Attachment

Results of the Review of the Proposed Merger between Furukawa-Sky Aluminum Corp. and Sumitomo Light Metal Industries, Ltd.

I. The Parties and corporate groups concerned

1 The Parties

Furukawa-Sky Aluminum Corp. (hereinafter, “FSA”) is a company engaged in the manufacture and sale of rolled aluminum products, etc.

Sumitomo Light Metal Industries, Ltd. (hereinafter, “SLM”) is a company engaged in the manufacture and sale of rolled aluminum products, etc.

The parties described in V to VI below include the subsidiaries and the parent company of the parties which are described respectively in 2 and 3 below.

2 Subsidiaries of the Parties

Nippon Foil Mfg. Co., Ltd., which is a subsidiary of FSA, and Sumikei Aluminum Foil Co., Ltd., which is a subsidiary of SLM, are both engaged in the manufacture and sale of rolled aluminum products, etc.

Sumikei Copper Tube Co., Ltd., which is a subsidiary of SLM, is a company engaged in the manufacture and sale of copper tube products.

3 Parent company of the Parties

Furukawa Electric Co., Ltd., which is a parent company of FSA, is a company engaged in the manufacture and sale of copper tube products.

II. Outline of the case and the provision of applicable laws

FSA and SLM plan to merge on October 1, 2013 (hereinafter, “the Merger”).

The provision of applicable laws is Article 15 of the Antimonopoly Act (hereinafter, “the AMA”).

III. Reviewing process and outline of the results

1. Reviewing process

Commencing in May 2012, the parties have voluntarily submitted written opinions and relevant documents to the JFTC stating that, with respect to the rolled aluminum products and copper tube products in which the parties (including the subsidiaries and the parent company of the parties) compete, the parties consider that the Merger may not substantially restrain competition. The JFTC held several meetings with the parties at the request of the parties. Thereafter, on August 31, 2012, notification of a plan regarding the Merger was submitted by the parties. Accordingly, the JFTC received the notification and commenced a primary review on the same day. The JFTC conducted the primary review considering materials including the above notification and written opinions that were submitted by the parties, interviews with users and competitors, etc. As a result, it was determined that a more detailed review was necessary. Accordingly, on September 28, 2012, the JFTC requested that the parties submit reports, etc., and commenced a secondary review. In addition, the JFTC announced the commencement of the secondary review and began to accept information regarding the Merger from the general public. On the occasion of the request for reports, etc., the JFTC explained the current issues to the parties.

In the secondary review, the JFTC received a series of reports, etc., submitted by the parties and also held several meetings with the parties at the request of them. The JFTC conducted a further review of the effects of the Merger on competition considering the results of interviews with users and competitors and questionnaire surveys, and the information accepted from the general public, etc.

All the reports, etc., that the JFTC had requested from the parties had been submitted by January 31.

2. Outline of the results of the review

Regarding this case, the JFTC has concluded that the Merger may not substantially restrain competition in the fields of “aluminum sheet products (general use)”, “aluminum sheet products (end/tab stock)”, “aluminum foil products”, and “pure copper tube products”, in which the parties compete and in which the Merger seemed to have significant impacts on competition. The JFTC has also concluded that the Merger may not substantially restrain competition with respect to any other fields of trade.

The details of the results of the review on the fields of trade regarding “aluminum sheet products (general use)”, “aluminum sheet products (end/tab stock)”, “aluminum foil products”, and “pure copper tube products” are described in IV to VI below.

IV Aluminum sheet products

1 Particular field of trade

(1) Product ranges

Aluminum sheet products are sheets of aluminum (including aluminum alloys; the same shall apply hereinafter) with a thickness of more than 0.2 millimeters. These products are formed by means of a rolling process, in which semi-processed slabs of aluminum are passed through a rolling mill. The semi-processed slabs are made by melting and casting aluminum metal, either on its own or with chemical additives. Applications of aluminum sheet products include beverage cans and components of home appliances, automobiles, electronic products, Aluminum sheet products are also the raw material (hereinafter, “foil stock”) for aluminum foil products.

