# TRADE AND INVESTMENT

**Anticompetitive Activities** 

Agreement Between the UNITED STATES OF AMERICA and JAPAN

Signed at Washington October 7, 1999

Entered into force October 7, 1999



#### NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

"...the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence ... of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

## AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN CONCERNING COOPERATION ON ANTICOMPETITIVE ACTIVITIES

The Government of the United States of America and the Government of Japan (hereinafter referred to as "Parties"):

Recognizing that the world's economies are becoming increasingly interrelated, in particular the economies of the United States of America and Japan;

Noting that the sound and effective enforcement of competition laws of each country is a matter of importance to the efficient functioning of their respective markets and to trade between them;

Noting that the sound and effective enforcement of competition laws of each country would be enhanced by cooperation and, where appropriate, coordination between the Parties in the application of those laws;

Noting that from time to time differences may arise between the Parties concerning the application of the competition laws of each country;

Noting their commitment to give careful consideration to the important interests of each Party in the application of the competition laws of each country; and

Having regard to Article XVIII of the Treaty of Friendship, Commerce and Navigation between the United States of America and Japan signed on April 2, 1953, to the Recommendation of the Council of the Organization for Economic Co-operation and Development Concerning Cooperation Between Member Countries on Anticompetitive Practices Affecting International Trade, as revised July 27 and 28, 1995, and to the Recommendation of the Council of the Organization for Economic Co-operation and Development Concerning Effective Action Against Hard Core Cartels adopted on March 25, 1998;

Have agreed as follows:

### Article I

1. The purpose of this Agreement is to contribute to the effective enforcement of the competition laws of each country through the development of cooperative relationships between the competition authorities of each Party. The competition authorities of the Parties shall, in accordance with the provisions of this Agreement, cooperate with and provide assistance to each other in their enforcement activities, to the extent compatible with their respective Party's important interests.

- 2. For the purposes of this Agreement,
  - (a) the term "anticompetitive activity(ies)" means any conduct or transaction that may be subject to penalties or relief under the competition laws of either country;
  - (b) the term "competition authority(ies)" means:
    - (i) for the United States of America, the United States Department of Justice and the Federal Trade Commission; and
    - (ii) for Japan, the Fair Trade Commission;
  - (c) the term "competition law(s)" means:
    - (i) for the United States of America, the Sherman Act (15 U.S.C. 1-7), the Clayton Act (15 U.S.C. 12-27), the Wilson Tariff Act (15 U.S.C. 8-11), and the Federal Trade Commission Act (15 U.S.C. 41-58) to the extent that it applies to unfair methods of competition, and their implementing regulations; and
    - (ii) for Japan, the Law Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Law No. 54 of April 14, 1947) (hereinafter referred to as "the Antimonopoly Law") and its implementing regulations.
  - (d) the term "enforcement activity (ies)" means any investigation or proceeding conducted by a Party in relation to the competition laws of its country. However, (i) the review of business conduct or routine filings and (ii) research, studies or surveys with the objective of examining the general economic situation or general conditions in specific industries are not included.

#### Article II

1. The competition authority of each Party shall notify the competition authority of the other Party with respect to the enforcement activities of the notifying Party that the notifying competition authority considers may affect the important interests of the other Party.

2. Enforcement activities that may affect the important interests of the other Party include those that:

are relevant to enforcement activities of the other Party;

(a)

- (b) are against a national or nationals of the other country, or against a company or companies incorporated or organized under the applicable laws and regulations within the territory of the other country;
- (c) involve anticompetitive activities, other than mergers or acquisitions, carried out in any substantial part in the territory of the other country;
- (d) involve mergers or acquisitions in which
  - -- one or more of the parties to the transaction, or
  - -- a company controlling one or more of the parties to the transaction,

is a company incorporated or organized under the applicable laws and regulations within the territory of the other country;

- (e) involve conduct considered by the notifying competition authority to have been required, encouraged or approved by the other Party; or
- (f) involve relief that requires or prohibits conduct in the territory of the other country.

3. Notification pursuant to paragraph 1 of this Article shall be given as promptly as possible when the competition authority of a Party becomes aware that enforcement activities of its Party may affect the important interests of the other Party, and in any event in accordance with paragraphs 4 and 5 of this Article.

