

**MEMORANDUM ON COOPERATION BETWEEN
THE FAIR TRADE COMMISSION OF JAPAN
AND
THE COMPETITION AUTHORITY OF KENYA**

The Fair Trade Commission of Japan (JFTC) and the Competition Authority of Kenya (CAK) (hereinafter collectively referred to as “Sides”, and individually referred to as “Side”),

Recognizing the importance of cooperation and coordination between the Sides in order to enhance an environment in which the sound and effective enforcement of competition law and policy supports the efficient markets and economic welfare of the citizens of Japan and Kenya;

Recognizing the value and importance of mutual cooperation in the effective implementation of competition law and policy in the respective countries; and

Recognizing that establishing good communication between the Sides on competition law and policy will contribute to improving and strengthening the relationship between the Sides,

Have hereby reached as follows;

**Paragraph 1
Definitions**

For the purposes of this Memorandum, the term “competition law” means:

- (a) for Japan, the Law Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Law No. 54, 1947) and its implementing regulations as well as any amendments thereto; and
- (b) for Kenya, the Competition Act (Law No.12, 2010) and its implementing regulations as well as any amendments thereto.

**Paragraph 2
Purpose 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 a cooperative relationship

between the Sides.

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

Paragraph 3 **Scope of Cooperation**

3.1. The Sides will cooperate in the following areas, subject to the laws, the common interest of the Sides and their respective reasonably available resources:

- (a) providing the other Side with information that is relevant to the enforcement activities of the other Side;
- (b) exchanging information on new/proposed legislation, including exchanging publications and other publicly available documents;
- (c) exchanging experiences on the enforcement of their competition laws, when appropriate;
- (d) seeking information from one another regarding matters of competition policy and enforcement of their competition laws; and
- (e) any other form of cooperation that may be jointly decided upon by the Sides.

3.2. Officials of the Sides may meet, as appropriate, to share the experience in the fields of competition law and policy.

3.3. The Sides will appoint the following liaisons for the purpose of facilitating cooperation under this Memorandum, and will ensure effective communication and cooperation between the liaisons. The liaisons of each Side are as follows:

- (a) for JFTC: International Affairs Division, Secretariat, General Secretariat; and
- (b) for CAK: Policy, Research and Advocacy Department

3.4. Communication between the Sides may be carried out by telephone, electronic mail, videoconferences, face-to-face meetings or other means, as appropriate.

Paragraph 4
Cost and Expenses

4.1. This Memorandum does not entail any obligation on either Side concerning the sharing of administrative expenses, including budget, time and human resources.

4.2. Concerning visits and meetings, the host Side will arrange for the conference venue, and cover all related expenses. All other expenses, including international and intercity travel expenses, as well as meals/per diem and accommodation will be covered by the visiting Side.

Paragraph 5
Technical Cooperation

5.1. 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 law of each country.

5.2. The technical cooperation activities may include, within the reasonably available resources of the Sides, the following:

- (a) exchange of personnel of the Sides for training purposes;
- (b) participation of personnel of the Sides as lecturers or consultants at training courses on the implementation of competition law and policy organized or sponsored by either or both Sides; and
- (c) any other form of technical cooperation as the Sides may decide.

Paragraph 6
Confidentiality

6.1. Each Side will, in line with the laws and regulations of its country, maintain the confidentiality of any information provided to it in confidence by the other Side under this Memorandum.

6.2. Information, other than publicly available information, provided by a Side to the other

Side under this Memorandum, will be used by the receiving Side only for the purpose of the effective enforcement of the competition law and will not be disclosed by the receiving Side to other authorities or to any third party.

6.3. Notwithstanding any other paragraphs of this Memorandum, neither Side is required to provide information to the other Side if it is prohibited from providing the information by the laws and regulations of its country or if it finds providing the information incompatible with its important interests.

6.4. Information, other than publicly available information, provided by a Side to the other Side under this Memorandum, will not be used by the receiving Side in criminal proceedings carried out by a court or a judge of the country of the receiving Side.

6.5. This paragraph will not preclude the use or disclosure of information provided under this Memorandum to the extent such use or disclosure is required by the laws and regulations of the country of the receiving Side. In such case, the receiving Side will, wherever possible, give advance notice of any such use or disclosure to the providing Side.

Paragraph 7 Miscellaneous

7.1. 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.

7.2. Nothing in this Memorandum is intended to create legally binding rights or obligations on the Sides or their respective governments.

Paragraph 8 Duration, Modification and Termination

8.1. The cooperation under this Memorandum will commence on the date of signature.

8.2. Either Side may terminate the cooperation under this Memorandum with 30 days written notice to the other Side.

8.3. This Memorandum may be modified by the mutual written consent of the Sides.

Paragraph 9
Settlement of Disputes

The Sides will resolve any discrepancies or disputes arising out of the interpretation or application of this Memorandum through consultations.

IN WITNESS WHEREOF, the duly authorized representatives of the Sides affix their signatures below.

Signed on 9th day of June 2016 in Tokyo in duplicate in English, both texts having equal values.

For the Fair Trade Commission of Japan

For the Competition Authority of Kenya

Mr. Kazuyuki Sugimoto

Chairman

The Fair Trade Commission of Japan

Mr. David Ong'olo

Chairman

The Competition Authority of Kenya