Aluminum sheet products can be divided into many product categories in terms of their composition or shape according to their applications. Of these many products, however, there is no substitutability for users with respect to end/tab stock (aluminum sheet products (end/tab stock)), which is used for the lids and pull tabs on beverage cans. Since the manufacturing facilities for end/tab stock must not only be of a certain minimum scale but also have the capability to apply protective coatings to prevent corrosion where the aluminum comes in contact with a beverage, there is no substitutability for suppliers. Consequently, the JFTC considers end/tab stock to constitute a separate product range from other sheet products. With regard to other sheet products (hereinafter, “aluminum sheet products (general use)”), although substitutability for users between products is not recognized, there is substitutability for suppliers since the products are manufactured using the same manufacturing facilities. Therefore, the JFTC considers aluminum sheet products (general use) to constitute a single product range.

Accordingly, the JFTC defined two product ranges: aluminum sheet products (general use) and aluminum sheet products (end/tab stock).

(2) Geographic range

a. Assertion by the Parties

The parties assert that the applicable geographic range is the area which includes Japan and the East Asian region (China, South Korea, Taiwan, and the ASEAN countries), because: (i) it is unavoidable for Japanese manufacturers of rolled aluminum products (hereinafter, “Japanese Aluminum manufacturers”) to compete with the manufacturers of rolled aluminum products in the East Asian area (hereinafter, “Aluminum manufactures in the East Asian area”), as users in Japan expand their businesses in the East Asian area; (ii) aluminum manufactures in the East Asian area develop their businesses in Japan and all over the East Asian area; (iii) users in the East Asian area and users in Japan purchase products from Japan and all over the East Asian area; (iv) aluminum is not likely to deteriorate during maritime transportation; (v) maritime transportation costs account for only several percent in the price of aluminum sheet products; (vi) as the raw metal price accounts for a large proportion of the price of rolled aluminum products, and as the raw metal price is based on the London Metal Exchange, prices of aluminum sheet products in Japan and the East Asian area tend to converge to the same price range; and (vii) the quality of aluminum sheet products does not differ greatly among counties including

Japan.

b. The JFTC’s viewpoint on this case

According to the materials submitted by the parties, the JFTC finds the assertions (i), (ii), (iv), and (v) to be reasonable. However, according to the user interviews and questionnaire surveys, the assertions (vi) and (vii) are not reasonable, for the following reasons: concerning (vi), different ranges of prices are formed between Japan and the East Asian area, because price differences exist to a certain degree between imported products and products made by Japanese aluminum manufacturers; and concerning (vii), users do not recognize that the quality of products made by Japanese aluminum manufacturers and that of import products are equivalent.

Under these circumstances, the market share of Japanese aluminum manufacturers in Japan is high while their share in the East Asian area is low. Accordingly, the assertion (iii) by the parties is likewise not reasonable.

Meanwhile, in Japan, there are no constraints on the transportation of aluminum sheet products from the viewpoint of difficulties with transport and the cost of transport. The parties and their competitors conduct sales all over Japan and circumstances showing a difference in selling prices according to regions have not been identified.

Accordingly, “all of Japan” is defined as being the geographic range for this product.

2 Review concerning substantial restraint of competition

(1) Sheet products (general use)

a. Changes in the market structure

After the Merger, the combined post-merger market share of the parties will be approximately 50 percent (ranked first) and HHI will increase by about 1,200 to approximately 3,200, which will not meet the safe harbor threshold* for horizontal business combinations.

* Part IV 1(3) of “Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination”

Market share of sheet products (general use) in the fiscal year 2011

	Company name	Market share
1	FSA	Approximately 30%
2	Company A	Approximately 20%

3	SLM	Approximately 20%
4	Company B	Approximately 10%
5	Company C	5-10%
6	Company D	0-5%
	Imports	5-10%
Total		100%

b. Status of competitors

Companies A, B, and C each have market shares to a certain degree, and the utilization rates of the manufacturing facilities of these three companies are not high. Therefore, the JFTC recognizes that these three companies have excess supply capacity.

c. Import pressure

Over the past 10 years the import rates have generally moved within a range of three to six percent. Although there is no evidence that imports are making large market share gains, products from aluminum manufactures in the East Asian area are being imported constantly.