4. Where notification is required pursuant to paragraph 1 of this Article with respect to mergers or acquisitions, such notification shall be given not later than:

- (a) for the competition authorities of the United States of America, the time either one seeks information or documentary material concerning the proposed transaction pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a(e)), the Federal Trade Commission Act (15 U.S.C. 49, 57b-1) or the Antitrust Civil Process Act (15 U.S.C. 1312).
- (b) for the competition authority of Japan, the earlier of
  - (i) the time it seeks production of documents, reports or other information concerning the proposed transaction pursuant to the Antimonopoly Law; or
  - (ii) the time it advises a party to the transaction that the transaction as originally proposed raises serious questions under the Antimonopoly Law; provided, however, that if at the time of such advice the transaction has not been publicly disclosed by a party to the transaction, notification shall be made as soon as possible after the time at which the transaction or proposed transaction is publicly disclosed by a party to the transaction.

5. Where notification is required pursuant to paragraph 1 of this Article with respect to matters other than mergers or acquisitions, notification shall be given as far in advance of the following actions as is practically possible:

(a) for the Government of the United States of America,

- (i) the initiation of criminal proceedings;
- (ii) the initiation of a civil or administrative action, including the seeking of a temporary restraining order or preliminary injunction;
- (iii) the entry of a proposed consent decree or a proposed cease and desist order; and
- (iv) the issuance of a business review or advisory opinion that will ultimately be made public by the competition authority.
- (b) for the Government of Japan,
  - (i) the filing of a criminal accusation;
  - (ii) the filing of a complaint seeking an urgent injunction;
  - (iii) the issuance of a recommendation or the decision to initiate a hearing;
  - (iv) the issuance of a surcharge payment order when no prior recommendation with respect to the payer has been issued;
  - (v) the issuance of a reply to a prior consultation that will ultimately be made public by the competition authority; and
  - (vi) the issuance of a warning.

6. The competition authority of each Party shall also notify the competition authority of the other Party if it initiates a survey which the notifying competition authority considers may affect the important interests of the other Party.

7. The competition authority of each Party shall also notify the competition authority of the other Party whenever the notifying competition authority publicly participates, in connection with the competition laws or policy issues, in an administrative, regulatory or judicial proceeding in its country that is not initiated by the competition authority, if the notifying competition authority considers that the issue addressed may affect the important interests of the other Party. Such notification shall be made at the time of the participation or as soon thereafter as possible.

8. Each Party shall notify the other Party if it initiates a civil action in the courts of the other country against a private party for monetary damages or other relief based on a violation of the competition laws of the other country.

9. Notifications shall be sufficiently detailed to enable the notified competition authority to make an initial evaluation of the effect on its Party's important interests.

- 10. (a) The competition authority of each Party shall promptly notify the competition authority of the other Party of any amendment to the competition laws of its country.
  - (b) The competition authority of each Party shall provide the competition authority of the other Party with copies of its publicly-released guidelines, regulations or policy statements that it issues in relation to the competition laws of its country.

(c) The competition authority of each Party shall provide the competition authority of the other Party with copies of its proposed guidelines, regulations or policy statements in relation to the competition laws of its country that are made generally available to the public, and, when it provides the general public with opportunities to submit comments on such guidelines, regulations or policy statements, receive and pay due consideration to the comments submitted by the other Party prior to finalizing such guidelines, regulations or policy statements.

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### Article III

1. The competition authority of each Party shall render assistance to the competition authority of the other Party in its enforcement activities to the extent consistent with the laws and regulations of the country of the assisting Party and the important interests of the assisting Party, and within its reasonably available resources.

2. The competition authority of each Party shall, to the extent consistent with the laws and regulations of its country and the important interests of its Party:

- (a) inform the competition authority of the other Party with respect to its enforcement activities involving anticompetitive activities that the informing competition authority considers may also have an adverse effect on competition within the territory of the other country;
- (b) provide the competition authority of the other Party with any significant information, within its possession and that comes to its attention, about anticompetitive activities that the providing competition authority considers may be relevant to, or may warrant, enforcement activities by the competition authority of the other Party; and
- (c) provide the competition authority of the other Party, upon request and in accordance with the provisions of this Agreement, with information within its possession that is relevant to the enforcement activities of the competition authority of the other Party.

