

# Casebook on Economic Security and the Antimonopoly Act

The Ministry of Economy, Trade and Industry (METI) and the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) have presented 15 hypothetical cases of corporate actions in connection with economic security. In this document, the Japan Fair Trade Commission (JFTC) provides its views on each of the 15 cases based on the Antimonopoly Act (the Act).

However, it should be noted that whether or not a given corporate action raises concerns under the Act will ultimately be assessed on a case-by-case basis. Attention should also be paid to foreign competition laws and other relevant regulations.

For the basic concept under the Act, please refer to “Basic Concept Under the Antimonopoly Act on Activities of Enterprises Related to Economic Security.”

**November 20, 2025**

**Japan Fair Trade Commission · Ministry of Economy, Trade and Industry · Ministry of Land,  
Infrastructure, Transport and Tourism**

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## 3. References

# Issues under the Act in promoting economic security initiatives

(Reference) The 6th Expert Meeting on Strengthening Industrial and Technological Foundations for Economic Security (April 15, 2025)

- As the national security environment becomes increasingly complex, Japanese companies are facing the following risks, which may result in the loss of Japan's autonomy and indispensability:
  - (1) Disruptions in the supply of critical goods caused by international conflicts, natural disasters, pandemics, etc.;
  - (2) Economic coercion, such as the suspension of supply and other forms of state intervention in commercial transactions, as well as forced transfers of technology; and
  - (3) Deterioration of business viability due to intensified competition driven by the acquisition of advanced technologies by foreign companies and by excess supply supported by large-scale state subsidies in other countries.
- Addressing these threats and risks **requires large-scale, long-term investment, and information exchange across the entire supply chain, as well as collaboration and restructuring among companies possessing certain technologies and products, is becoming increasingly important.**
  - e.g., ① Preventing information leakage arising from acquisition proposals by foreign companies targeting lower-tier Japanese firms, while facilitating domestic corporate restructuring.
  - ② Technology management via information exchange or joint activities within supply chains—including among competitors or in vertical transactions.
  - ③ Inter-company cooperation (including information exchange and joint procurement) for the stable procurement of raw materials with high overseas dependency.
- On the other hand, **the following concerns have been expressed by industry:**
  - (1) Although there is a growing need for domestic companies to pursue business combinations in order to make large-scale, long-term investments to counter concerns such as excess supply and the monopolization of supply chains by foreign states, **companies are often reluctant to place business combinations on the table for consideration** due to vague concerns that **such actions may violate business combination regulations**; and
  - (2) Vague concerns that “the content of information exchanged between companies may, in some cases, **raise the risk of cartel violations**,” combined with the tendency of corporate legal departments and attorneys to take conservative positions on the Act, **lead companies to hesitate to engage in inter-company dialogue.**
- It is important to maintain fair and free competition in the market and to ensure the interests of general consumers. From the perspective of promoting economic security, **it is also important to prevent the loss of the global competitiveness of Japanese companies due to excess supply by foreign states or the outflow of critical advanced technologies to foreign states**. In this regard, **it may be necessary to clarify the basic approach under the Act concerning actions undertaken from the perspective of economic security—such as information exchange, collaboration, and restructuring among undertakings—and to ensure that such views are widely communicated to industry.**

# Examples of anticipated inter-company collaboration

- Inter-company collaboration necessary to prevent technology leakage and enhance international competitiveness in areas where Japan has technological superiority (such as electronic devices and advanced materials)
- Inter-company collaboration necessary to ensure stable supply of raw materials with high overseas dependency (such as critical minerals)
- Inter-company collaboration necessary to maintain domestic supply chains in industries (such as shipbuilding and marine equipment) where the proportion of orders placed overseas is increasing due to the withdrawal of domestic enterprises and labor shortages

## Goods and technologies critical to economic security (Examples from the Action Plan to Strengthen Industrial and Technological Basis for Economic Security)

	① Areas where Disruptive Technological Innovation is Advancing	② Areas where Japan has Technological Advantages	③ Areas of Technological Commoditization and External Dependence
<b>Computing</b>			
Computational resource Software layer	Quantum computers, AI	Embedded software and systems	Cloud Computing
Foundational technology layer	Advanced/Next-generation Semiconductors, Advanced Back-End Semiconductor Processes, Optoelectronic Convergence, PFAS Substitutes	High-Performance power Semiconductors, High-performance Electronic Components, Microcontrollers, Semiconductor Manufacturing Equipment and Materials	General Electronic Components, General Legacy Semiconductors
Manufacturing supply chain layer		Optical Fiber, Submarine Cables, Multifunction Printers	PCs, Smartphones, and Tablets
etc.			
<b>Cleantech</b>			
Living sector	All-Solid-State Batteries, Solid Electrolytes	Liquid lithium-ion Batteries (Ternary type), Electrode Binders (Anode and Cathode)	Liquid lithium-ion Batteries (LFP type), Critical Minerals (including copper—indispensable for the energy transition—as well as lithium, nickel, cobalt, graphite, etc.)
Energy sector	Next-generation Solar Cells (Perovskite), Fusion energy (materials and components, etc.)	Encapsulation technology, Manufacturing technology for Nuclear Equipment and components (Critical Equipment and Parts)	
Industrial sector		Hydrogen-Based Ironmaking Technologies	
<b>Biotech</b>			
Bio-manufacturing	Mass Cultivation and Fermentation Production Technologies, Microbial and Cell Design Platforms	Analytical Instruments, Separation and Purification Technologies (e.g., separation membranes)	
Medical devices	Digital domains such as Software as a Medical Device (SaMD), Endovascular Treatment	CT/MR/Endoscopes, Diagnostic and Testing Equipment	Mechanical Ventilators, Basic medical devices (e.g., gauze and syringes), Physiological Monitoring Devices, Therapeutic devices (e.g., pacemakers)
Pharmaceuticals	Gene Editing and Synthesis	Manufacturing of Cell Therapy Products (including iPSC cells)	Manufacturing of Generic Pharmaceuticals and Their Active Ingredients (e.g., antimicrobial preparations)
<b>Except for the three areas</b>			
Defense and space	Advanced Technologies, Critical Equipment, and Components in the Defense and Space Sectors	Aircraft Materials and Components (e.g., carbon fiber and engine materials), Satellites and Rockets	Aircraft Materials and Components (Large-Scale Forgings and Castings), Satellites and Rockets
Foundational technologies, etc.		Machine Tools and Industrial Robots, Industrial Data, Quality stabilization know-how and integration technologies	Permanent Magnets

## Specified Critical Products under the Economic Security Promotion Act

Critical goods/materials [# of approved plans] (Fund budget in USD (USD1=JPY140))		
<p><b>Antibiotics [2] (USD 0.4 Bn)</b> Beta-lactam Antibiotics</p> <ul style="list-style-type: none"> <li>production capacity expansion of raw materials &amp; API</li> <li>stockpiling</li> </ul> <p>Fund managed by <b>National Institutes of Biomedical Innovation, Health and Nutrition</b></p>	<p><b>Semiconductors [26] (USD 5.8 Bn)</b> Legacy Semiconductors, Manufacturing Equipment, Parts and Materials, Raw Materials</p> <ul style="list-style-type: none"> <li>production capacity expansion</li> <li>Enhancing supply of raw materials</li> </ul> <p><b>Advanced Electronic Parts [4] (USD 0.2 Bn)</b> MLCC, Film Capacitor, SAW/BAW filter, (its manufacturing Equipment, parts and materials thereof)</p> <ul style="list-style-type: none"> <li>production capacity expansion, R&amp;D</li> </ul>	<p><b>Computer Programs for Cloud Service [11] (USD 1.0 Bn)</b> Programs for Fundamental Cloud Service, Advanced Electronic Computer</p> <ul style="list-style-type: none"> <li>R&amp;D</li> <li>development of programming environment</li> </ul>
<p><b>Fertilizers [12] (USD 0.1 Bn)</b> Ammonium Phosphate, Potassium Chloride</p> <ul style="list-style-type: none"> <li>stockpiling</li> </ul> <p>Fund managed by <b>Fertilizer Economic Research Institute</b></p>	<p><b>Aircraft Parts [18] (USD 0.5 Bn)</b> Large Forging (incl. materials), Titanium sponge, Carbon fiber,</p> <ul style="list-style-type: none"> <li>production capacity expansion</li> </ul> <p><b>Casting (incl. materials), CMC (incl. SiC fiber)</b></p> <ul style="list-style-type: none"> <li>production capacity expansion, R&amp;D</li> </ul>	<p><b>Permanent Magnets [5] (USD 0.2 Bn)</b> Neodymium Magnets, Samarium Cobalt Magnets, Low Rare Earth Magnets</p> <ul style="list-style-type: none"> <li>production capacity expansion, R&amp;D</li> </ul>
<p><b>Marine Equipment [10] (0.1Bn)</b> 2-Stroke/4-Stroke Engines, Crankshafts, Sonars, Propellers</p> <ul style="list-style-type: none"> <li>Production capacity expansion</li> </ul> <p>Fund managed by <b>Japan Ship Technology Research Association</b></p>	<p><b>Batteries [35] (USD 7.2 Bn)</b> Batteries, Parts and Materials, Manufacturing Equipment</p> <ul style="list-style-type: none"> <li>production capacity expansion, R&amp;D</li> </ul>	<p><b>Critical Minerals [6] (USD 0.8 Bn)</b> Manganese, Nickel, Cobalt, Lithium, Graphite, Rare Earth, Gallium, Germanium, Uranium, Tungsten, Fluorine</p> <ul style="list-style-type: none"> <li>enhancing capacity for searching, mining, and processing</li> <li>R&amp;D</li> </ul>
<p>For blue-colored items, fund is managed by <b>New Energy and Industrial Technology Development Organization (NEDO)</b></p>	<p><b>Machine Tools and Industrial Robots [5] (USD 0.4 Bn)</b> CNC, Servomechanism, CNC systems, Reduction Gear, PLC, Ball Screw, Linear Guide, Linear Scale, Mineral casting</p> <ul style="list-style-type: none"> <li>production capacity expansion, R&amp;D</li> </ul>	<p><b>Natural Gas [1] (USD 0.5 Bn)</b> LNG</p> <ul style="list-style-type: none"> <li>Securing buffer LNG</li> </ul> <p>For purple-colored items, fund is managed by <b>Japan Organization for Metals and Energy Security (JOGMEC)</b></p>

(Source)

Left figure: the Action Plan to Strengthen Industrial and Technological Basis for Economic Security (Revised on May 30), page 7, Figure 7 (Ministry of Economy, Trade and Industry)