According to interviews with users and competitors and questionnaire surveys, the quality of imported aluminum products is catching up with that of Japanese aluminum manufacturers for certain applications, although some concerns remain in the area of stability. For example, imported aluminum products are unfit for applications where design characteristics are paramount, such as areas where bare aluminum is exposed on the surface. However, imported products can be used without any problem in generic items or in applications where a coating covers the aluminum.

The shipping costs required for imports are negligible if they come from the East Asian area, and imports are subject to a two percent tariff. Furthermore, quality deterioration is highly unlikely to occur due to shipping.

Therefore, the JFTC recognizes that there is import pressure to a certain degree.

d. Competitive pressure from neighboring markets (product range)

Aluminum as a material is in a situation in which it is competing with other lighter and stronger materials (plastic, carbon fiber, etc.) or other metals (stainless steel, etc.) for various applications.

Therefore, the JFTC recognizes that there is competitive pressure from neighboring markets (product range).

e. Competitive pressure from neighboring markets (geographic range)

Some users of aluminum sheet products (general use) are relocating their production bases to the East Asian area and elsewhere in the interest of cutting costs because they are being exposed to competition from imports in their own product markets. Following their customers' lead, Japanese aluminum manufacturers are also working to promote sales overseas. According to the parties, major overseas aluminum manufacturers, such as Alcoa, Novelis, and Hydro, are actively pursuing sales in the East Asian area. Furthermore, emerging corporations in China and elsewhere in recent years have made large-scale capital investments to quickly scale-up their manufacturing capacities.

Users of aluminum sheet products (general use) that have moved their production bases from Japan to the East Asian area are procuring raw materials locally as a means of cutting costs. Such users, when negotiating prices with the parties, have asserted that they will purchase, or are considering purchasing, products from major overseas aluminum manufacturers or others in place of products from Japanese aluminum manufacturers.

Accordingly, the JFTC recognizes that there is competitive pressure from neighboring markets (geographic range).

f. Assessment under the AMA

(a) Substantial restraint of competition by unilateral conduct

Although the Merger will result in the merged company having a market share of approximately 50 percent, the JFTC considers that there is little possibility of a situation developing in which the merged company would be able to manipulate prices, etc. to any extent through unilateral conduct, and thus concludes that the Merger may not substantially restrain competition in the field of trade, for the following reasons: (i) there are competitors which have certain market shares and have excess capacities; (ii) there is import pressure to a certain degree; and (iii) there is competitive pressure from neighboring markets.

(b) Substantial restraint of competition through coordinated conduct

Although the Merger will result in the number of companies in the aluminum sheet products (general use) market being reduced from six to five, the JFTC considers that there is little possibility of a situation developing in which the parties and competitors would be able to manipulate prices, etc. to any extent through coordinated conduct, and thus concludes that the Merger may not substantially restrain competition, for the following reasons: (i) as the merged company and each competitor with a certain market share both have excess capacities, thus they have room to deprive competitors' sales by cutting prices; (ii) as there is import pressure to a certain degree, should companies in Japan were to raise the domestic price through coordinated conduct, they would lose sales to greater imports;,; and (iii) there is competitive pressure from neighboring markets.

(2) Sheet products (end/tab stock)

a. Changes in market structure

After the Merger, the combined post-merger market share of the parties will be approximately 70 percent (ranked first). HHI will increase by about 2,200 to approximately 5,500, which will not meet the safe harbor threshold for horizontal business combinations.

