



Enhancing Procedural Fairness and Transparency of Competition Law Enforcement in Asia

Session 3

The 12th East Asia Top Level Officials' Meeting on Competition Policy

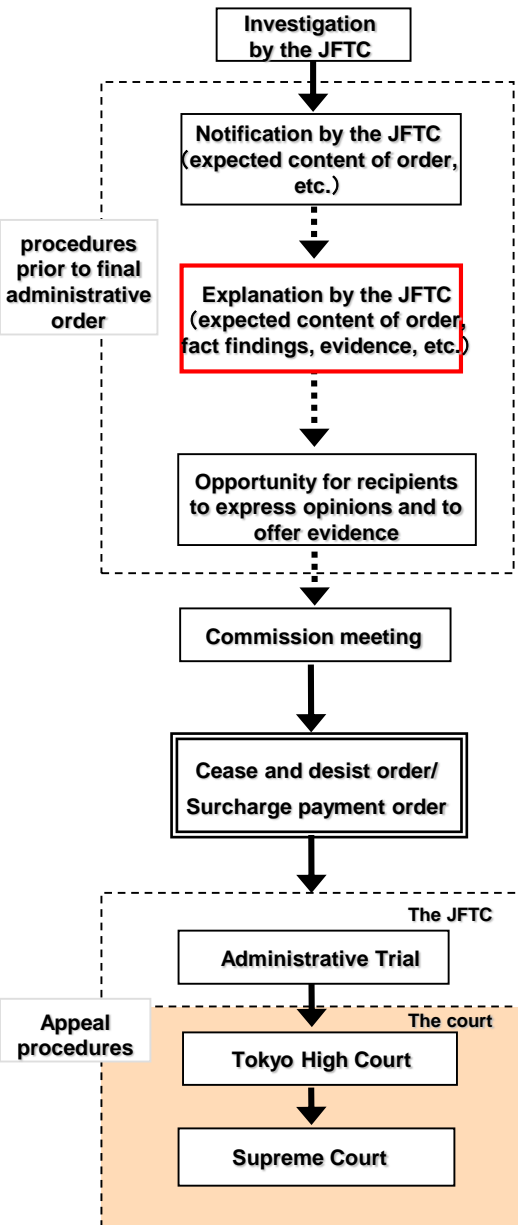
Seoul, Korea

9 September 2016

**Kazuyuki Sugimoto
Chairman**

Japan Fair Trade Commission

Previous procedure



【 Outline of the Revision 】

<procedures prior to issuing final orders>

Improving sufficiency and transparency of the procedure

- Recipients are allowed to take a look at and copy the evidence which proves facts found by the JFTC.
Note: Recipient are allowed to copy only its own property and the written statements of its employees.
- Introduction of the Prior Hearing Procedure presided over by an officer designated by the JFTC.
- Asking of questions and oral presentation of opinions will be allowed in the Prior Hearing Procedure.

Abolition of the Administrative Trial

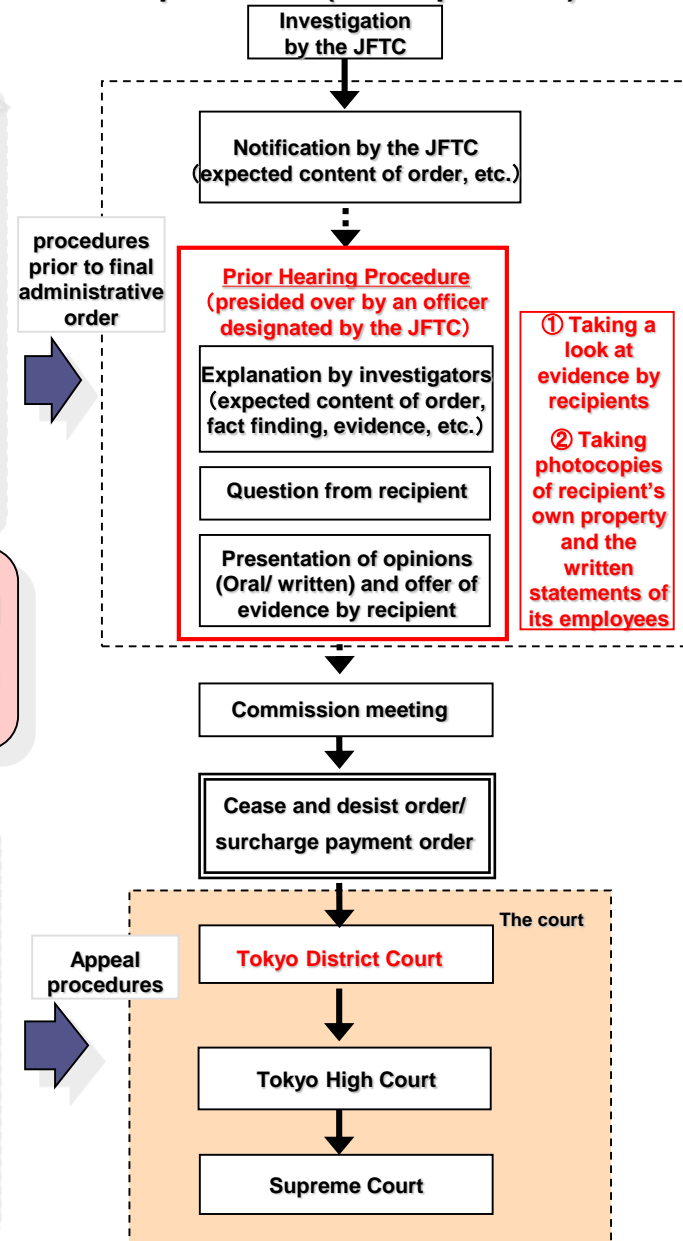
Addressing the criticism that the JFTC plays the role of both prosecutor and judge in the current JFTC Administrative Trial

<Appeal procedures>

Introduction of the trial at the District Court

- Only Tokyo District Court has jurisdiction over the appeal suit pertaining to the cease and desist order/surcharge payment order as the court of first instance (ensuring expertise in the court.)
- Panel of three judges hears the case in Tokyo District Court (a five-judge panel may be set.)
- Setting a panel of five judges will be allowed in Tokyo High Court when the court hears the case.
- Abolition of both the substantial evidence rule and the restriction on offering new evidence.

New procedure (from April 2015)





Main points of Guidelines on Administrative Investigation Procedures under the Antimonopoly Act

1. On-the-spot inspection

- > Investigators shall;
 - present their identification cards to a person in charge of the place subject to on the spot inspection,
 - explain to the person in charge that if the party concerned refuses to cooperate with the inspection, punishment may be imposed,
 - deliver the notification of Alleged Fact and the Reference Material for Business, etc. explaining administrative investigation procedure for alleged violation of the Antimonopoly Act. and so on.

- > Companies can have their attorney at on the spot inspection.

2. Interview

- > Investigators shall explain the legal nature of the interview to a testifying parties .
- > As a general rule, an interview shall not span more than 8 hours per day.
- > Investigator shall not use intimidation, coercion or other means that may cause any suspicion about the voluntariness of interview. and so on.

3. Motion for objection

- > Motion for objection against measures taken by investigators(AMA: Article 47)
- > Establishment of complaint system for voluntary interview.



**Thank you very much
for your kind attention.**

**Opinions expressed in this presentation are those of the speaker
and are not necessarily those of the JFTC.**