Right figure: Track Record of Approved Plans for Initiatives to Enhance Supply Chain Resilience (the System for Ensuring Stable Supply of Critical Products), as of October 29, 2025 (Cabinet Office)

[https://www.cao.go.jp/keizai\\_anzen\\_hosho/suishinhou/supply\\_chain/supply\\_chain.html](https://www.cao.go.jp/keizai_anzen_hosho/suishinhou/supply_chain/supply_chain.html)

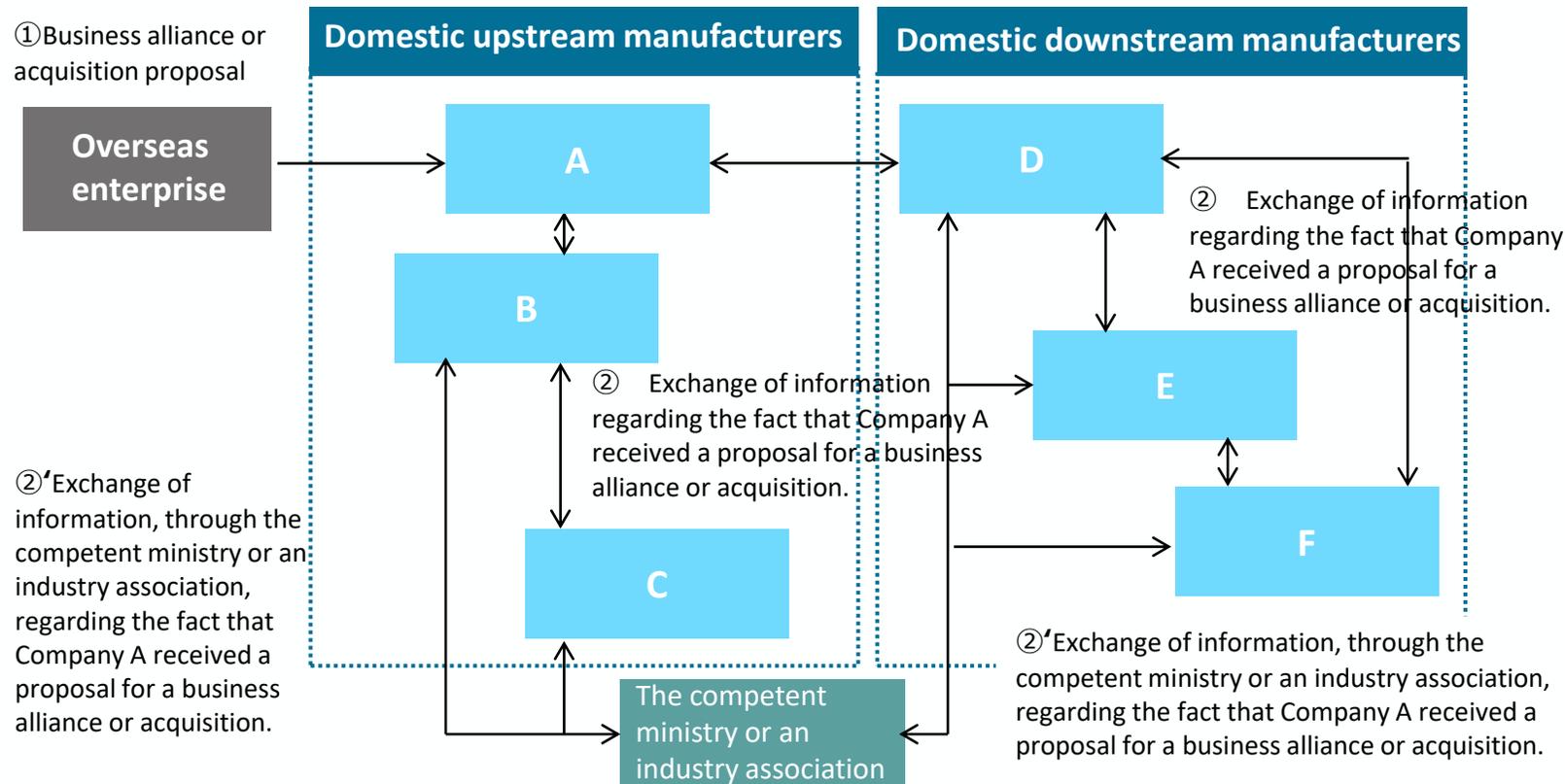


# **Hypothetical Cases: Information Exchange**



# Case 1: Information exchange regarding proposals for business alliances and acquisitions

- A case scenario: An overseas enterprise makes a proposal for a business alliance (such as the relocation of production bases to other countries or the transfer of technology) or an acquisition to manufacturers of critical components and materials in the supply chain. Domestic manufacturers exchange information regarding such proposal from the overseas enterprise, either among themselves or through the competent ministry or an industry association.
- ✓ **Economic Security Considerations**: It is necessary to prevent the outflow of superior technologies held by Japanese manufacturers and the erosion of domestic production base that may accompany such business alliances or acquisitions.



## Assumed industries/products

Electronic devices, advanced materials

## Issues

- Does sharing information among businesses regarding the fact that an overseas enterprise has made a proposal for a business alliance or acquisition raise any issues under the Act?
- What if the above information is shared through the competent ministry or an industry association?

When an overseas enterprise makes a proposal for a business alliance or acquisition to a domestic enterprise, information is exchanged among domestic enterprises, or through the competent ministry or an industry association, concerning the fact of such proposal from the overseas enterprise.



## <JFTC's view under the Act>

- When an enterprise that has received a proposal for a business alliance or business combination from an overseas enterprise exchanges or shares information on the fact of such proposal with other enterprises, the competent ministry, or an industry association, this generally does not raise concerns under the Act.

## References

“Guidelines Concerning the Activities of Enterprises, etc. Toward the Realization of a Green Society Under the Antimonopoly Act,” Part I-1

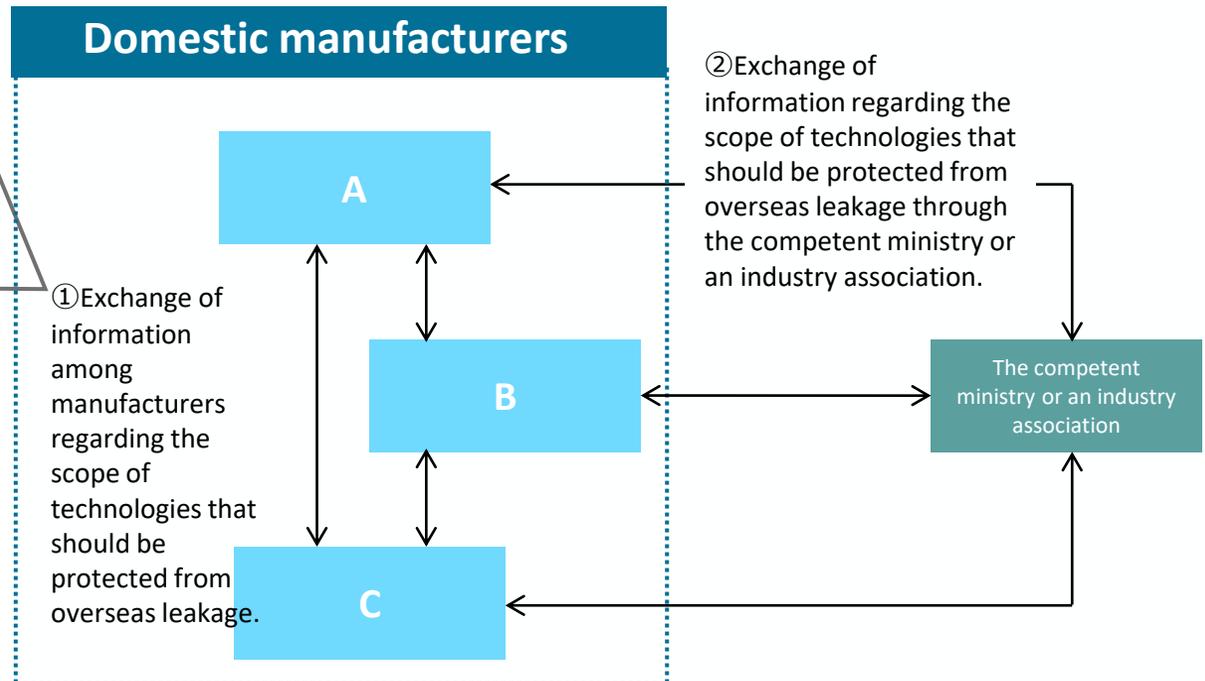
“Guidelines Concerning the Activities of Trade Associations under the Antimonopoly Act,” Part II-9

# Case 2: Information exchange regarding the scope of technologies that should be protected from leakage

A case scenario: Information is exchanged among domestic manufacturers, or through the competent ministry or an industry association, regarding the scope of technologies that should be protected from overseas leakage in technology fields in which Japan holds a competitive advantage.

- ✓ **Economic Security Considerations:** If even one company provides such technology, Japan’s technological superiority and international competitiveness may be undermined. Therefore, it is necessary to establish a shared understanding within the industry, in advance, regarding the core competencies that should be safeguarded.

Scope of technologies A	OK
Scope of technologies X	NG
Scope of technologies B	OK
Scope of technologies C	OK
Scope of technologies Y	NG
Scope of technologies Z	NG



## Assumed industries/products

Electronic devices, advanced materials

## Issues

- Does exchanging information among enterprises regarding the scope of technologies that should be protected from leakage to overseas enterprises raise any issues under the Act?
- What if the above information is shared through the competent ministry or an industry association?

Information is exchanged among domestic enterprises, or through the competent ministry or an industry association regarding the scope of technologies that should be protected from overseas leakage in technology fields where domestic enterprises hold a competitive advantage.



### <JFTC's views based on the Act>

- The mere act of exchanging or sharing information between enterprises, competent ministries, or industry associations concerning the types or intended uses of important technologies or know-how that should be protected from overseas leakage generally does not raise concerns under the Act.
- However, if enterprises jointly agree on the content or level of technologies or know-how in a manner that adversely affects competition in technologies or products, this may constitute a technology-restriction cartel and could raise concerns under the Act.