Market share of sheet products (end/tab stock) in the fiscal year 2011

	Company name	Market share
1	SLM	Approximately 40%
2	Company E	Approximately 30%
3	FSA	Approximately 30%
Total		100%

b. Status of competitors

Although Company E has a certain market share, the utilization rate of its manufacturing facility is high. Therefore, Company E has no excess capacity.

c. Competitive pressure from users

In interviews and questionnaire surveys of beverage can manufacturers (hereinafter, "beverage can manufacturers"), who are users of aluminum sheet products, almost all beverage can manufacturers that purchase aluminum sheet products (end/tab stock) from the parties or from Company E said they purchase end/tab stock together with body materials used for the side and bottom of beverage cans (hereinafter, "body materials"). The parties stated that the ratio by weight of end/tab stock to body materials in a 350-milliliter can, for example, is generally one to three. Therefore, beverage can manufacturers actually purchase greater volumes of body materials than aluminum sheet products (end/tab stock).

Body materials are manufactured and sold by the parties, Company E, and Company B, a manufacturer of aluminum sheet products (general use). In addition, imported body materials are distributed in the domestic market.

Thus, should the merged company attempt to increase the price of aluminum sheet products (end/tab stock), beverage can manufacturers that currently purchase aluminum sheet products (end/tab stock) and body materials together may claim that they would switch to Company B or Company E for body materials, or else to importing from aluminum manufactures in the East Asian area. Therefore, the JFTC recognizes that competitive pressure from these users will constrain the ability of the merged company to increase prices. Similarly, beverage can manufacturers that currently purchase only aluminum sheet products (end/tab stock) may claim that they would consider importing from aluminum manufactures in the East Asian area, taking the claims in Section d. below into consideration. Therefore, the JFTC recognizes that competitive pressure from these users will also constrain the ability of the merged company to increase prices.

Accordingly, the JFTC recognizes that there is competitive pressure from users.

d. Import pressure

In interviews, beverage can manufacturers stated they do not import aluminum sheet products (end/tab stock) from aluminum manufactures in the East Asian area because of concerns about quality and stability of procurement.

On the other hand, materials submitted by the parties note that the quality of aluminum sheet products (end/tab stock) from aluminum manufactures in the East Asian area compares favorably with the parties' products. Furthermore, with regard to the stability of procurement, beverage can manufacturers have a track record of importing body materials from aluminum manufactures in the East Asian area. Therefore, the JFTC recognizes no particular hindrance to importing aluminum sheet products (end/tab stock). Moreover, beverages contained in aluminum cans produced in the East Asian area are sold in Japan without distinction from beverages contained in aluminum cans produced in Japan. Therefore, because these beverages are distributed without hindrance, the JFTC recognizes that there is no substantial functional difference between aluminum cans manufactured with products from aluminum manufactures in the East Asian area and aluminum cans manufactured with products from Japanese aluminum manufacturers.

Although there are no imports at the present time, given the findings above, the JFTC does not recognize any special factors preventing imports other than beverage can manufacturers' low assessment of aluminum sheet products (end/tab stock) from aluminum manufactures in the East Asian area compared to that of aluminum sheet products (end/tab stock) from Japanese aluminum manufacturers. Therefore, the JFTC considers that changes to the competitive environment could result in the importation of aluminum sheet products (end/tab stock) if beverage can manufacturers were to change their assessment of imported products.

e. Assessment under the AMA

(a) Substantial restraint of competition by unilateral conduct

Although the Merger will result in the merged company having a market share of about 70 percent, the JFTC considers that there is little possibility of a situation developing in which the merged company would be able to manipulate prices, etc. to any extent through unilateral conduct, and thus concludes that the Merger may not substantially restrain competition, for the following reasons: (i) there is competitive pressure from users; (ii) there is a competitor with a certain market share; and (iii) although there are no imports at the present time, there is the potential for changes to the competitive environment to trigger imports if beverage can manufacturers were to change their assessment of imported products.

(b) Substantial restraint of competition through coordinated conduct

Although the Merger will result in the number of companies in the aluminum sheet products (end/tab stock) market being reduced from three to two, the JFTC considers that there is little possibility of a situation developing in which the merged company and their competitor would be able to manipulate prices, etc. to any extent through coordinated conduct, and thus concludes that the Merger may not substantially restrain competition, for the following reasons: (i) the JFTC recognizes that beverage can manufacturers, the users, have strong bargaining power over price negotiations with respect to the price of aluminum sheet products (end/tab stock) strengthened by the volumes of body materials they purchase; and (ii) although there are no imports at the present time, there is the potential for changes to the competitive environment to trigger imports if beverage can manufacturers were to change their assessment of imported products.