#### Article IV

1. Where the competition authorities of both Parties are pursuing enforcement activities with regard to related matters, they shall consider coordination of their enforcement activities.

2. In considering whether particular enforcement activities should be coordinated, the competition authorities of the Parties should take into account the following factors, among others:

- (a) the effect of such coordination on their ability to achieve the objectives of their enforcement activities;
- (b) the relative abilities of the competition authorities of the Parties to obtain information necessary to conduct the enforcement activities;
- (c) the extent to which the competition authority of either Party can secure effective relief against the anticompetitive activities involved;

- (d) the possible reduction of cost to the Parties and to the persons subject to the enforcement activities; and
- (e) the potential advantages of coordinated relief to the Parties and to the persons subject to the enforcement activities.

3. In any coordinated enforcement activity, the competition authority of each Party shall seek to conduct its enforcement activities with careful consideration to the objectives of the enforcement activities by the competition authority of the other Party.

4. Where the competition authorities of both Parties are pursuing enforcement activities with regard to related matters, the competition authority of each Party shall consider, upon request by the competition authority of the other Party and where consistent with the important interests of the requested Party, inquiring whether persons who have provided confidential information in connection with those enforcement activities will consent to the sharing of such information with the competition authority of the other Party.

5. Subject to appropriate notification to the competition authority of the other Party, the competition authority of either Party may, at any time, limit or terminate the coordination of enforcement activities and pursue their enforcement activities independently.

## Article V

1. If the competition authority of a Party believes that anticompetitive activities carried out in the territory of the other country adversely affect the important interests of the former Party, such competition authority, taking into account the importance of avoiding conflicts regarding jurisdiction and taking into account that the competition authority of the other Party may be in a position to conduct more effective enforcement activities with regard to such anticompetitive activities, may request that the competition authority of the other Party initiate appropriate enforcement activities. The request shall be as specific as possible about the nature of the anticompetitive activities and their effect on the important interests of the Party of the requesting competition authority, and shall include an offer of such further information and other cooperation as the requesting competition authority is able to provide.

2. The requested competition authority shall carefully consider whether to initiate enforcement activities, or whether to expand ongoing enforcement activities, with respect to the anticompetitive activities identified in the request. The requested competition authority shall inform the requesting competition authority of its decision as soon as practically possible. If enforcement activities are initiated, the requested competition authority shall inform the requesting competition authority of their outcome and, to the extent possible, of significant interim developments.

### Article VI

1. Each Party shall give careful consideration to the important interests of the other Party 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 sought in each case.

2. When either Party informs the other Party that specific enforcement activities by the latter Party may affect the former's important interests, the latter Party shall endeavor to provide timely notice of significant developments of such enforcement activities.

3. Where either Party considers that enforcement activities by a Party may adversely affect the important interests of the other Party, the Parties should consider the following factors, in addition to any other factor that may be relevant in the circumstances in seeking an appropriate accommodation of the competing interests:

- (a) the relative significance to the anticompetitive activities of conduct or transactions occurring within the territory of the country of the enforcing Party as compared to conduct or transactions occurring within the territory of the other country;
- (b) the relative impact of the anticompetitive activities on the important interests of the respective Parties;
- (c) the presence or absence of evidence of an intention on the part of those engaged in the anticompetitive activities to affect consumers, suppliers, or competitors within the territory of the country of the Party conducting the enforcement activities;
- (d) the extent to which the anticompetitive activities substantially lessen competition in the market of each country;
- (e) the degree of conflict or consistency between the enforcement activities by a Party and the laws of the other country, or the policies or important interests of the other Party;
- (f) whether private persons, either natural or legal, will be placed under conflicting requirements by both Parties;
- (g) the location of relevant assets and parties to the transaction;
- (h) the degree to which effective penalties or relief can be secured by the enforcement activities of the Party against the anticompetitive activities; and
- (i) the extent to which enforcement activities by the other Party with respect to the same persons, either natural or legal, would be affected.

## Article VII

1. The Parties may hold, as necessary, consultations through the diplomatic channel on any matter which may arise in the implementation of this Agreement.