### References

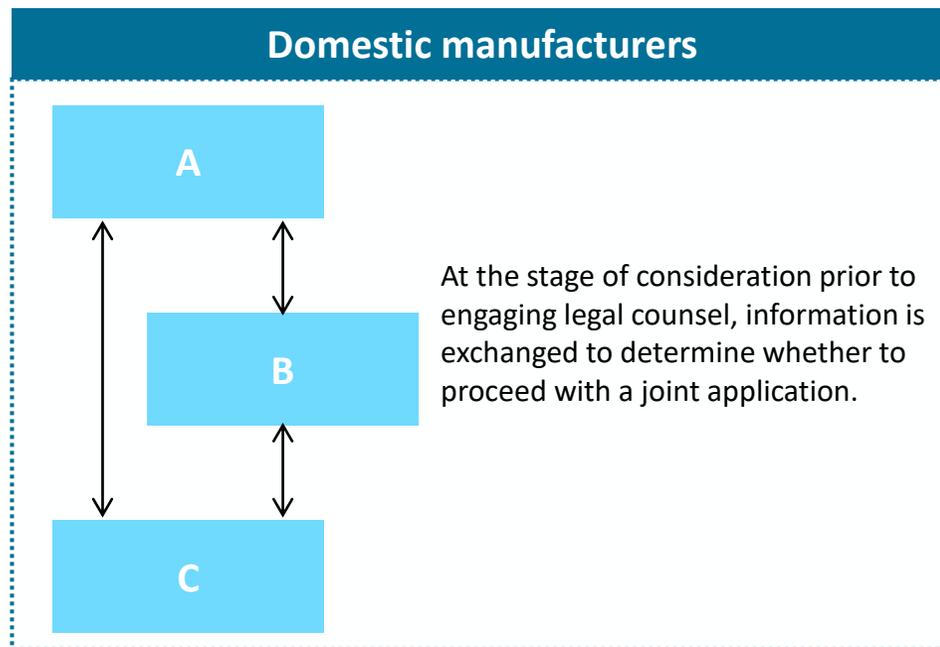
“Guidelines Concerning the Activities of Enterprises, etc. Toward the Realization of a Green Society Under the Antimonopoly Act,” Part I-1

“Guidelines Concerning the Activities of Trade Associations under the Antimonopoly Act,” Part II-9

“Guidelines for the Use of Intellectual Property Under the Antimonopoly Act,” Part 3-2

# Case 3: Information exchange concerning anti-dumping applications

- A case scenario: At the stage of consideration—before domestic manufacturers have decided whether to proceed concretely with a joint application for anti-dumping measures on products sold at dumped prices by overseas enterprises and before engaging legal counsel—information is exchanged to confirm whether to move forward with such a joint application.
- ✓ **Economic Security Considerations** : Anti-dumping applications are important to eliminate harm to domestic enterprises caused by dumping and to maintain their competitiveness. Smooth information sharing among enterprises is necessary to enable decisions on joint applications.



## Assumed industries/products

Metals

## Past positions of the JFTC

- In the “Second Study Group on Promoting the Use of Joint Applications and Applications by Associations for Anti-Dumping Measures” (September 30, 2020), the following views under the Act was indicated regarding similar issues.※  
※[https://www.meti.go.jp/policy/external\\_economy/trade\\_control/boekikanri/trade-remedy/petition/data/dokkinhou\\_20201026.pdf](https://www.meti.go.jp/policy/external_economy/trade_control/boekikanri/trade-remedy/petition/data/dokkinhou_20201026.pdf)
  - ✓ The mere act of communicating, after sharing publicly available or other general information, whether to commence consideration of a joint application for anti-dumping measures generally does not raise concerns under the Act.
  - ✓ Information that requires caution when shared—such as by establishing a clean team or implementing measures to block information—includes details that are specifically related to important competitive parameters of a business enterprise's current or future business activities, such as concrete plans or forecasts for prices and quantities of goods or services supplied or received, individual and specific contents of transactions or inquiries with users, or the scope of planned capital investments.

At the stage of consideration, information is exchanged among domestic enterprises to determine whether to proceed with a joint application for anti-dumping measures on products sold at dumped prices by overseas enterprises.



### < JFTC's views based on the Act >

- Exchanging or sharing information among enterprises regarding the status of consideration for a joint application for anti-dumping measures generally does not raise concerns under the Act.

#### Reference

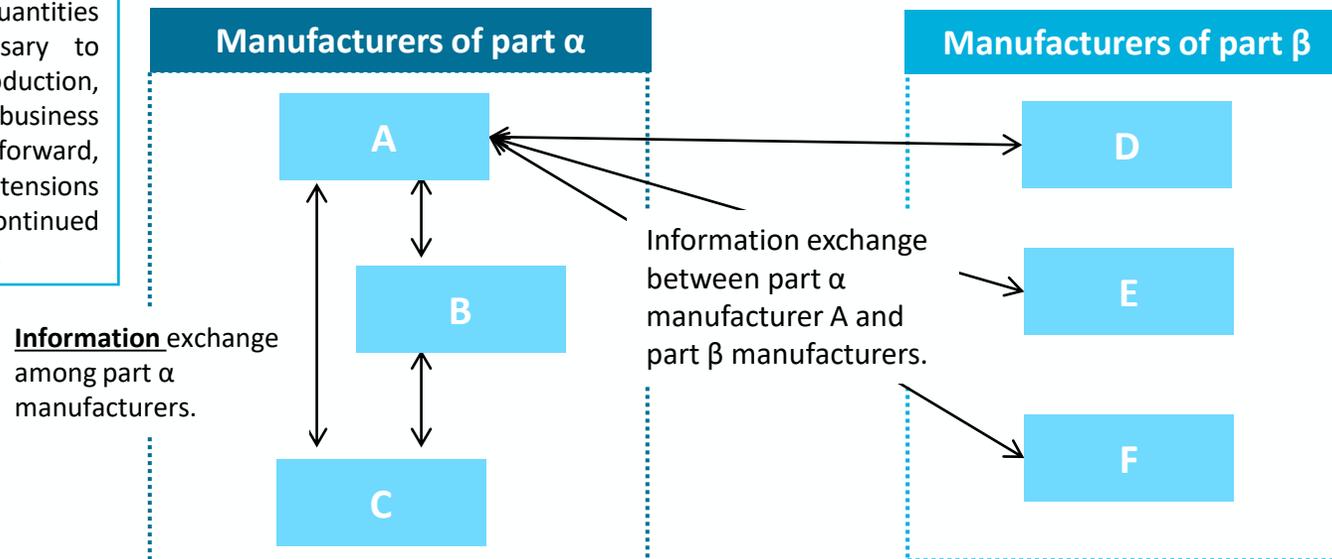
“The Views under the Antimonopoly Act concerning Joint Applications for Anti-Dumping Measures” (September 30, 2020)

“Guidelines Concerning the Activities of Enterprises, etc. Toward the Realization of a Green Society Under the Antimonopoly Act,” Part I-1

# Case 4: Information exchange regarding the consolidation of businesses in shrinking markets

- A case scenario: In an industry that is gradually shifting from Product X to lower-emission Product Y to achieve decarbonization, certain components of Product X (such as part  $\alpha$  and part  $\beta$ ) that cannot be repurposed for Product Y are expected to face oversupply in the future. To facilitate business consolidation such as through business transfers while enterprises are still financially sound, information is exchanged among enterprises regarding the quantities deemed necessary to maintain production, challenges the business may face going forward, and intentions concerning continued operations, etc.
- ✓ **Economic Security Considerations** : Components of Product X constitute a field in which Japan holds technological superiority and international competitiveness, and which overseas enterprises seek to acquire such technologies. Accordingly, consolidation among domestic companies is desirable to maintain such technological superiority and international competitiveness.

This includes quantities deemed necessary to maintain production, challenges the business may face going forward, and intentions concerning continued operations, etc.



## Assumed industries/products

Automobile internal combustion engine components

## Issues

- Whether exchanging information among enterprises raises concerns under the Act.
- What specific matters should be noted when exchanging information (such as the content of the information and internal arrangements for information exchange)?

In a business sector that is gradually shifting from Product X to lower-emission Product Y to achieve decarbonization, certain components that cannot be repurposed for Product Y are expected to face oversupply in the future. To facilitate consolidation while enterprises still have sufficient capacity, information is exchanged among domestic enterprises regarding quantities deemed necessary to maintain production, challenges the business may face going forward, and concerns for continued operations, etc.



### < JFTC's views based on the Act >

- Even when exchanging information on important means of competition such as future production quantities, if the information is within a reasonably necessary scope for considering business consolidation and necessary measures to block information are implemented, such exchange generally does not raise concerns under the Act.
- On the other hand, attention should be paid to the risk that, if necessary measures to block information are not implemented and information exchange on important means of competition leads to the formation of a tacit understanding or a common intent among enterprises regarding future production quantities, etc., such conduct may raise concerns under the Act.
- Points to note when conducting such information exchange include devising measures to avoid any coordination or allocation, such as determining who will be the producer, and implementing necessary measures to block information (e.g., establishing a clean team) when sharing information on competitors internally.