V Aluminum foil products

1 Particular field of trade

(1) Product range

Aluminum foil products are aluminum products with a thickness of 0.2 millimeters or less. These products are formed by rolling foil stock using a rolling mill. Applications of aluminum foil products include packaging for food and medical supplies, liners for drink boxes, cathode and anode components in electrolytic capacitors, and daily use products such as aluminum foil for household use.

Aluminum foil products consist of plain foil (non-processed foil) manufactured by simply rolling the foil stock, and processed foil, in which some additional processing is performed on the plain foil.

a. Processed foil

Processed foil products are generally manufactured in one of two ways: a processor, called a converter, procures unprocessed foil from an aluminum manufacturer and applies finishing processes; or a user of processed foil (such as a food manufacturer), often as a food packaging material (wrapping materials, retort pouches, etc.), procures unprocessed foil from an aluminum manufacturer and applies finishing processes internally.

In the area of converters, there are businesses that can manufacture various types of processed foils and businesses that specialize in manufacturing specific processed foils (e.g., liners for drink boxes).

Processed foils can be divided into various product categories according to their application and finishing process. As such, there is no substitutability between products for users. Furthermore, because the manufacturing facilities differ depending on the finishing process, there is no substitutability for suppliers either.

Consequently, in normal circumstances, it would be appropriate to define separate product ranges for processed foils respectively by their application and finishing process. However, in all of these potential product ranges, the JFTC considers that the Merger will not have a large influence on the sales market of any processed foil type due to the presence of converters and because the combined market share of the parties is estimated to be sufficiently small. Therefore, as the product range, the JFTC did not define separate product ranges for processed foils by their application and finishing process, and instead collectively refer to them as foil products (processed foils).

The range of foil products (processed foils) meets the safe harbor threshold for horizontal business combinations.

b. Non-processed foil

In the same way as aluminum sheet products (general use), non-processed foil products can be divided into various product categories by their composition or shape according to their application. As such, there is no substitutability between products for users. Of these products, high-purity aluminum foil used in electrolytic capacitor cathodes undergoes a finishing process after rolling that is different from other products in order to ensure the foil's high conductivity. Therefore, because of this unique finishing process, the JFTC considers high-purity aluminum foil to constitute a separate product range, as there is no substitutability for suppliers. With regard to other products, although substitutability between products for users is not recognized, there is substitutability for suppliers since the products are manufactured using the same manufacturing facilities. Therefore, the JFTC considers all non-processed foil products other than high-purity aluminum foil to constitute a single product range.

Accordingly, the JFTC defined two product ranges: general-use foil products and high-purity foil products for capacitors.

Since the parties do not compete in high-purity foil products for capacitors, the JFTC's examination below only considers general-use foil products.

(2) Geographic range

a. Assertion by the Parties

The parties assert that the applicable geographic range is the area which includes Japan and the East Asian area, because: (i) it is unavoidable for Japanese manufacturers of aluminum foil products to compete with the manufacturers of aluminum foil products in the East Asian area, as users in Japan expand their businesses in the East Asian area; (ii) aluminum manufactures in the East Asian area develop their businesses in Japan and all over the East Asian area; (iii) users in the East Asian area and users in Japan purchase products from Japan and all over the East Asian area; (iv) aluminum is not likely to deteriorate during maritime transportation; (v) maritime transportation costs account for only several percent in the price of aluminum foil products; (vi) as the raw metal price accounts for a large proportion of the price of aluminum foil products, and as the raw metal price is based on the London Metal Exchange, prices of aluminum foil products in Japan and the East Asian area tend to converge to the same price range; and (vii) the quality of aluminum foil products does not differ greatly among counties including Japan.

b. The JFTC's viewpoint on this case

According to the materials submitted by the parties, the JFTC finds assertions (i), (ii), (iv), and (v) to be reasonable. However, according to the user interviews and questionnaire surveys, assertions (vi) and (vii) are not reasonable, for the following reasons: concerning (vi), different ranges of prices are formed between Japan and the East Asian area, because price differences exist to a certain degree between imported products and products made by Japanese aluminum manufacturers; and concerning (vii), users do not recognize that the quality of products made by Japanese aluminum manufacturers and that of import products are equivalent. Under these circumstances, the market share of Japanese aluminum manufacturers in Japan is high while their share in the East Asian area is low. Accordingly, assertion (iii) by the parties is likewise not reasonable.

