

**MEMORANDUM ON ANTIMONOPOLY COOPERATION
BETWEEN
THE FAIR TRADE COMMISSION OF JAPAN
AND
THE NATIONAL DEVELOPMENT AND REFORM COMMISSION
OF THE PEOPLE’S REPUBLIC OF CHINA**

The Fair Trade Commission of Japan (JFTC) and the National Development and Reform Commission of the People’s Republic of China (NDRC) (hereinafter collectively referred to as the “Sides” and individually referred to as the “Side”), based on the principles of equality and mutual benefit, HAVE reached as follows;

I. PURPOSE AND PRINCIPLE OF COOPERATION

The purpose of this Memorandum is to contribute to the effective enforcement of the competition law of each country through the development of cooperative relationship between the Sides.

The Sides will cooperate with and provide assistance to each other, to the extent compatible with the laws and regulations in force in their respective countries, their reasonably available resources, and their respective important interests.

The Sides will promote competition by addressing anti-competitive activities in accordance with the laws and regulations of their respective countries, in order to facilitate the efficient functioning of the markets of their respective countries. The Sides express their intention to take any appropriate measures for such purposes in conformity with the principles of transparency, non-discrimination, and procedural fairness.

II. ANNUAL CONSULTATION

1. The Sides will hold consultations at least once a year to:
 - (a) exchange information on their current enforcement efforts and priorities in relation to the competition law of each country;
 - (b) exchange information on economic sectors of common interest;
 - (c) discuss policy matters in which they are interested;
 - (d) discuss other matters of mutual interest relating to the enforcement of the competition law of each country; and
 - (e) discuss development relating to bilateral or multilateral fora that may be relevant to the cooperative relationship between the Sides.

2. Unless otherwise decided, the location of the consultations mentioned in paragraph 1 above will alternate between Japan and the People’s Republic of China.

III. COMMUNICATION

1. The Sides will work together in the following areas, subject to reasonably available resources:
 - (a) keeping each other informed of significant developments of competition policy and enforcement of competition law in their respective jurisdictions;
 - (b) exchanging experiences on competition law enforcement, when appropriate;
 - (c) seeking information from one another regarding matters of competition policy and law enforcement;
2. The Sides, for the purpose of contributing to the effective enforcement of the competition law of their respective countries, express their intention to provide information to each other on individual cases that the Sides investigate in accordance with the laws and regulations of their respective countries, and subject to their respective reasonably available resources.
3. The Sides may engage in communication, separate from the annual consultation, at senior or working level.
4. The Sides will appoint the following liaisons for the purpose of facilitating cooperation based on this Memorandum, and will effectively operate sufficient interchanges and cooperation between the liaisons.

JFTC:

International Affairs Division, Secretariat, General Secretariat

NDRC:

Division of Competition Policy and International Cooperation, Bureau of Price Supervision and Anti-monopoly

5. Communication between the Sides may be carried out by telephone, electronic mail, videoconference, meeting or other means, as appropriate.

IV. TECHNICAL COOPERATION

1. The Sides recognize that it is in their common interest to work together in technical cooperation activities related to strengthening of competition policy and implementation of the competition laws of both countries.
2. The Sides intend to develop detailed work plans of cooperative activities under this Memorandum, which may include law enforcement capacity building and other activities, and to revise and update such work plans as necessary.

V. NOTIFICATION

Where enterprises in the jurisdiction of one Side are involved in a case which is investigated by the other Side, at appropriate and feasible timing and occasions, the Side conducting the investigation may notify the other Side of the case to the extent compatible with the laws and regulations.

VI. CONFIDENTIALITY

1. The Sides do not intend to communicate information to each other if such communication is prohibited by the laws governing the Side possessing the information or would be incompatible with that Side's important interests. Insofar as information is communicated, the Side that receives the information will, to the extent consistent with the laws of its country, maintain the confidentiality of any such information communicated to it in confidence.
2. Information, other than publicly available information, communicated by a Side to the other in line with the content of this Memorandum will be confidentially used by the receiving Side only for the purpose specified in "PURPOSE AND PRINCIPLE OF COOPERATION" of this Memorandum, unless the Side providing the information has approved otherwise.
3. The Sides will take appropriate measures so that the information provided in line with the content of this Memorandum will not be used for criminal proceedings carried out by courts or judges of each country.

VII. OTHERS

1. The cooperation under this Memorandum will commence on the date of signature and will continue for an initial term of two years. If both Sides decide it is of continued benefit it can be extended for a period of time with mutual consent of the Sides.
2. Either Side may terminate the cooperation under this Memorandum upon thirty (30) days written notice to the other Side.
3. Nothing in this Memorandum is intended to create legally binding rights or obligations. All cooperation under this Memorandum between the Sides will be conducted subject to the laws and regulations in force in their respective countries and within the reasonably available resources of each Side.
4. The Sides will consult regarding any questions concerning this Memorandum.
5. This Memorandum may be modified with mutual written consent of the Sides.

6. Detailed rules to operate this Memorandum may be made between the Sides as necessary.

Signed in Beijing on this 13th day of October 2015, in the Chinese and Japanese languages, both versions having equal values.

For the Fair Trade Commission of
Japan

For the National Development and
Reform Commission of the People's
Republic of China

Mr. Kazuyuki Sugimoto
Chairman
The Fair Trade Commission of Japan

Mr. Hu Zucui
Vice Chairman
The National Development and Reform
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