2. A request for consultations under this Article shall be communicated through the diplomatic channel.

### Article VIII

1. The competition authorities of the Parties shall consult with each other, upon request of either Party's competition authority, on any matter which may arise in connection with this Agreement.

2. The competition authorities of the Parties shall meet at least once a year to:

- exchange information on their current enforcement efforts and priorities in (a) relation to the competition laws of each country;
- (b) exchange information on economic sectors of common interest;
- (c) discuss policy changes that they are considering; and
- (d) discuss other matters of mutual interest relating to the application of the competition laws of each country.

#### Article IX

- (a) Information, other than publicly available information, communicated by a Party to the other Party pursuant to this Agreement shall only be used by the receiving Party for the purpose specified in Article 1, paragraph 1 of this Agreement, unless the Party providing the information has approved otherwise.
  - (b) Information, other than publicly available information, provided by a competition authority or a relevant law enforcement authority pursuant to this Agreement shall not be communicated to a third party or other authorities, unless the competition authority or the relevant law enforcement authority providing the information has approved otherwise.

Notwithstanding paragraph 1(b) of this Article, unless otherwise notified by the 2. competition authority providing the information, the competition authority receiving the information communicated pursuant to this Agreement may provide the information to its Party's relevant law enforcement authorities, for the purpose of competition law enforcement, which may use such information under the conditions stipulated in Article X of this Agreement.

3. Each Party shall, consistent with the laws and regulations of its country, maintain the confidentiality of any information communicated to it in confidence by the other Party pursuant to this Agreement, unless the latter Party consents to the disclosure of such information.

Each Party may limit the information it communicates to the other Party when the 4 latter Party is unable to give the assurance requested by the Party with respect to confidentiality or with respect to the limitations of purposes for which the information will be used.

Notwithstanding any other provision of this Agreement, neither Party is required 5. to communicate information to the other Party if such communication is prohibited by the laws or regulations of the country of the Party possessing the information or such communication would be incompatible with its important interests.

6. This Article shall not preclude the use or disclosure of information to the extent that there is an obligation to do so under the laws and regulations of the country of the Party receiving the information. Such Party shall, wherever possible, give advance notice of any such use or disclosure to the Party which provided the information.

## Article X

Information communicated by a Party to the other Party pursuant to this 1. Agreement, except publicly available information, shall not be presented to a grand jury or to a court or a judge in criminal proceedings.

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2. In the event that information communicated by a Party to the other Party pursuant to this Agreement, except publicly available information, is needed for presentation to a grand jury or to a court or a judge in criminal proceedings, that Party shall submit a request for such information to the other Party through the diplomatic channel or other channel established in accordance with the law of the requested Party. The requested Party will make, upon request, its best efforts to respond promptly to meet any legitimate deadlines indicated by the requesting Party.

#### Article XI

1. This Agreement shall be implemented by the Parties in accordance with the laws and regulations in force in each country and within the available resources of their respective competition authorities.

2. Detailed arrangements to implement this Agreement may be made between the competition authorities of the Parties.

3. Nothing in this Agreement shall prevent the Parties from seeking or providing assistance to one another pursuant to other bilateral or multilateral agreements or arrangements between the Parties.

4. Nothing in this Agreement shall be construed to prejudice the policy or legal position of either Party regarding any issue related to jurisdiction.

5. Nothing in this Agreement shall be construed to affect the rights and obligations of either Party under other international agreements or under its laws.

#### Article XII

Unless otherwise provided in this Agreement, communications under this Agreement may be directly carried out between the competition authorities of the Parties. Notifications under Article II (except paragraph 8) and requests under Article V, paragraph 1 of this Agreement, however, shall be confirmed in writing through the diplomatic channel. The confirmation shall be made as promptly as practically possible after the communication concerned between the competition authorities of the Parties.

### Article XIII

1. This Agreement shall enter into force upon signature.

2. Either Party may terminate this Agreement by giving two months written notice to the other Party through diplomatic channel.