Furthermore, in Japan, there are no constraints on the transportation of aluminum foil products from the viewpoint of difficulties with transport and the cost of transport. The parties and their competitors conduct sales all over Japan. Circumstances showing a difference in selling prices according to region have not been identified.

Accordingly, “all of Japan” is defined as being the geographic range for this product.

2 Review concerning substantial restraint of competition

(1) Changes in market structure

After the Merger, the combined post-merger market share of the parties will be approximately 25 percent (ranked second). HHI will increase by about 350 to approximately 3,000, which will not meet the safe harbor threshold for horizontal business combinations.

Market share of foil products (general use) in the fiscal year 2011

	Company name	Market share
1	Company F	Approximately 40%
2	Nippon Foil Mfg. Co., Ltd.	Approximately 15%
3	Sumikei Aluminum Foil Co., Ltd.	Approximately 10%
4	Company G	Approximately 10%
	Imports	Approximately 25%
Total		100%

(2) Status of competitors

Companies F and G have considerable market share, and the utilization rates of the manufacturing facilities of these two companies are not high. Therefore, the JFTC recognizes that these two companies have excess capacities.

(3) Import pressure

Imported products account for about 25 percent of the market. This is primarily because users will adopt imports when they can purchase large volumes of products with uniform specifications, such as daily use products (e.g., aluminum foil for household use) and aluminum foil used as liners for drink boxes.

Despite some users being reluctant to adopt imports for certain applications because of quality issues, other users are actively considering adopting imports to take advantage of cost benefits due to the high value of the yen in recent years. Furthermore, users who adopted imports report that there is no substantial difference in quality between products from Japanese aluminum manufacturers and imports from the East Asian area.

Because foil products are shipped by sea in packaged rolls, there is the potential for some quality deterioration due to shipping, such as the formation of creases or kinks. Nevertheless, shipping costs are negligible and imports from the East Asian area are cheaper in price than the products of domestic manufacturers, even though the tariff rate is 7.5 percent.

Accordingly, the JFTC recognizes that there is effective import pressure.

(4) Competitive pressure from neighboring markets (product range)

Aluminum foil, as a material, competes against a wide range of other materials, such as paper, plastics, and other kinds of metallic foils. Furthermore, certain applications for downstream product face competitive pressure from the neighboring markets of the downstream product, such as plastic PET bottles competing against drink boxes.

Accordingly, the JFTC recognizes that there is competitive pressure from neighboring markets (product range).

3 Assessment under the AMA

(1) Substantial restraint of competition by unilateral conduct

Although the Merger will result in the parties having a market share of approximately 25 percent, the JFTC considers that there is little possibility of a situation developing in which the parties would be able to manipulate prices, etc. to any extent through unilateral conduct, and thus concludes that the Merger may not substantially restrain competition, for the following reasons: (i) there are competitors which have certain market shares and have excess capacities; (ii) there is effective import pressure; and (iii) there is competitive pressure from neighboring markets (including competitive pressure from neighboring markets of the downstream product market)..

(2) Substantial restraint of competition through coordinated conduct

Although the Merger will result in the number of companies in the foil products (general use) products market being reduced from four to three, the JFTC considers that there is little possibility of a situation developing in which the parties and their competitors would be able to manipulate prices, etc. to any extent through coordinated conduct, and thus concludes that the Merger may not substantially restrain competition, for the following reasons: (i) as the parties and each competitor with a certain market share both have excess capacities, they have room to deprive competitors' sales by cutting prices; (ii) as there is import pressure to a certain degree, should companies in Japan were to raise the domestic price through coordinated conduct, they would lose sales to greater imports;; and (iii) there is competitive pressure from neighboring markets (including competitive pressure from neighboring markets of the downstream product market).

