

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE INTERCHANGE ASSOCIATION
AND
THE ASSOCIATION OF EAST ASIAN RELATIONS
REGARDING THE APPLICATION OF COMPETITION LAWS**

THE INTERCHANGE ASSOCIATION AND THE ASSOCIATION OF EAST ASIAN RELATIONS (hereinafter individually referred to as “Side” and collectively referred to as “Sides”), having regard to paragraph 3 of the Arrangement between the Interchange Association and the Association of East Asian Relations for the Establishment of the Respective Overseas Offices of 26 December 1972, have agreed to co-operate with each other to obtain necessary consent from the Japan Fair Trade Commission and the Taiwan Fair Trade Commission (hereinafter individually referred to as “Authority” and collectively referred to as “Authorities”) with a view to carrying out the following:

**Article 1
Purpose of Cooperation**

The purpose of this Memorandum of Understanding (MOU) is to contribute to the effective enforcement of the competition laws through the development of a cooperative relationship between the Authorities regarding the application of the competition laws.

**Article 2
Definitions**

For the purposes of this MOU:

- (a) the term “anti-competitive activity(ies)” means any activity that may be subject to penalties or relief under the competition law of either area;
- (b) the term “area” means:
 - (i) for the Interchange Association, Japan; and
 - (ii) for the Association of East Asian Relations, Taiwan;
- (c) the term “competition law” means:
 - (i) 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

- (ii) for Taiwan, the Fair Trade Act and its implementing regulations as well as any amendments thereto; and
- (d) the term “enforcement activity(ies)” means any investigation or proceeding conducted by an Authority in relation to the application of the competition law of its area.

Article 3

Notification

- 3.1 Each Side will notify the other Side of the enforcement activities conducted by the Authority in the area in which the notifying Side is located that may affect the important interests of the Authority in the area in which the other Side is located.
- 3.2 Provided that it is not contrary to the laws and regulations in force in the area in which the notifying Side is located and that it does not affect any investigation or proceedings being carried out by the Authority in that area, notification under paragraph 3.1 will be given as promptly as possible when the Authority of the notifying Side becomes aware that its enforcement activities may affect the important interests of the Authority in the area in which the other Side is located.

Article 4

Cooperation in Enforcement Activities

- 4.1 The Sides will provide assistance to each other in enforcement activities conducted by the respective Authorities, to the extent consistent with the laws and regulations in force in their respective areas and the important interests of the respective Authorities, and within the available resources of the respective Authorities.
- 4.2 Each Side will endeavor, to the extent consistent with the laws and regulations in force in the area in which it is located and the important interests of its Authority in that area, to:
- (a) inform the other Side of the enforcement activities involving anti-competitive activities conducted by either Authority, that may also have an adverse effect on competition in the area in which the other Side is located;

- (b) provide the other Side with any significant information, that is possessed by the Authority in that area, and comes to its attention, about anti-competitive activities that the Authority considers may be relevant to, or may warrant, enforcement activities of the other Authority; and
- (c) provide the other Side, upon request and in accordance with the provisions of this MOU, with information that is possessed by the Authority in that area with respect to the enforcement activities of the other Authority.

Article 5
Coordination of Enforcement Activities

- 5.1 Where the Authorities are pursuing enforcement activities with regard to the same or related matters, the Sides will endeavor to coordinate the enforcement activities conducted by their respective Authorities where appropriate and practicable, and will respect the independence of each Authority to make its own decisions.
- 5.2 Either Side may, subject to appropriate notification to the other Side, at any time, limit or terminate the coordination of enforcement activities, and the Authority in the area in which the notifying Side is located may pursue its enforcement activities independently.

Article 6
**Cooperation Regarding Anti-competitive Activities in the Area of a Side
That Adversely Affect the Interests of the Authority in the Area
in Which the Other Side Is Located**

- 6.1 If either Authority in the area in which either Side is located believes that anti-competitive activities carried out in the area in which the other Side is located adversely affect its important interests, the former Side, taking into account the importance of avoiding conflicts resulting from enforcement activities and of conducting more effective enforcement activities, may request the other Side to call for appropriate enforcement activities.
- 6.2 The request made under paragraph 6.1 should be as specific as possible about the nature of the anti-competitive activities and their effect on the important interests of the Authority in the area in which the requesting Side is located, and should include an offer of such further information and other cooperation as that Authority is able to provide.