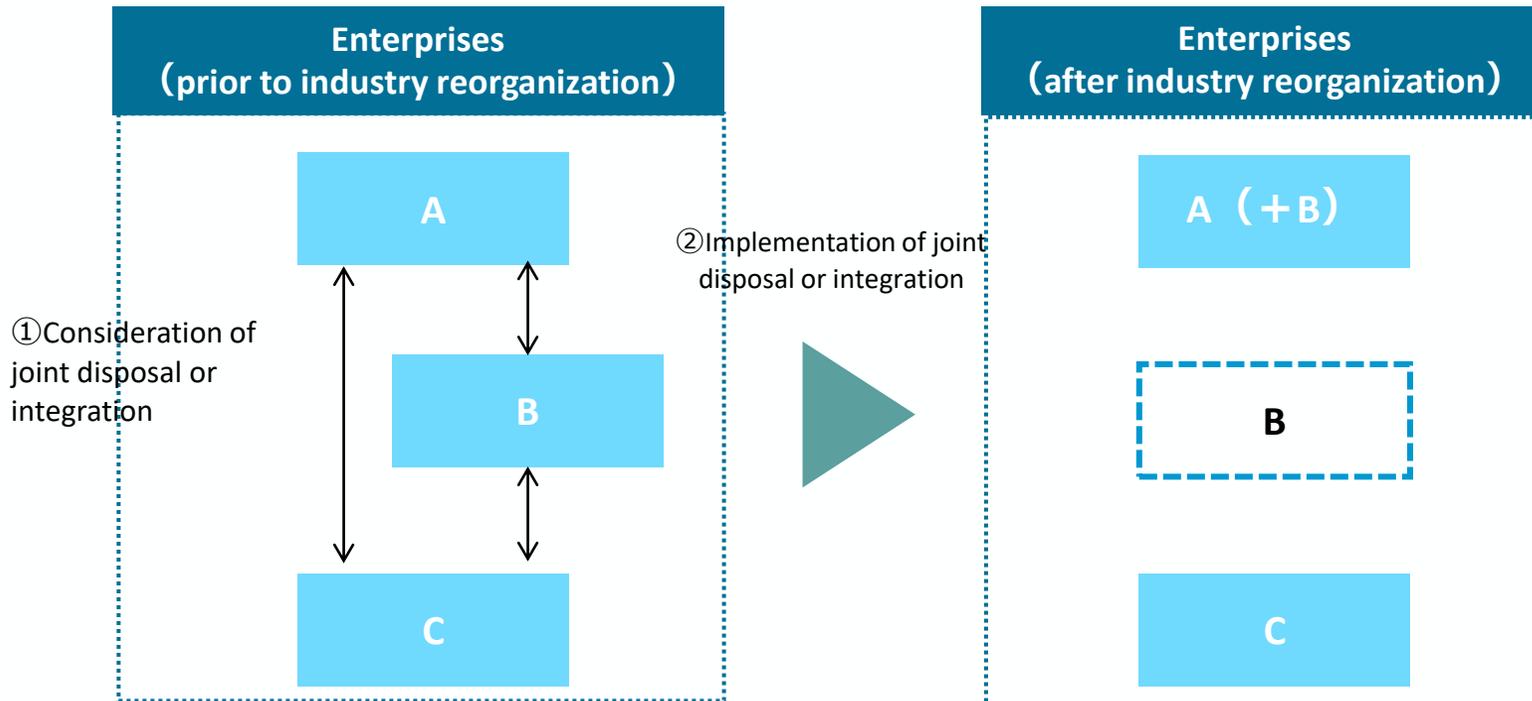
Note: A “clean team” generally refers to a group composed of internal personnel who are not directly engaged in or involved in decisions regarding competitive businesses (non-operational staff) and external advisors.

#### References

- “Guidelines Concerning the Activities of Enterprises, etc. Toward the Realization of a Green Society Under the Antimonopoly Act,” Part I-1 and I-3
- “Casebook on the Antimonopoly Act for Industrial Structural Reform to Ensure Stable Supply of Generic Drugs,” Chapter 2

# Case 5: Information exchange regarding the consolidation of businesses in shrinking markets

- A case scenario: In a business sector where a future decline in demand is anticipated, enterprises exchange information on the joint disposal or integration of plants, etc. based on future demand and supply forecasts, while supply and demand remain balanced.
- ✓ **Economic Security Considerations** : In a business sector where a future decline in demand is expected, it is important to maintain the domestic industrial base and counter competitive pressure from overseas enterprises. Accordingly, it may be necessary for domestic enterprises to exchange information for the purpose of joint disposal or integration of plants and other facilities.



## Assumed industries/products

Materials industry, etc.

## Issues

- Whether the exchange of information among enterprises regarding current supply volumes (or inventory levels) and future demand forecasts raises concerns under the Act.

In a business sector where a future decline in demand is anticipated, enterprises exchange information on the joint disposal or integration of plants, etc. based on future demand and supply forecasts, while the adequate supply-demand balance is still maintained.



### < JFTC's views based on the Act >

- Even if the information exchanged concerns important means of competition such as future production quantities, where such information is reasonably necessary for considering the joint disposal or integration of plants, etc. and necessary measures to block information are implemented, exchanging such information generally does not raise concerns under the Act.
- On the other hand, where necessary measures to block information are not implemented and the exchange of information on important means of competition leads to the formation of a tacit understanding or a common intent among enterprises regarding future quantities, etc., it should be noted that this may raise concerns under the Act.

### References

- “Guidelines Concerning the Activities of Enterprises, etc. Toward the Realization of a Green Society Under the Antimonopoly Act,” Part I-1 and I-3
- “Casebook on the Antimonopoly Act for Industrial Structural Reform to Ensure Stable Supply of Generic Drugs,” Chapter 2

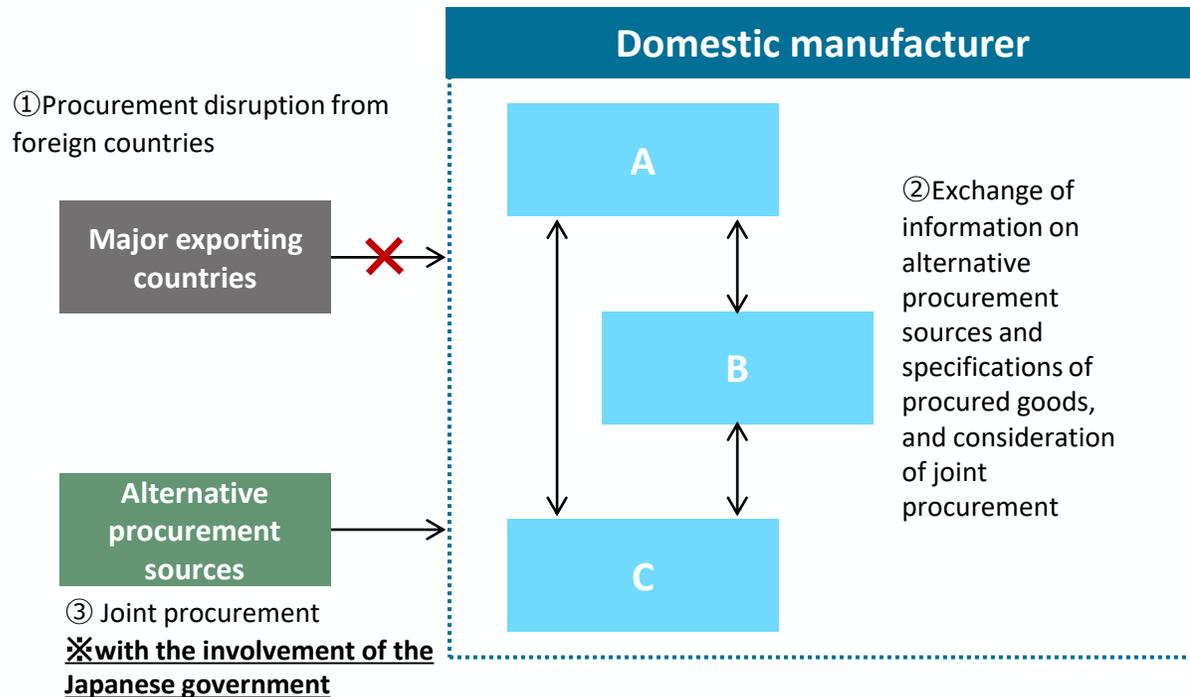


# **Hypothetical Cases: Joint Activities**



# Case 6: Information exchange and joint procurement concerning the sourcing of critical raw materials

- A case scenario: With respect to critical raw materials essential for business operations, (1) where external shocks such as significant changes in the international situation result in procurement disruption of domestic manufacturers, or where the government recognizes a high likelihood of such disruptions and provides relevant information to enterprises; or (2) where domestic manufacturers need to prepare for potential procurement disruption risks in normal times, domestic manufacturers exchange information on alternative procurement sources, material specifications, etc., and consider or implement joint procurement.
- ✓ **Economic Security Considerations** : To prepare for the risk of supply disruption of raw materials highly dependent on overseas sources, it is important for enterprises to collaborate in securing alternative procurement sources.



## Assumed industries/products

Raw materials (such as critical minerals) that rely on imports from other countries

## Issues

- Does information exchange on alternative procurement sources and engaging in joint procurement among enterprises, in preparation for the risk of supply disruption of raw materials with high dependence on overseas sources, raise concerns under the Act?
  - Does the determination of legality vary depending on the type of information shared for joint purchasing (such as price, quantity, or specifications)?
  - Does the determination of legality vary depending on the level of market share of the participating enterprises in the raw material procurement market and the product sales market, or the ratio of raw material procurement costs to product prices?
  - Does the determination of legality depend on whether participation in joint procurement is voluntary and not subject to restrictions?

With respect to critical raw materials essential for the operations of domestic manufacturers, (1) in an emergency where a procurement disruption has materialized due to significant changes in international circumstances or other external shocks, or where the government determines that there is a high likelihood of such a disruption occurring, or (2) where it is necessary to prepare for the risk of a procurement disruption caused by significant changes in international circumstances or other external shocks, enterprises exchange information on alternative procurement sources and specifications of critical raw materials and consider or implement joint procurement.



### < JFTC's views based on the Act >

(Information exchange and joint procurement in an emergency where a procurement disruption of critical raw materials has materialized) [(1) above]

- In an emergency where, due to significant changes in international circumstances or other external shocks, a disruption of procurement equivalent to that experienced during a major earthquake has occurred, or where the government as a whole determines that there is an objectively high likelihood of such a disruption occurring imminently, enterprises may, for the purpose of ensuring economic security and only for the duration of a severe shortage of critical raw materials, exchange only the necessary information such as procurement quantities and sources, and engage in joint procurement necessary to secure stable supply. Such conduct, in principle, does not raise concerns under the Act.
- Once the severe shortage of critical raw materials has been resolved, the joint procurement in question must be terminated immediately.

(Information exchange to prepare for the risk of procurement disruption of critical raw materials) [(2) above]

- Even where the information exchange concerns important means of competition such as future procurement quantities, if the information is reasonably necessary for examining the risk of procurement disruption of critical raw materials and necessary measures to block information are implemented, such conduct generally does not raise concerns under the Act.
- On the other hand, attention should be paid to the risk that, without implementing necessary measures to block information, an exchange of information on important means of competition may lead to the formation of a tacit understanding or a common intent among enterprises regarding future procurement quantities, etc., which may raise concerns under the Act.

(Joint Procurement to prepare for the risk of procurement disruption of critical raw materials) [(2) above]

- Where the purchasing share of participating enterprises in the procurement market for critical raw materials is low, or where their market share in the product sales market or the proportion of procurement costs for critical raw materials in their manufacturing costs is low, or where buyers in the product sales market have countervailing bargaining power and competitive pressure from buyers is strong, such conduct generally does not raise concerns under the Act.
- It should be noted that, as a matter to be considered in connection with the joint procurement in question, if participation in the joint procurement is mandatory, there is a risk that such conduct may raise concerns under the Act.