VI Pure copper tube products

1 Particular field of trade

(1) Product range

Pure copper tube is a copper product manufactured using a minimum of 99 percent pure copper. Applications include heat exchangers in air-conditioners and refrigeration units, water heaters, and warm-water plumbing.

Various pure copper tube products exist having different copper compositions and shapes. Although substitutability between products for users is not recognized, there is substitutability for suppliers since the products are manufactured using the same manufacturing facilities. Therefore, the JFTC considers all pure copper tube products to constitute a single product range.

Accordingly, the JFTC defined pure copper tube products as the product range.

(2) Geographic range

a. Assertion by the parties

The parties assert that the applicable geographic range is the area which includes Japan and the East Asian area, because: (i) it is unavoidable for Japanese manufacturers of pure copper tube products (hereinafter, "Japanese pure copper tube manufacturers") to compete with the manufacturers of pure copper tube products in the East Asian area (hereinafter, "pure copper tube manufactures in the East Asian area"), as users in Japan expand their businesses in the East Asian area; (ii) pure copper tube manufactures in the East Asian area develop their businesses in Japan and all over the East Asian area; (iii) users in the East Asian area and users in Japan purchase products from Japan and all over the East Asian area; (iv) pure copper tube is not likely to deteriorate during maritime transportation; (v) maritime transportation costs account for only several percent in the price of pure copper tube products; (vi) as the raw metal price accounts for a large proportion of the price of pure copper tube products, and as the raw metal price is based on the London Metal

Exchange, prices of pure copper tube products in Japan and the East Asian area tend to converge to the same price range; and (vii) the quality of pure copper tube products does not differ greatly among counties including Japan.

b. The JFTC's viewpoint on this case

According to the materials submitted by the parties, the JFTC finds assertions (i), (ii), (iv), and (v) to be reasonable. However, according to the user interviews and questionnaire surveys, assertions (vi) and (vii) are not reasonable, for the following reasons: concerning (vi), different ranges of prices are formed between Japan and the East Asian area, because price differences exist to a certain degree between imported products and products made by Japanese pure copper tube manufacturers; and concerning (vii), users do not recognize that the quality of products made by Japanese pure copper tube manufacturers and that of import products are equivalent. Under these circumstances, the market share of Japanese pure copper tube manufacturers in Japan is high while their share in the East Asian area is low. Accordingly, assertion (iii) by the parties is likewise not reasonable.

Furthermore, in Japan, there are no constraints on the transportation of pure copper tube products from the viewpoint of difficulties with transport and the cost of transport. The parties and their competitors conduct sales all over Japan. Circumstances showing a difference in selling prices according to region have not been identified.

Accordingly, "all of Japan" is defined as being the geographic range.

2 Review concerning substantial restraint of competition

(1) Changes in market structure

After the Merger, the combined post-merger market share of the parties will be approximately 35 percent (ranked second). HHI will increase by about 400 to approximately 2,800, which will not meet the safe harbor criteria for horizontal business combinations.

Company I, with the third market share, has withdrawn from the market as of March 2012.

Market share of pure copper tube products in fiscal year 2011

	Company name	Market share
1	Company H	Approximately 35%
2	Sumikei Copper Tube Co., Ltd.	Approximately 25%
(3)	(Company I)	Approximately 15%
4	Furukawa Electric Co., Ltd.	Approximately 10%
	Imports	Approximately 15%
Total		100%

(2) Status of competitors

Although Company H has a considerable market share, the utilization rate of its manufacturing facility is high. Therefore, company H has no excess capacity.

(3) Import pressure

Imported products account for about 15 percent of the market. This is primarily because users recognize imports as having the same level of quality as products from Japanese pure copper tube manufacturers for applications where complex processing is not required.