3. The Parties shall review the operation of this Agreement not more than five years from the date of its entry into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Washington, this seventh day of October, 1999, in duplicate, in the English and Japanese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Robert uc

FOR THE GOVERNMENT OF JAPAN:

2) Kobayanhi

百九十五年七月二十七日及び二十八日に修正された国際貿易に影響のある反競争的慣行に係る加盟国の間の	千九百五十三年四月二日に署名されたアメリカ合衆国と日本国との間の友好通商航海条約第十八条、千九	とに留意し、	競争法の適用においてそれぞれの締約国政府の重要な利益を慎重に考慮すると両締約国政府が誓約するこ	両締約国政府の間に、それぞれの国の競争法の適用に関する相違が随時生じることがあることに留意し、	切な場合に行われる調整によって強化されることに留意し、	それぞれの国の競争法の健全かつ効果的な執行が、競争法の適用における両締約国政府の間の協力及び適	にとって重要であることに留意し、	それぞれの国の競争法の健全かつ効果的な執行が、それぞれの国の市場の効率的な機能及び両国間の貿易	世界の経済、特にアメリカ合衆国及び日本国の経済の相互関連が一層強まりつつあることを認識し、	アメリカ合衆国政府及び日本国政府(以下「両締約国政府」という。)は、	万党至白イズに住る街ブに関するファーナイ秀臣政府と日本国政府との間の協定	

⑪ 日本国にあっては公正取引委員会をいう。
⑴ アメリカ合衆国にあっては合衆国司法省及び連邦取引委員会をいい、
(b) 「競争当局」とは、
行動又は取引をいう。
④ 「反競争的行為」とは、いずれか一方の国の競争法の下で刑罰又は救済措置の対象となることのある
2 この協定の適用上、
て、それぞれの締約国政府の重要な利益に合致する限り、互いに協力し及び支援を提供する。
な執行に貢献することを目的とする。両締約国政府の競争当局は、この協定に従い、その執行活動におい
1 この協定は、両締約国政府の競争当局の間の協力関係の進展を通じて、それぞれの国の競争法の効果的
第一条
次のとおり協定した。
・カルテルを防止するための効果的な行動に関する経済協力開発機構理事会の勧告を考慮して、
協力に関する経済協力開発機構理事会の勧告並びに千九百九十八年三月二十五日に採択されたハード・コア