6.3 The requested Side will request the Authority in the area in which the requested Side is located to carefully consider whether to initiate enforcement activities, or whether to expand ongoing enforcement activities, with respect to the anti-competitive activities identified in the request made under paragraph 6.1. The requested Side will inform the requesting Side of the decision made by the Authority in the area in which the requested Side is located as soon as practically possible. If the enforcement activities are initiated, the requested Side will inform the requesting Side of the outcome and, to the extent possible, of significant interim developments.

6.4 Nothing in this Article limits the discretion of the Authority in the area in which the requested Side is located under the competition law in force in that area and its enforcement policies to determine whether or not to conduct enforcement activities with respect to the anti-competitive activities identified in the request, or precludes the requesting Side from withdrawing its request.

Article 7 **Avoidance of Conflicts**

7.1 Upon request by either Side, careful consideration will be given to the important interests of the Authority in the area in which the other Side is located throughout all phases of its enforcement activities, including decisions regarding the initiation of enforcement activities, the scope of enforcement activities and the nature of penalties or relief.

7.2 Where either Authority in the area in which either Side is located considers that its enforcement activities may adversely affect the important interests of the Authority in the area in which the other Side is located, the former Side will endeavor to request their respective Authorities to seek an appropriate accommodation to the competing interests and coordinate their enforcement activities where appropriate and practicable.

Article 8 **Annual Consultations**

8.1 Unless otherwise jointly decided by the Sides, consultations between the Sides will be held at least once a year to:

- (a) exchange information on economic sectors of common interest;
- (b) discuss competition policy in which they are interested; and

- (c) discuss development relating to bilateral or multilateral fora that may be relevant to the cooperative relationship between the Sides.

8.2 Unless otherwise jointly decided by the Sides, the consultations referred to in paragraph 8.1 will be held alternately in the areas.

Article 9 Communications

Communications under this MOU will be conducted in a way decided by both Sides which is acceptable to their respective Authorities.

Article 10 Confidentiality

- 10.1 Notwithstanding any other Articles of this MOU, neither Side is required to provide information to the other Side if the Authority in the area in which that Side is located is prohibited from providing the information by the laws and regulations of that area or if that Authority finds providing the information incompatible with its important interests.
- 10.2 Each Side will, in accordance with the laws and regulations in force in the area in which it is located, maintain the confidentiality of any information provided in confidence by the other Side under this MOU.
- 10.3 Information, other than publicly available information, provided by a Side to the other Side under this MOU will be used only for the purpose of the effective enforcement by the Authority in the area in which the receiving Side is located and will not be disclosed by the receiving Side to other Authorities or to any third party without prior consent of the providing Side.
- 10.4 Information, other than publicly available information, provided by a Side to the other Side under this MOU will not be used by the receiving Side in criminal proceedings carried out by a court or a judge of the area of the receiving Side.
- 10.5 This Article will not preclude the use or disclosure of information provided under this MOU to the extent such use or disclosure is required by the laws and regulations in force in the area in which the receiving Side is located. In such case, the receiving Side will give advance notice of any such use or disclosure to the providing Side.

Article 11
Miscellaneous

- 11.1 All cooperation under this MOU will be conducted in accordance with the laws and regulations in force in their respective areas and subject to the reasonably available resources of the respective Authorities.
- 11.2 Detailed arrangements to implement this MOU may be jointly decided upon by the Sides as necessary.

Article 12
Entry into Force, Termination and Modification

- 12.1 This MOU will enter into force upon signature by the representatives of the Sides.
- 12.2 Either Side may terminate this MOU by giving the other Side a thirty-day written notice.
- 12.3 This MOU may be modified with mutual written consent of the Sides.

Signed in duplicate, at Tokyo, on this 26 of November, 2015, in the English language.

FOR THE INTERCHANGE
ASSOCIATION

FOR THE ASSOCIATION OF EAST
ASIAN RELATIONS

OHASHI Mitsuo
Chairman

LEE Chia-chin
Chairman