

# Improving International Co-operation in Cartel Investigations

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OECD Global Forum on Competition

February 17, 2012 - Paris

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## Overview

1. Why International Co-operation?
  - issues to be considered regarding the formal international cooperation mechanism
2. How the JFTC Investigates?
  - The JFTC's experience of cross border cartel investigation
3. Toward further International Cooperation
  - Three issues to be considered

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## Why International Co-operation?

- I. Merits of economic globalization
  - Consumer welfare improvement
- II. Importance of addressing cartels
  - Cross border cartel impede the merits of economic globalization
- III. Effective and efficient investigation
  - Establishing formal framework of international cooperation

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## Formal Co-operation Mechanism

Legal basis	Qualified countries	Menu
Anti-competitive co-operation agreements	Canada, EU & US	<ul style="list-style-type: none"> <li>• Notification</li> <li>• Assistance such as providing information</li> <li>• Co-ordination of enforcement activities etc.</li> </ul>
FTA/EPAs	Indonesia, Mexico, Singapore, Switzerland & Thailand	
1995 OECD Recommendation	OECD members	<ul style="list-style-type: none"> <li>• Notification</li> <li>• Information exchange</li> <li>• Co-ordination of enforcement activities etc.</li> </ul>

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## Issues to be considered regarding formal cooperation mechanism

- I . Important and effective mechanisms to build a permanent communication and cooperation tool among competition authorities.
- II . Competition authorities should continue to make a notification to prepare for the extension of subsequent cooperation, consultation and coordination.
- III . Existing formal cooperation mechanisms do not cover the current international cooperation activities based on the leniency applications.

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## How JFTC Investigates?

- I. Cross border cartels are subject to...
  - Administrative investigation
  - Criminal investigation
- II. JFTC's steps
  - Detection by complaints & leniency
  - Dawn raids
  - Interview and report order
  - Cease & desist order and surcharge payment order

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## JFTC's Experiences

Notification and information exchange were conducted

- I. Modifier cartel Case in 2003
  - EU and others
- II. Marine hose bid-rigging Case in 2008
  - EU, France, Italy, Korea, UK and US
- III. CRT Tube cartel Case in 2009
  - Indonesia, Korea, Thailand, EU and others

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## Toward Further Improvement of international cooperation in cartel investigation

- I. Keeping a balance between authorities' requirements and the discretion of leniency applicants
  - Authority side; obtain full waiver and initiative of investigation
  - Applicant side; reluctant to make a leniency application
- II. Coordination of dawn raids timing
  - Always remember the necessity and consider the probability of simultaneous dawn raid to prevent the destruction of evidence
- III. How to overcome or evade the legal obligations of confidentiality
  - Obtain cooperation from non-residential enterprises to provide evidential materials

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