第二条	<ul><li> 全般的な経済状況又は特定の産業の全般的な状況を調べることを目的とする研究、検討又は調査</li></ul>	(i) 事業活動の監視又は通常の届出、報告若しくは申請の審査	あって、次のものに該当しないものをいう。	- d) 「執行活動」とは、締約国政府が自国の競争法に関連して行うあらゆる審査若しくは捜査又は手続で	う <sub>。</sub>	の法律第五十四号)(以下「独占禁止法」という。)及びその実施について定める命令及び規則をい	⑪ 日本国にあっては、私的独占の禁止及び公正取引の確保に関する法律(千九百四十七年四月十四日	並びにこれらの法律の実施のための規則をいい、	公正な競争方法に適用される限りにおける連邦取引委員会法(合衆国法律集第一五巻四一から五八)	衆国法律集第一五巻一二から二七)、ウィルソン関税法(合衆国法律集第一五巻八から一一)及び不	(i) アメリカ合衆国にあっては、シャーマン法(合衆国法律集第一五巻一から七)、クレイトン法(合	() 「競争法」とは、	1
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国政府の執行活動について、他方の締約国政府が要求し、奨励し又は承認したと認める行為に関する執行活動 他方の締約国政府の執行活動に関連する執行活動 こくは組織された会社に対して行う執行活動又は他方の国の領域内における関係法令に基づいて設立され若しくは組織された会社に対して行う執行活動 この領域内における関係法令に基づいて設立され又は組織された会社であるものに関する執行活動 国の領域内における関係法令に基づいて設立され又は組織された会社であるものに関する執行活動 国の領域内における関係法令に基づいて設立され又は組織された会社であるものに関する執行活動 国の領域内における行為を要求し又は禁止する救済措置を含む執行活動 他方の国の領域における行為を要求し又は禁止する救済措置を含む執行活動
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<ul> <li>ことがあることを当該一方の締約国政府の競争当局か了知した場合にていずれの当事者も当該企業結合を公表しの</li> <li>(i) 競争当局が、企業結合計画に関する文書、報告その他の情報の提出を独占禁止法に従って求める</li> <li>(i) 競争当局が、企業結合計画に関する文書、報告その他の情報の提出を独占禁止法に従って求める</li> <li>(b) 日本国の競争当局にあっては、</li> <li>(i) 競争当局が、企業結合計画に関する文書、報告その他の情報の提出を独占禁止法に従って求める</li> <li>(i) 競争当局が、企業結合計画に関する文書、報告その他の情報の提出を独占禁止法に従って求める</li> <li>(j) 競争当局が、当初の企業結合計画に独占禁止法上の重大な問題があることを企業結合計画に関する時。</li> <li>(j) 競争当局が、当初の企業結合計画に独占禁止法上の重大な問題があることを企業結合計画に関するす。</li> </ul>	、 影響、 を
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	(道)緊急停止命令の申立て	<ol> <li>(i) 刑事告発</li> </ol>	(b) 日本国政府にあっては、	⒄ ビジネス・レビュー又は勧告的意見であって競争当局によって最終的に公表されるものの発出	⑪ 同意判決又は排除措置命令の確定	⑪ 民事又は行政上の措置の開始(暫定的差止命令及び予備的差止命令の申立てを含む。)	(i) 刑事手続の開始	(a) アメリカ合衆国政府にあっては、	通報は、当該措置を執るに先立ち、実行可能な限り早期に行う。	5 企業結合以外の事項について1の規定に従って通報を行うことが必要となる場合において、次の措置の	のうちいずれか早い時点。	時)、	ていない場合には、いずれかの当事者が当該企業結合又は企業結合計画を公表した後できる限り早い	·	
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8 それぞれの締約国政府は、他方の国の競判所において私人に対する民事訴訟を提起する場合には、他方の締約国できる限り速やかに行われる。 できる限り速やかに行われる。	該手続において取り上げられる問題が也方の帝内国文府の重要な可なこと響を行ったことであって、当規制に関する手続又は司法手続(当該競争当局が開始したものを除く。)に公に参加する場合であって、当7 それぞれの締約国政府の競争当局は、競争法又は競争政策に係る問題に関連して、当該国の行政手続、	る調査を開始する場合には、他方の締約国政府の競争当局に通報する。6 それぞれの締約国政府の競争当局は、他方の締約国政府の重要な利益に影響を及ぼすことがあると認め	② 警告	⒄ 課徴金納付命令(ただし、納付者に対して事前の勧告が発出されていない場合に限る。)⑾ 勧告又は審判開始決定
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<ul> <li>9 通報の内容は、通報を受けた競争当局は、当該競争当局が当該国の競争法に関連して発出し公表したガイ</li> <li>9 通報の内容は、通報を受けた競争当局は、自国の競争法の改正について他方の締約国政府の競争当局に速やかに通報する。</li> <li>ドライン、規則又は政策声明の写しを他方の締約国政府の競争当局が当該国の競争法に関連して発出し公表したガイ</li> </ul>
(a) それぞれの締約国政府の競争当局は、自国の競争法の改正について他方
やかに通報する。
それぞれの締約国政府の競争当局は、当該競争当局が当該国の競争法に
(c) それぞれの締約国政府の競争当局は、当該国の競争法に関連するガイドライン、規則又は政策声明に
係る提案であって一般に入手可能なものの写しを他方の締約国政府の競争当局に提供する。このガイド
ライン、規則又は政策声明に関する意見を提出する機会を一般の公衆に与える場合には、それぞれの締
約国政府の競争当局は、当該ガイドライン、規則又は政策声明を確定するに先立って他方の締約国政府
が提出する意見を受領し、その意見に適切な考慮を払う。
第三条

政府に対して<br />
通報する。

第四条	局の執行活動に関連するものを当該他方の締約国政府の競争当局に提供すること	② 要請に応じ、かつ、この協定の規定に従い、自己の保有する情報であって他方の締約国政府の競争当	約国政府の競争当局に対し提供すること	競争当局の執行活動に関連し又はかかる執行活動を正当化することがあると認めるものを当該他方の締	ゆ 自己が保有し、かつ、気付くに至った反競争的行為に関する重要な情報であって他方の締約国政府の	己の執行活動に関して他方の締約国政府の競争当局に通知すること	(a) 他方の国の領域内における競争に対しても悪影響を及ぼすことがあると認める反競争的行為に係る自	次のことを行う。	2 それぞれの締約国政府の競争当局は、自国の法令及び自国政府の重要な利益に合致する限りにおいて、	いて支援を提供する。	かつ、自己の合理的に利用可能な資源の範囲内で、他方の締約国政府の競争当局に対しその執行活動につ	1 それぞれの締約国政府の競争当局は、自国の法令及び自国政府の重要な利益に合致する限りにおいて、	
		政府の競争当		当該他方の締	)締約国政府の		行為に係る自		感りにおいて、		の執行活動につ	感りにおいて、	

