-	-
Total				Two companies	One company	1,268,550	761,510	2,030,060

Note 1: In Appendix 1, the entrepreneurs indicated with a circle () are the addressees of the cease and desist order.

Note 2: In Appendix 1, the entrepreneurs indicated with a hyphen (-) committed a violation but are not included in the addressees of the cease and desist order or the surcharge payment order.

Note 3: In Appendix 1, the entrepreneurs marked with the slash (/) do not deal in the products concerned and did not commit the violation in question.

Appendix 2

Category of constructors	Price
Very large-scale general constructors	To be set on the basis of 93 yen and, if necessary, in the light of circumstances surrounding the specific constructor in this category
Major general constructors excluding very large-scale general constructors	To be set on the basis of 95 yen and, if necessary, in the light of circumstances surrounding the specific constructor in this category
Constructors other than major general constructors	To be set on the basis of 98 yen and in the light of the circumstances in the area covering the sites of construction works contracted to the specific constructor

Appendix 3

Category of constructors	Price
Very large-scale general constructors	To be set on the basis of 97 yen and, if necessary, in the light of circumstances surrounding the specific constructor in this category
Major general constructors excluding very large-scale general constructors	To be set on the basis of 98 yen and, if necessary, in the light of circumstances surrounding the specific constructor in this category
Constructors other than major general constructors	To be set on the basis of 103 yen and in the light of the circumstances in the area covering the sites of construction works contracted to the specific constructor