### References

“Collection of Hypothetical Cases Concerning Initiatives in Emergencies Such as Earthquakes”

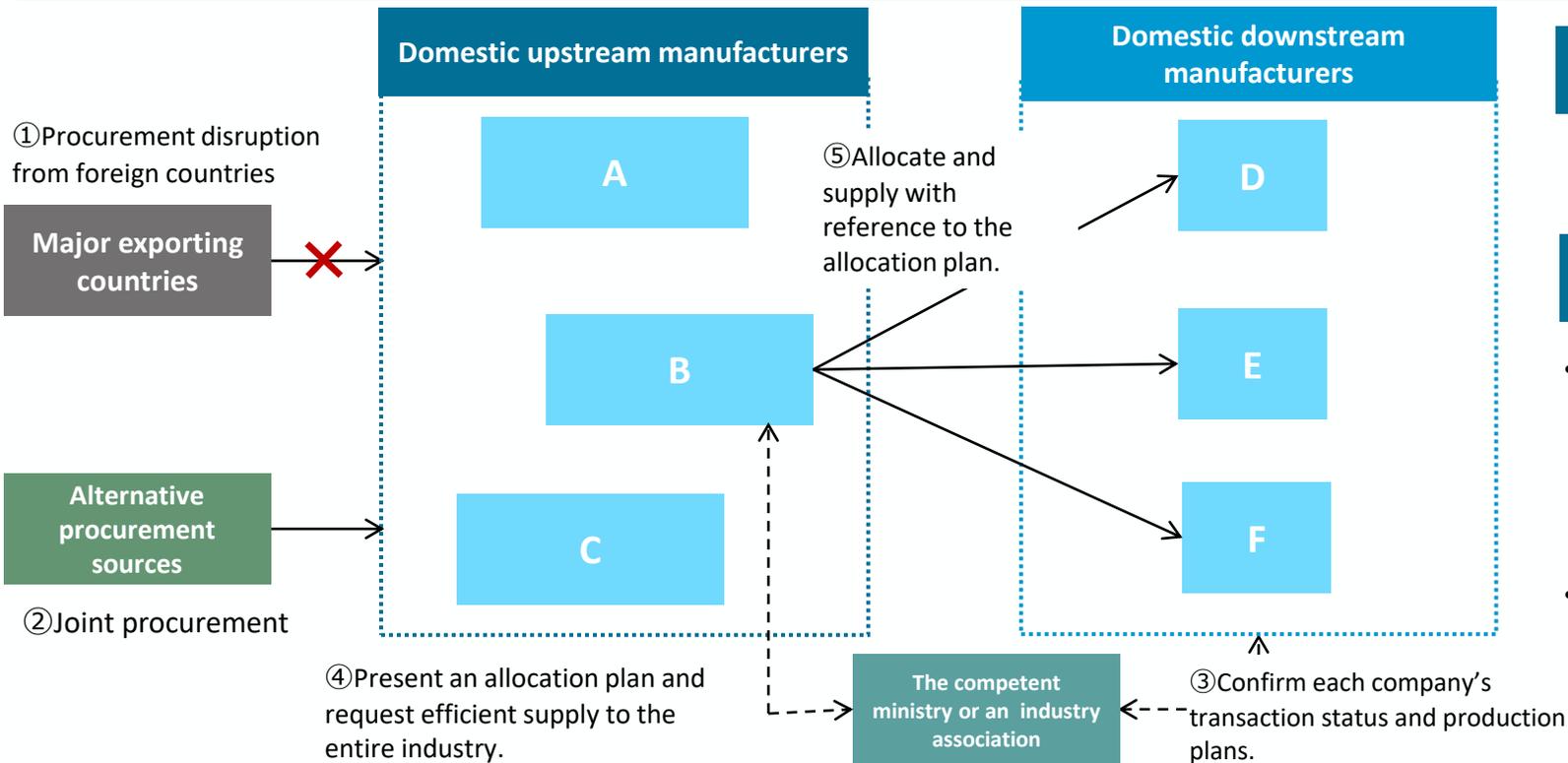
“Q&A Related to the Great East Japan Earthquake” Question 2

“Guidelines Concerning the Activities of Enterprises, etc. Toward the Realization of a Green Society Under the Antimonopoly Act,” Part I-1 and I-3

“Casebook on the Antimonopoly Act for Industrial Structural Reform to Ensure Stable Supply of Generic Drugs,” Chapter 5

# Case 7: Allocation of products with limited supply to downstream markets

- A case scenario: With respect to critical raw materials essential for business operations, when faced with the risk of procurement disruption due to external shocks such as significant changes in the international situation, products manufactured using raw materials jointly procured from alternative sources (where production volume after joint procurement are lower than pre-disruption levels) are allocated and supplied to domestic downstream manufacturers.
- ✓ **Economic Security Considerations** : Where a procurement disruption occurs due to external shocks such as significant changes in the international situation, it is important to ensure efficient allocation of products in order to prevent supply disruptions or imbalances in production volumes at the downstream level of the domestic supply chain.



## Assumed industries/products

Raw materials (such as critical minerals) that rely on imports from other countries

## Issues

- Does supplying products that use raw materials with high overseas dependency in accordance with an allocation plan determined by the competent ministry or an industry association, as a measure to address the risk of procurement disruption of such raw materials, raise concerns under the Act?
- Are there any matters to be considered when determining allocation quantities (e.g., There must not be any disproportionate allocation to specific domestic downstream manufacturers without reasonable grounds.)?

In an emergency where a procurement of critical raw materials essential for domestic manufacturers' operation is disrupted due to significant changes in international circumstances or other external shocks, domestic manufacturers supply products manufactured with the critical raw materials jointly procured from alternative sources to downstream enterprises, in accordance with an allocation plan determined by the competent ministry or an industry association.



### < JFTC's views based on the Act >

- Allocation described in the assumed case, in principle, does not raise concerns under the Act if it is conducted for the purpose of ensuring economic security, only for the period during which the shortage of critical raw materials is severe, and in accordance with an allocation plan determined by the competent ministry (whether directly or through an industry association) as a response in an emergency where a procurement disruption equivalent to that experienced during a major earthquake has occurred due to significant changes in international circumstances or other external shocks.
- Once the significant shortage of critical raw materials has been resolved, this allocation must be terminated immediately.

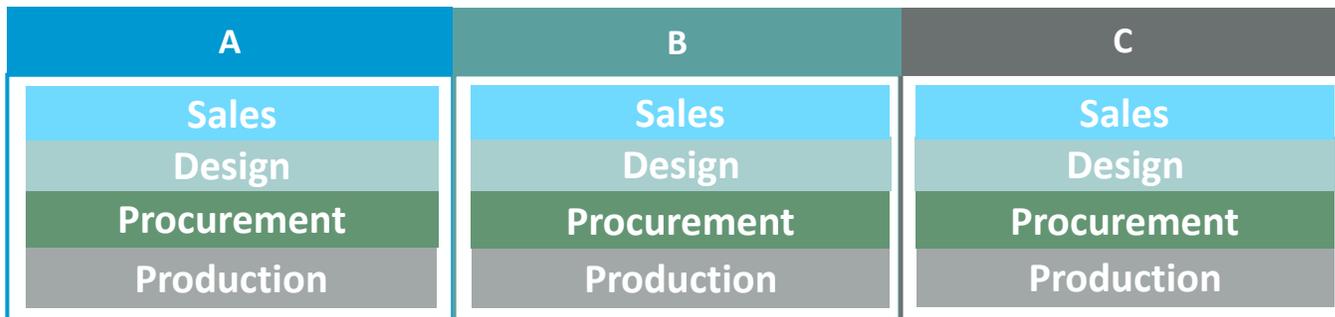
### Reference

“Collection of Hypothetical Cases Concerning Initiatives in Emergencies such as Earthquakes”

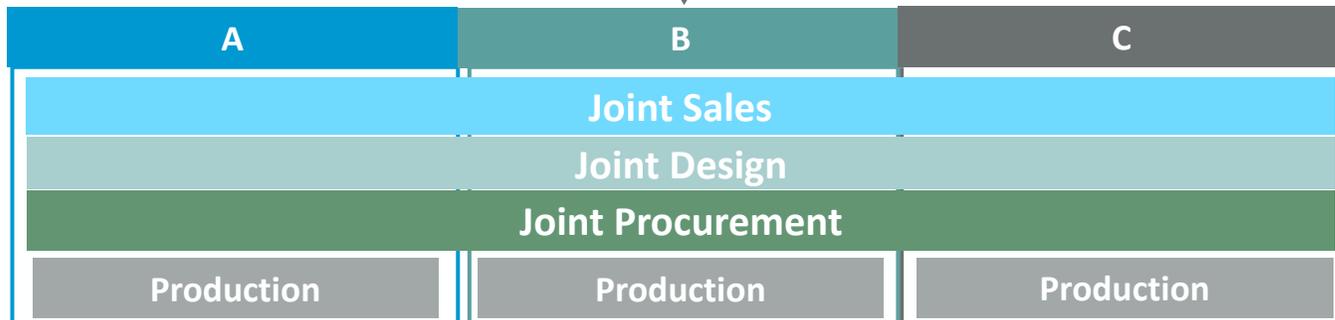
“Q&A Related to the Great East Japan Earthquake” Question 2

## Case 8: Joint activities to maintain and secure competitiveness

- A case scenario: Amid exposure to competition in the global market, domestic enterprises alone cannot maintain production efficiency. Therefore, competing domestic enterprises jointly engage in sales, design, and procurement, while each enterprise takes responsibility for producing its respective products.
- **Economic Security Considerations** : It is necessary to improve production efficiency by jointly conducting sales, design, and procurement, and maintain and secure the competitiveness of domestic enterprises.



Company A, Company B, and Company C jointly conduct sales, design, and procurement.



### Assumed industries/products

Shipbuilding and marine equipment industries

### Issues

- Does joint engagement by domestic enterprises in sales, design, and procurement raise concerns under the Act?

Amid competitive conditions in the global market, domestic enterprises, unable to maintain production efficiency on their own, jointly engage in sales, design, and procurement of products, while each enterprise takes responsibility for producing its respective products.



< JFTC's views based on the Act >

- If, after comprehensively considering (i) the content of the joint undertaking (including how it affects important means of competition such as product prices), (ii) the market share of the enterprises participating in the joint undertaking (whether in the global or domestic market), and (iii) the manner of execution of the joint undertaking (for example, whether participation or use is not compulsory), it can be evaluated that the undertaking does not substantially restrain competition, it does not raise concerns under the Act.