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1 5 きる追加情報及び他の協力に関する申出を含むものとする。 争的行為が及ぼす影響に関してできる限り具体的なものとし、当該要請する競争当局が提供することので この要請は、 争当局が当該反競争的行為に関してより効果的な執行活動を行うことができる可能性があることに留意し 影響を及ぼすと信ずる場合には、管轄権に関する紛争を回避することの重要性及び他方の締約国政府の競 として、執行活動の調整をいつでも限定し又は終了し、 を共有することに同意するかどうかを照会することを検討する。 おいて、当該執行活動に関連して秘密の情報を提供した者が当該他方の締約国政府の競争当局が当該情報 政府の競争当局は、他方の締約国政府の競争当局の要請により、 つつ、当該他方の締約国政府の競争当局に対して適切な執行活動を開始するよう要請することができる。 締約国政府の競争当局は、 いずれの一方の締約国政府の競争当局も、 第五条 当該反競争的行為の性質及び要請する競争当局の締約国政府の重要な利益に対して当該反競 他方の国の領域において行われた反競争的行為が自国政府の重要な利益に悪 他方の締約国政府の競争当局に適切な通報を行うことを条件 執行活動を独自に行うことができる。 自国政府の重要な利益に合致する限りに

3 一方の締約国政府の執行活動が他方の締約国政府の重要な利益に悪影響を及ぼすおそれがあるといずれ	該執行活動の重要な進展について適時に通報するよう努める。	が自国政府の重要な利益に影響を及ぼすことがあることを通知したときは、当該他方の締約国政府は、当	2 いずれか一方の締約国政府が、他方の締約国政府に対し、当該他方の締約国政府による特定の執行活動	な利益に慎重な考慮を払う。	事案において求められる刑罰又は救済措置の性格に関する決定を含む。)において他方の締約国政府の重要	1 それぞれの締約国政府は、執行活動のあらゆる局面(執行活動の開始、執行活動の範囲及びそれぞれの	第六条	可能な範囲で重要な進捗状況を通知する。	する場合には、要請を受けた競争当局は、要請を行った競争当局に対し、当該執行活動の結果を通知し、	当局は、要請を行った競争当局に対し、実行可能な限り速やかに自己の決定を通知する。執行活動を開始	うか、又は現に行われている執行活動を拡大するかどうかについて注意深く検討する。要請を受けた競争	2 要請を受けた競争当局は、当該要請において特定される反競争的行為に関し、執行活動を開始するかど	,

② それぞれの競争当局が検討している政策変更に関して討議すること	④ それぞれの国の競争法に係る、当該時期における執行努力及び重点事項に関する情報を交換すること	2 両締約国政府の競争当局は、少なくとも年一回、次の目的のために会合する。	て生じることのあるいかなる事項についても、相互に協議する。	1 両締約国政府の競争当局は、いずれか一方の締約国政府の競争当局の要請に応じて、この協定に関連し	第八条	2 この条の規定に基づく協議の要請は、外交上の経路を通じて行われる。	交上の経路を通じて協議することができる。	1 両締約国政府は、この協定の実施に当たって生じることのあるいかなる事項についても、必要に応じ外	第七条	<ol> <li>同一の者(自然人か法人かを問わない。)に関する他方の締約国政府の執行活動が影響を受ける程度</li> </ol>	る程度	
			(a) 両	(a) て 両生	(a) て 両 生 両	(a) て 両 生 両	(a) て 両生両 こ	(a) て 交 両 生 両 こ 上	(a) て 交	(a) て 交	(a) て 交 (i)	(a) て 交 (i)