Pure copper tube is shipped as straight pipes or in coils. The nature of the products is such that quality deterioration is highly unlikely to occur due to shipping. The shipping costs are negligible, and imports are subject to a three percent tariff. Interviews with users found that products from pure copper tube manufactures in the East Asian area are cheaper than products from Japanese pure copper tube manufacturers. Users are actively moving to products from pure copper tube manufactures in the East Asian area to take advantage of cost benefits, after accounting for disadvantages in comparison with Japanese pure copper tube manufacturers, such as longer delivery times and the inability of manufacturers to provide meticulous .services.

Accordingly, the JFTC recognizes that there is effective import pressure.

(4) Competitive pressure from neighboring markets (product range)

Warm-water plumbing, one of the main applications of pure copper tube, is steadily being replaced by plastic tube and stainless-steel tube. Heat exchangers make up the greater part of the demand for pure copper tube. However, aluminum tube is starting to be considered as an alternative to pure copper tube in heat exchangers for air-conditioning units.

Accordingly, the JFTC recognizes that there is competitive pressure from neighboring markets (product range).

(5) Competitive pressure from neighboring markets (geographic range)

Many home appliance manufacturers (hereinafter, “home appliance manufacturers”), which are major users of pure copper tube, have relocated or are relocating their production bases overseas. Following their customers’ lead, Japanese pure copper tube manufacturers are also working to expand their product sales overseas.

Japanese home appliance manufacturers that have moved their production bases to the East Asian area are exposed to competition with imports in the sales markets for their own products. To make their products more price-competitive, these manufacturers are adopting products from pure copper tube manufactures in the East Asian area in the interest of cutting costs. In fact, air-conditioner units re-imported from Japanese home appliance manufacturers' plants located in the East Asian area use pure copper tube manufactured in the East Asian area.

In some cases, home appliance manufacturers have claimed, in price negotiations with the parties, that they have purchased or are considering purchasing products from pure copper tube manufactures in the East Asian area in place of products from Japanese pure copper tube manufacturers.

Accordingly, the JFTC recognizes that there is competitive pressure from neighboring markets (geographic range).

(6) Entry pressure

Manufacturers of copper products made from brass (an alloy of copper and zinc) (hereinafter, "brass products") ordinarily manufacture only brass products to avoid the costs associated with cleaning furnaces, which is necessary in order to switch over to manufacturing other types of copper products. However, since the structure of manufacturing facilities for pure copper products and brass products are essentially the same, it is technically possible for these manufacturers to manufacture pure copper tube if they clean their furnaces.

Consequently, the JFTC considers that, should the parties raise their prices after the Merger, brass product manufacturers could enter the field of trade regarding pure copper tube without requiring massive entry costs.

Accordingly, the JFTC recognizes that there is entry pressure.

(7) Competitive pressure from users

Major users of pure copper tube are home appliance manufacturers which have a strong bargaining power in price negotiations strengthened by their purchasing power. Other users also purchase pure copper tube from multiple pure copper tube manufacturers to ensure stable procurement and to strengthen their bargaining positions.

Accordingly, the JFTC recognizes that there is competitive pressure from users.

3 Assessment under the AMA

(1) Substantial restraint of competition by unilateral conduct

Although the Merger will result in the parties having a market share of approximately 35 percent, the JFTC considers that there is little possibility of a situation developing in which the parties would be able to manipulate prices, etc. to any extent through unilateral conduct, and thus concludes that the Merger may not substantially restrain competition, for the following reasons: (i) there is a competitor with a certain market share; (ii) there is effective import pressure; (iii) there is entry pressure; and (iv) there is competitive pressure from neighboring markets and users.

(2) Substantial restraint of competition through coordinated conduct

Although the Merger will result in the number of companies in the pure copper tube market being reduced from three to two, the JFTC considers that there is little possibility of a situation developing in which the parties and their remaining competitor would be able to manipulate prices, etc. to any extent through coordinated conduct, and thus concludes that the Merger may not substantially restrain competition, for the following reasons: (i) there is a competitor with a certain market share; (ii) as there is effective import pressure, should companies in Japan were to raise the domestic price through coordinated conduct, they would lose sales to greater imports; (iii) there are entry pressure and competitive pressure from neighboring markets.