Reference

“Guidelines Concerning the Activities of Trade Associations under the Antimonopoly Act,” Part II-11

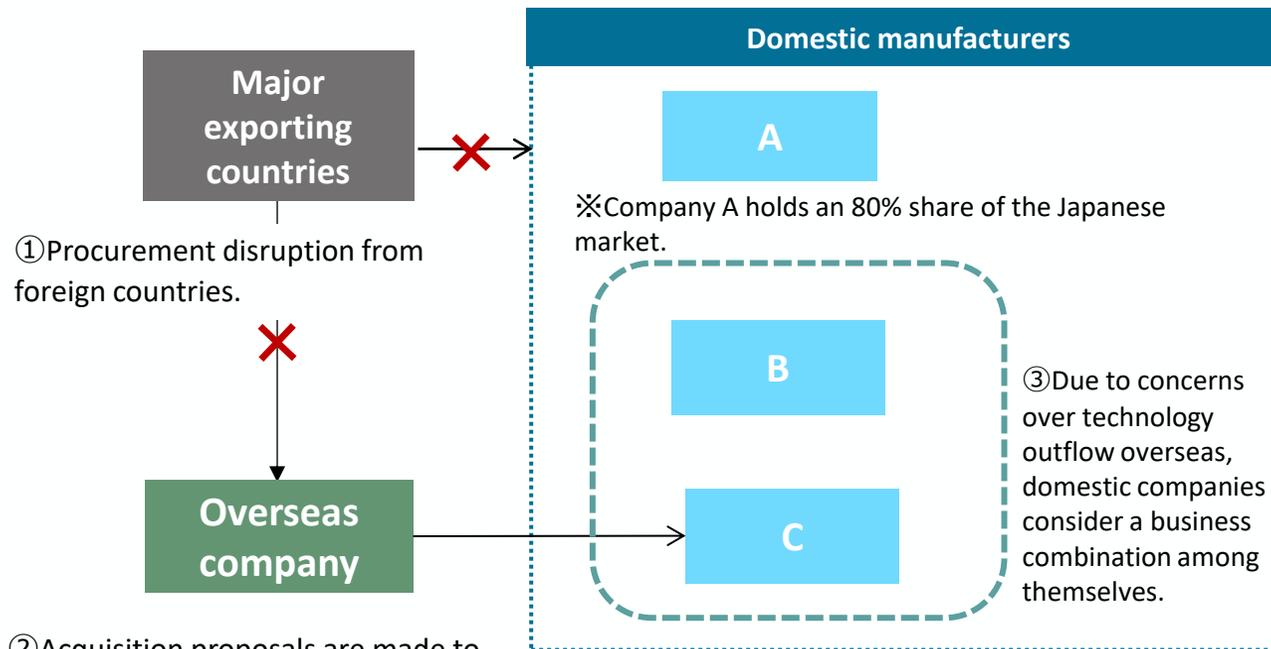


# **Hypothetical Cases: Business Combination**



- A case scenario: An acquisition proposal is made by an overseas company. In response, in light of the limited number of domestic companies manufacturing critical goods for economic security, domestic companies engage in a business combination to maintain Japan's autonomy and indispensability.
- ✓ **Economic Security Considerations** : It is necessary to prevent the outflow of Japan's superior technologies and the erosion impairment of the domestic production base.

※The combined global market share of A, B, and C is small (around 10%), with the majority held by companies in major exporting countries.



② Acquisition proposals are made to Japanese manufacturers to ensure stable supply and complete the supply chain within another country.

## Assumed industries/products

Essential components for various new-energy-related products, automobiles, manufacturing machinery, etc.

## Issues

- What competition law issues should be considered when implementing a business combination?

An acquisition proposal is made by an overseas company. In response, in light of the limited number of domestic companies manufacturing goods useful for economic security, domestic companies engage in a business combination to maintain Japan's autonomy and indispensability.

- ◆ The combined global market share of the three domestic companies is around 10%, while the majority of the global market share is held by companies in major exporting countries.
- ◆ Company A holds an 80% share of the Japanese market, and the remaining companies, B and C, carry out a business combination.



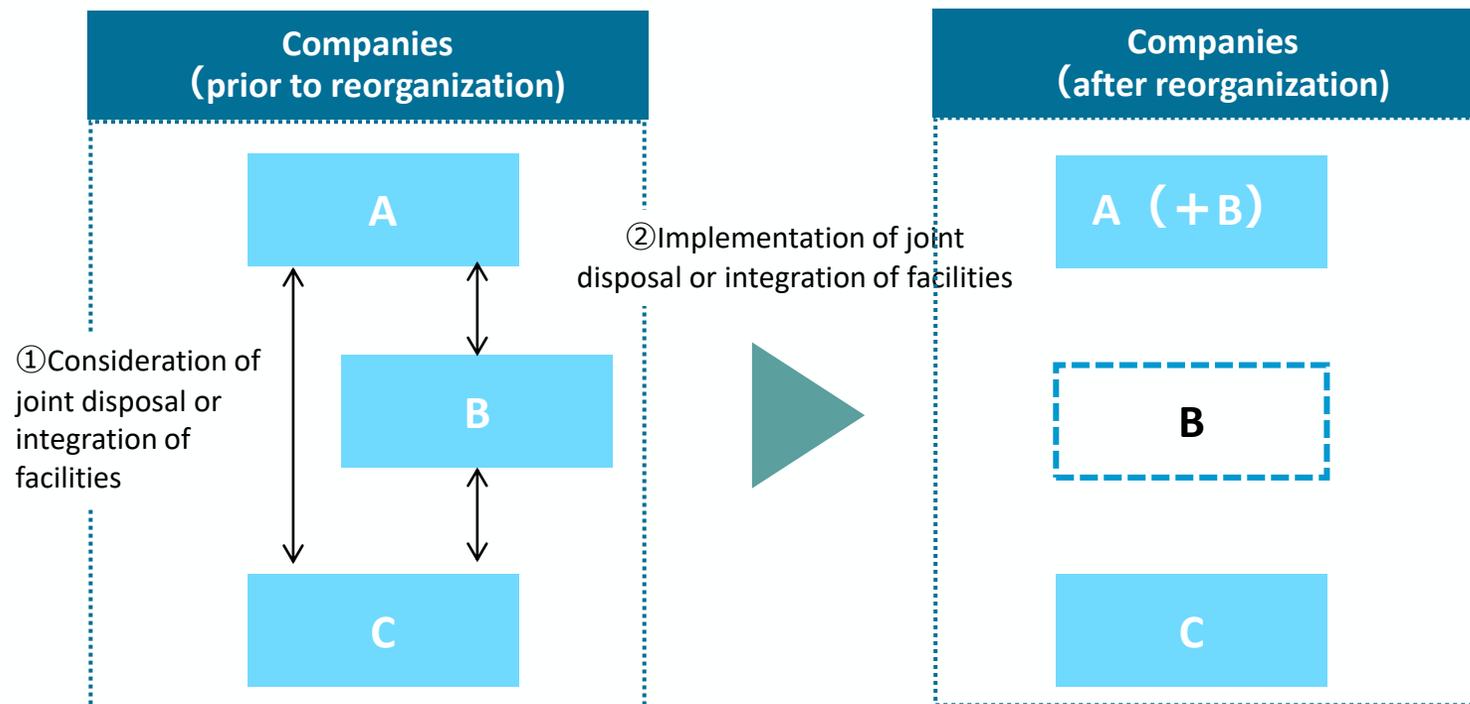
< JFTC's views based on the Act >

- When the geographic range is defined globally, given that the combined global market share of the three domestic companies, including the parties concerned, is around 10%, the case falls within the safe harbor criteria.
- Even when the geographic range is defined domestically, considering that the combined domestic market share of the parties concerned is 20% or less, the case may fall within the safe harbor criteria. Even if the share does not meet the safe harbor criteria, the impact of the business combination on competition can be evaluated as minor since the combined share only slightly exceeds the threshold and competitive pressure from other domestic companies is recognized as sufficient. Therefore, the assumed case generally does not raise concerns under the Act.

Reference

"Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination" Part IV

- A case scenario: In a business sector where future demand is expected to decline and supply and demand remain balanced at present, companies jointly scrap or integrate facilities such as plants based on future demand and supply forecasts.
- ✓ **Economic Security Considerations** : In a business sector where future demand is expected to decline, it is important to maintain the domestic industrial base and counter competitive pressure from overseas companies; therefore, domestic companies need to exchange information for the joint disposal or integration of facilities such as plants.



## Assumed industries/products

Materials industry

## Issues

- What competition law issues arise when actually carrying out joint disposal of facilities or integrating businesses?

In a business sector where future demand is expected to decline, domestic companies jointly dispose of or integrate facilities such as plants based on future demand and supply forecasts, while supply and demand are still balanced.



### < JFTC's views based on the Act >

- In light of the situation where foreign products are sold to such an extent that competitive pressure from overseas companies must be countered, the assumed conduct generally does not raise concerns under the Act, if import pressure exists and it is deemed to be sufficiently strong.
- Even if the presence of import pressure alone does not suffice to conclude that there is no concern under the Act, when it can be assessed—based on a comprehensive consideration of factors such as (i) the position of the parties and the situation of competitors, (ii) competitive pressure from related markets, and (iii) competitive pressure from users—that the conduct does not substantially restrain competition, it generally does not raise concerns under the Act.

### Reference

“Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination” Part IV

# Case 11: Portfolio adjustment in a market with excess supply

- A case scenario: Overseas companies expand their market shares in Japan by flooding the market with low-priced products, and individual domestic companies are unable to maintain production efficiency on an individual basis. Accordingly, the domestic companies mutually adjust their portfolios through business alliances, business transfers or other measures.
- ✓ **Economic Security Considerations** : It is necessary to maintain and secure the competitiveness of domestic companies by improving production efficiency through mutual adjustment of their portfolios.

A	B	C
Business $\alpha$	Business $\alpha$	Business $\alpha$
Business $\beta$	Business $\beta$	Business $\beta$
Business $\gamma$	Business $\gamma$	Business $\gamma$



A,B,C mutually adjust their portfolio through business alliances or business transfers

A	B	C
Business $\alpha$	Business $\beta$	Business $\gamma$

## Assumed industries/products

Materials industry, etc.

## Issues

- Whether portfolio adjustments between companies raise concerns under the Act.

As overseas companies expand their market share by leveraging excess supply to sell products at low prices, and individual domestic companies are unable to maintain production efficiency on their own, domestic companies mutually adjust their portfolios through business alliances, business transfers or other measures involving splitting off business or product from one company and integrating it into another company.