3 それぞれの締約国政府は、自国の法令に従い、この協定に従って他方の締約国政府から秘密として伝達
できる。
当局に提供することができる。当該法執行当局は、次条に定める条件に従って当該情報を使用することが
争当局が別段の通知を行う場合を除くほか、当該情報を競争法の執行のために自国政府の関連する法執行
2 1 ()の規定にかかわらず、この協定に従って伝達された情報を入手した競争当局は、情報を提供する競
の当局に伝達されてはならない。
情報を提供した競争当局又は関連する法執行当局が別段の承認を行った場合を除くほか、第三者又は他
b) この協定に従って競争当局又は関連する法執行当局から提供された情報(公開情報を除く。)は、当該
により、第一条1に定める目的のためにのみ使用される。
当該情報を提供した締約国政府が別段の承認を行った場合を除くほか、当該情報を入手した締約国政府
1 (a) この協定に従って一方の締約国政府から他方の締約国政府に伝達された情報(公開情報を除く。)は、
第九条
d) それぞれの国の競争法の適用に係る他の事項であって双方の関心事項を討議すること

1 この協定に従って一方の締約国政府から他方の締約国政府に伝達された情報(公開情報を除く。)は、刑
第十条
し当該使用又は開示について事前に通知する。
用され又は開示されることを妨げない。当該締約国政府は、可能な限り、情報を提供した締約国政府に対
6 この条は、情報を入手した締約国政府の国の法令に基づき義務付けられている限度において、情報が使
しない。
いる場合又は自国政府の重要な利益と両立しない場合には、他方の締約国政府に情報を伝達することを要
5 この協定の他のいかなる規定にもかかわらず、いずれの締約国政府も、自国の法令によって禁止されて
きる。
方の締約国政府が与えることができない場合には、他方の締約国政府に伝達する情報を限定することがで
4 それぞれの締約国政府は、秘密の保持又は情報の使用目的の限定に関して自国政府が要請する保証を他
の限りでない。
されたあらゆる情報の秘密を保持する。ただし、他方の締約国政府が当該情報の開示に同意した場合はこ

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<ol> <li>この協定のいかなる規定も、管轄権に関連するあらゆる問題に関するいずれの締約国政府の政策又は法</li> <li>この協定を実施するための詳細な取決めは、両締約国政府の競争当局の間で行うことができる。</li> <li>国政府が相互に支援を求め又は与えることを妨げるものではない。</li> <li>この協定は、両締約国政府により、それぞれの国において効力を有する法令に従って、かつ、それぞれ</li> </ol>	2 この協定に基づき一方の締約国政府から他方の締約国政府に伝達された情報(公開情報を除く。)を、刑 事手続において大陪審又は裁判所若しくは裁判官に提示することが必要とされる場合には、当該他方の締 約国政府は、当該一方の締約国政府に当該情報に対する要請を外交上の経路又は要請を受ける国の法律に 従って定められた他の経路を通じて提出する。要請を受ける締約国政府は、要請に基づき、要請する締約 国政府が示す正当な期限までに迅速に回答するよう最善の努力を払う。
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3 両締約国政府は、この協定が効力を生じる日から五年以内に、この協定の運用について検討する
る通告を与えることにより、この協定を終了させることができる。
2 いずれの一方の締約国政府も、外交上の経路を通じて、二箇月前に他方の締約国政府に交して文書に。
1 この協定は、署名により効力を生ずる。
第十三条
争当局間の当該連絡が行われた後実行可能な限り速やかに行う。
1の規定に基づく要請は、外交上の経路を通じ、書面によって確認される。その確認は、両統糸臣政府の意
を除く。)に基づ
この協定に別段の定めがある場合を除くほか、この協定の下での連絡は両綿糸国政権の競争当長の間いま
第十二条
務にも影響を及ぼすものと解してはならない。
5 この協定のいかなる規定も、他の国際協定又はその国の法律の下でのいずれの締約国政府の権利及て拿
的立場も害するものと解してはならない。

た。 日本国政府のために 千九百九十九年十月七日にワシントンで、ひとしく正文である英語及び日本語により本書二通を作成し アメリカ合衆国政府のために 以上の証拠として、下名は、各自の政府により正当に委任を受け、この協定に署名した。 at the ] 今明