### < JFTC's views based on the Act >

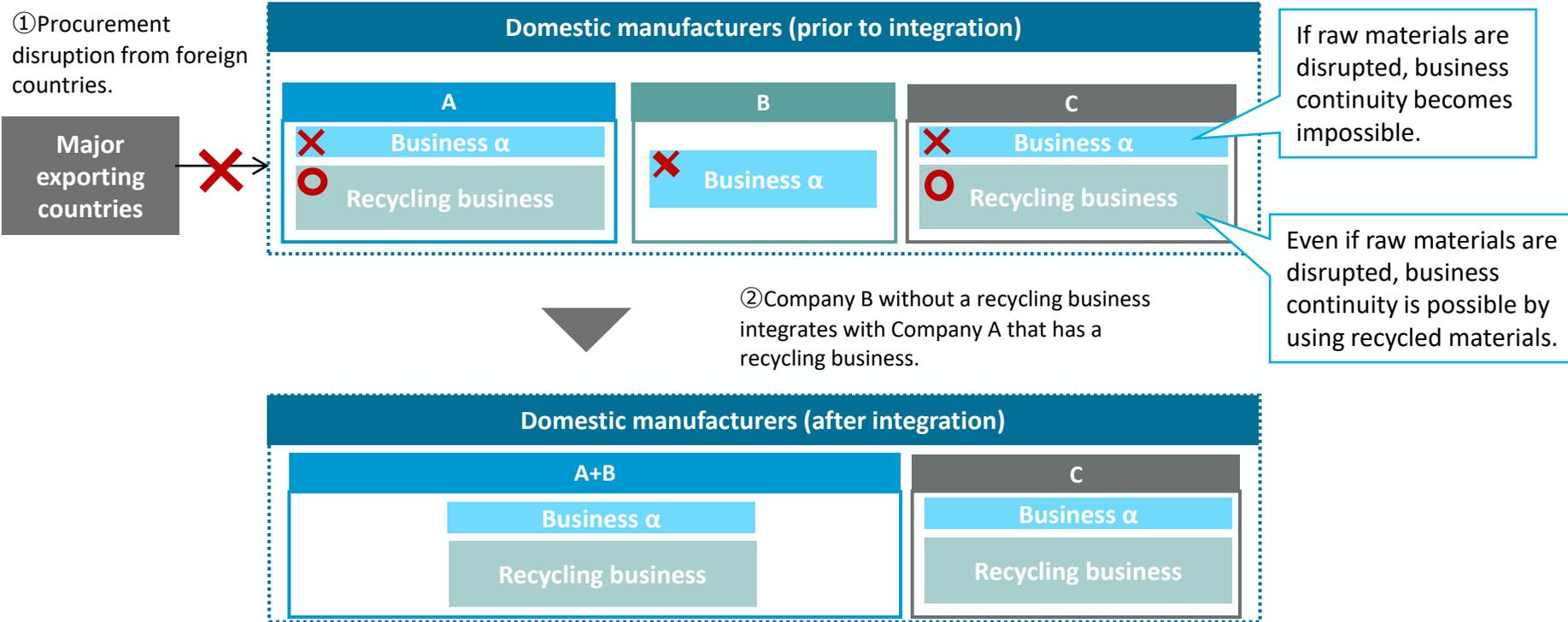
- In light of the situation where foreign products are sold to such an extent that competitive pressure from overseas companies must be countered, import pressure often exists. If such import pressure is deemed to be sufficiently strong, the assumed case generally does not raise concerns under the Act.
- Even if the presence of import pressure alone does not suffice to conclude that there is no concern under the Act, when it can be assessed—based on a comprehensive consideration of factors such as (i) the position of the parties and the situation of competitors, (ii) competitive pressure from related markets, and (iii) competitive pressure from users—that the conduct does not substantially restrain competition, it generally does not raise concerns under the Act.

### Reference

“Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination” Part IV

# Case 12: Industry restructuring with consideration for business stability and continuity

- A case scenario: When faced with a procurement disruption risk for critical raw materials essential for business operations due to external shocks such as significant changes in the international situation, a company engaged solely in Business α, which manufactures Product X using such raw materials, integrates with a competitor that, in addition to Business α, operates a recycling business manufacturing Product X using recycled materials as substitutes for those raw materials.
- ✓ **Economic Security Considerations** : A company without a recycling business would be unable to continue Business α if procurement is disrupted; therefore, to ensure continued supply under such circumstances, it is necessary to integrate with a company that operates a recycling business.



## Assumed industries/products

Essential components for various new-energy-related products, automobiles, manufacturing machinery, etc.

## Issues

- Whether industry restructuring taking into account business stability and continuity raises concerns under the Act.

In a situation where a procurement disruption of critical raw materials essential for business has materialized due to significant changes in international circumstances or other external shocks, a domestic company engaged in the manufacturing of Product X using such raw materials integrates with a domestic competitor that operates both (i) a manufacturing of Product X and (ii) a recycling business.

- ◆ A business combination between a company with a recycling business and a company without a recycling business.
- ◆ If a disruption in the procurement of critical raw materials occurs, continuation of manufacturing operations becomes impossible, whereas recycling operations can be maintained.



### < JFTC's views based on the Act >

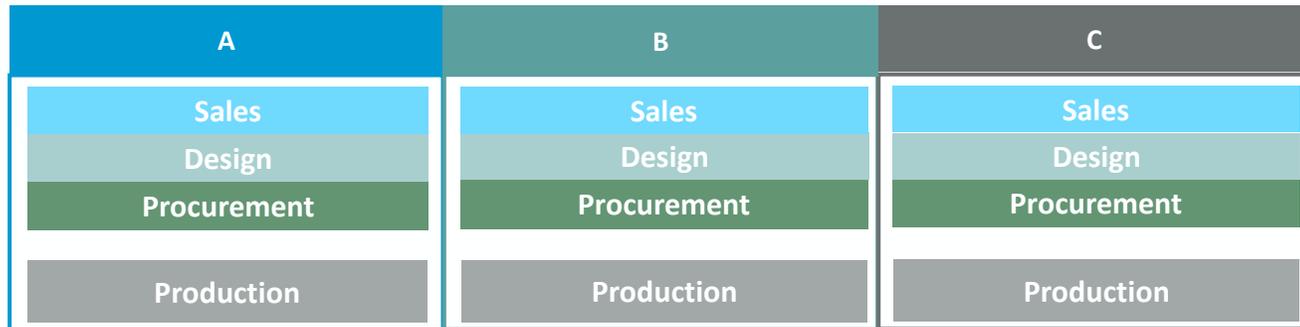
- Due to the impact of a disruption in the procurement of critical raw materials, it is evident that, in the absence of a business combination, there is a high likelihood that the company would exit the market in the near future, and it can be assessed that the risk of substantially restraining competition is small (the so-called “failing company defense” may apply).
- Even if the failing company defense does not apply, when the business capabilities of the parties are recognized as weak, and it can be assessed that the assumed restructuring does not substantially restrain competition by comprehensively taking into account factors such as (i) the position of the parties and the situation of competitors, (ii) competitive pressure from related markets, (iii) competitive pressure from users, and (iv) import pressure, it generally does not raise concerns under the Act.

#### Reference

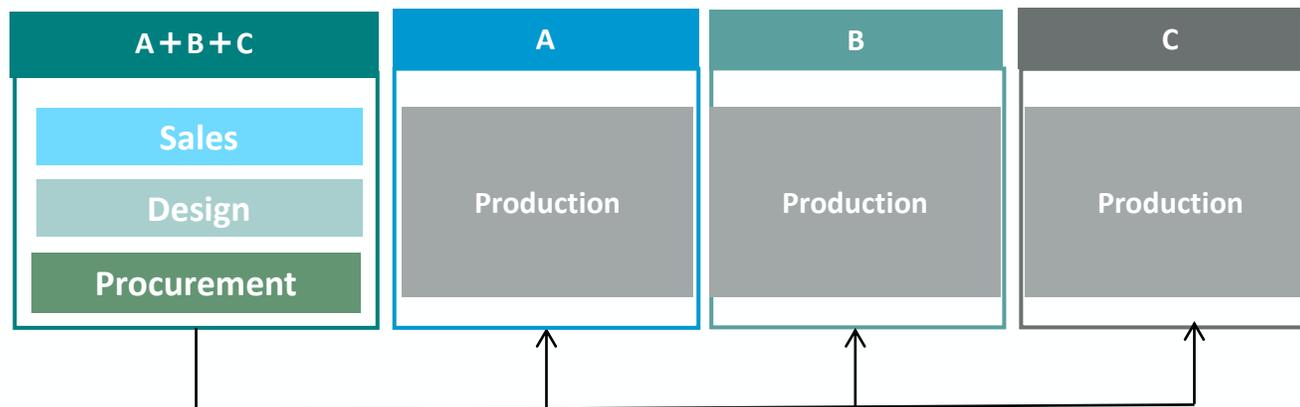
“Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination” Part IV

# Case 13: Integration and merger to maintain and secure competitiveness

- A case scenario: Amid exposure to competition in the global market, domestic companies alone cannot maintain production efficiency. Therefore, competing domestic companies jointly establish a new company that undertakes sales, design, and procurement, while each company shares responsibility for producing its respective products.
- ✓ **Economic Security Considerations** : It is necessary to maintain and secure the competitiveness of domestic companies by improving production efficiency through establishing a new company that efficiently conducts sales, design, and procurement.



A,B,C establish a new company, and they undertake sales, design, and procurement through the new company.



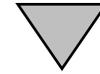
## Assumed industries/products

Shipbuilding and marine equipment industries

## Issues

- Whether the establishment of a new company to collectively undertake sales, design, and procurement raises concerns under the Act.

Amid exposure to competition in the global market, domestic companies alone cannot maintain production efficiency. Therefore, competing domestic companies establish a new company that undertakes all sales, design, and procurement of products, while each company takes responsibility for producing its respective products.



### < JFTC's views based on the Act >

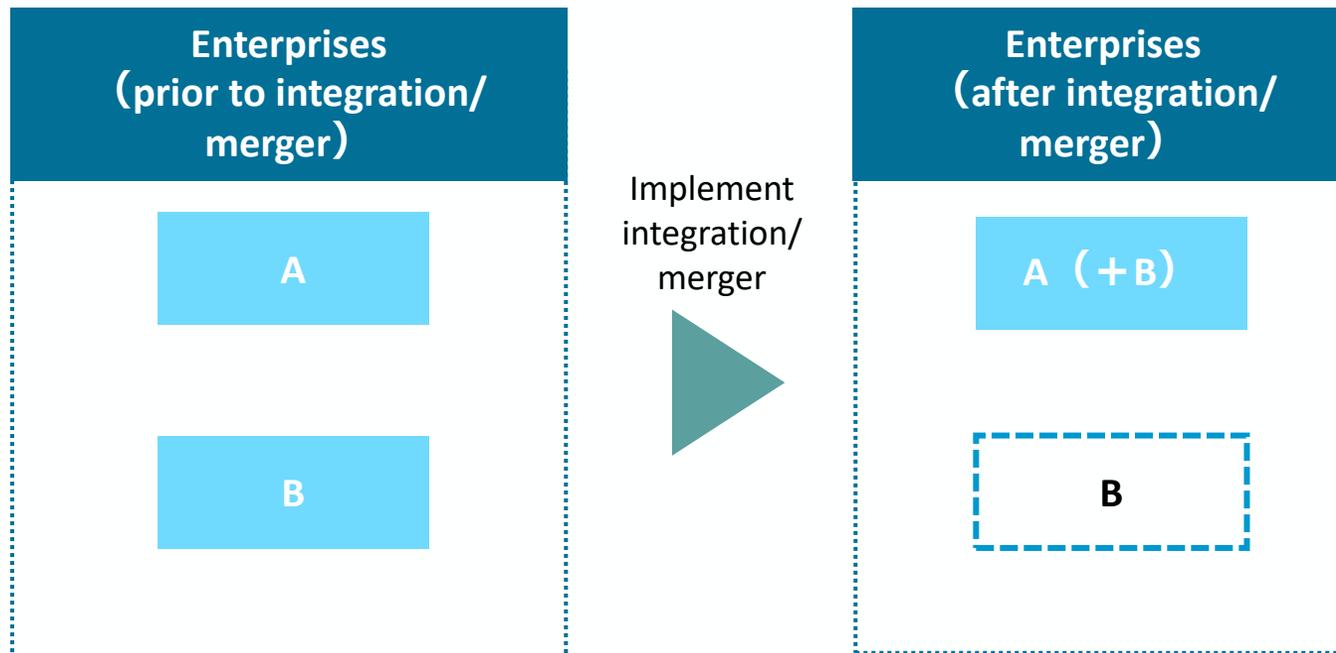
- With respect to the shipbuilding industry (ocean-going vessels), the geographic range is generally defined across national borders. If there are strong overseas competitors and the assumed case is deemed to have only an insignificant impact on competition, such case generally does not raise concerns under the Act.
- With respect to the marine equipment industry, when the impact on competition can be assessed as not significant based on the factors as the geographic range is defined across national borders and strong overseas competitors exist, the assumed case generally does not raise concerns under the Act. Even where the geographic range is defined domestically, if the assumed case is deemed not to substantially restrain competition—given that competition in the shipbuilding market (as the demand side) is active and competitive pressure from users (shipbuilding companies) is expected to operate—and taking into comprehensive consideration factors such as (i) the position of the parties and the situation of competitors, (ii) competitive pressure from related markets, and (iii) import pressure, it does not raise concerns under the Act.

### Reference

“Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination” Part IV

# Case 14: Integration or merger among multiple enterprises in an oligopolistic position in the domestic market

- A case scenario: Amid exposure to competition in the global market, domestic companies alone cannot maintain production efficiency. Therefore, Company A and Company B, which hold an oligopolistic position in the domestic market, integrate or merge.
- ✓ **Economic Security Considerations** : Loss of domestic capabilities in research, development, and manufacturing of products essential to economic security should be avoided from both economic security and competitiveness. It is desirable to preserve these capabilities through integration or merger of domestic companies.



## Assumed industries/products

Shipbuilding and marine equipment industries

## Issues

- Whether integration or merger of companies in an oligopolistic domestic market with respect to products essential to economic security raises concerns under the Act.

Amid exposure to competition in the global market, domestic companies alone cannot maintain production efficiency. Therefore, two companies holding an oligopolistic position in the domestic market integrate or merge.



### < JFTC's views based on the Act >

- With respect to the shipbuilding industry (ocean-going vessels), the geographic range is generally defined across national borders. If there are strong overseas competitors and the assumed case is deemed to have only an insignificant impact on competition, such case generally does not raise concerns under the Act.
- With respect to the marine equipment industry, when the impact on competition can be assessed as not significant based on the factors as the geographic range is defined across national borders and strong overseas competitors exist, the assumed case generally does not raise concerns under the Act. Even where the geographic range is defined domestically, if the assumed case is deemed not to substantially restrain competition—given that competition in the shipbuilding market (as the demand side) is active and competitive pressure from users (shipbuilding companies) is expected to operate—and taking into comprehensive consideration factors such as (i) the position of the parties and the situation of competitors, (ii) competitive pressure from related markets, and (iii) import pressure, it does not raise concerns under the Act.

### Reference

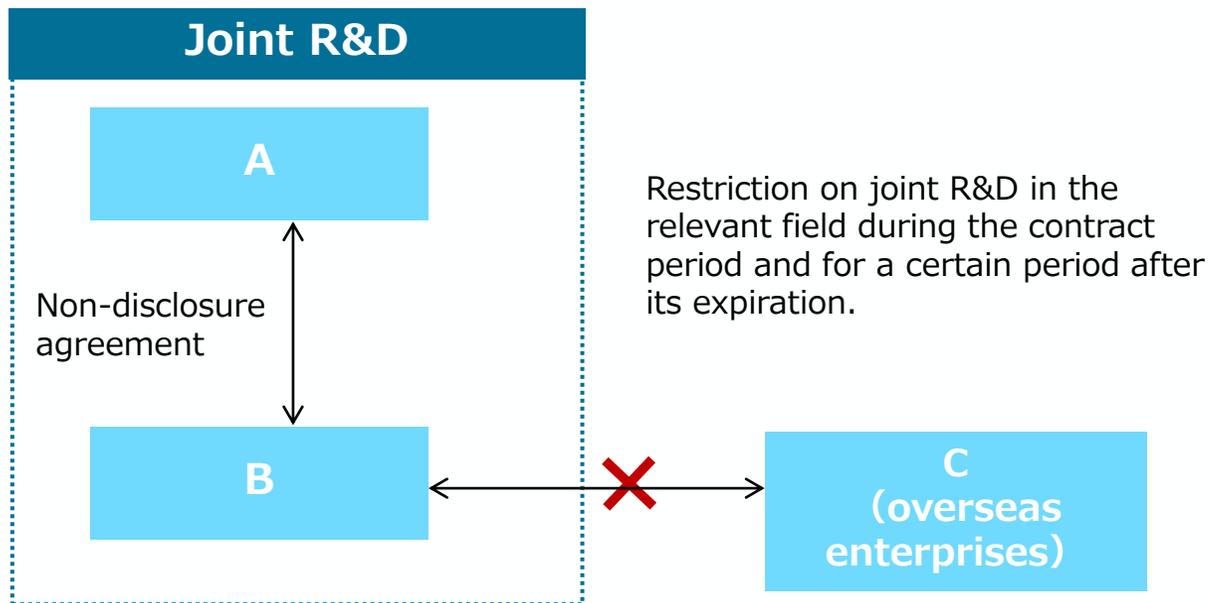
“Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combination” Part IV

# Other Hypothetical Case



# Case 15: Restrictions on joint research and development with other companies

- A case scenario: In conducting joint research and development based on the technology of domestic company A, companies A and B agree that, during the contract period and for a certain period after its expiration until the technical information becomes obsolete, company B will not engage in joint research and development in the relevant field with any enterprise other than company A, particularly foreign enterprises.
- ✓ **Economic Security Considerations** : It is important to prevent the outflow of technology and information obtained in the course of the research to foreign enterprises and to maintain technological superiority and international competitiveness.



## Assumed industries/products

Industries in which Japan possesses technological superiority and international competitiveness

## Issues

- Whether an agreement to restrict joint research and development so that no joint research is conducted with foreign enterprises for a certain medium- to long-term period after the expiration of the contract, for the purpose of preventing the outflow of technology and information overseas, raises concerns under the Act.

Upon conducting joint research and development based on the technology of domestic company A, companies A and B agree that, during the contract period and for a certain period after its expiration until the technical information becomes obsolete, company B will not engage in joint research and development in the same field with any company other than company A, particularly foreign companies.



### < JFTC's views based on the Act >

- Restricting research and development with third parties, for the purpose of ensuring economic security, on the same or very closely related themes for a reasonable period after the completion of joint research and development, in principle, does not raise concerns under the Act if it is deemed necessary to prevent a breach of faith or to determine the attribution of rights.

### Reference

“Guidelines Concerning Joint Research and Development under the Antimonopoly Act” Part II-2 (1) (a) {9}



# References

## Business combination cases approved despite the fact that the market share reached 100%

### ▪ FY2022: Acquisition of Sanyo Electric Co., Ltd.'s nickel-cadmium battery business by Furukawa Battery Co., Ltd.

Note: Although the market share reached 100% in three transaction fields, the business combination was approved in consideration of factors such as the ongoing shift to similar goods, the declining demand trend, and competitive pressure from related or indirectly related markets.

### ▪ FY2010: Acquisition of shares of Toyo Fiber Co., Ltd. by Hokuetsu Kishu Paper Co., Ltd.

Note: Although the market share reached 100%, the business combination was approved in consideration of the steady progress in switching to similar goods and competitive pressure from related markets.

### ▪ FY2009: Acquisition of shares of Sanyo Electric Co., Ltd. by Panasonic Corporation

Note: Although the market share reached 100% in three transaction fields, the business combination was approved in consideration of factors such as remedies to address concerns, imports from Korea and China, and the situation of price requests from users to manufacturers namely competitive pressure from users.

## Cases of business combination between Japanese companies in an oligopolistic position in the domestic market facing international competition from foreign companies

### ▪ FY2025: Acquisition of shares of Japan Marine United Corporation by Imabari Shipbuilding Co., Ltd.

→ Ocean-going vessels (shipbuilding)

### ▪ FY2020: Establishment of a joint investment company by Imabari Shipbuilding Co., Ltd. and Japan Marine United Corporation for the design and sale of merchant vessels → Ocean-going vessels (shipbuilding)

### ▪ FY2017: Integration of the container shipping business by Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., and Nippon Yusen Kabushiki Kaisha (NYK Line) → Container shipping business

### ▪ FY2016: Acquisition of shares of Showa Shell Sekiyu K.K. by Idemitsu Kosan Co., Ltd., and acquisition of shares of TonenGeneral Sekiyu K.K. by JX Holdings, Inc. → Petroleum products

### ▪ FY2011: Merger of Nippon Steel Corporation and Sumitomo Metal Industries, Ltd.

→ Steel products

### ▪ FY2011: Acquisition of shares of Sony Mobile Display Co., Ltd., Toshiba Mobile Display Co., Ltd., and Hitachi Displays, Ltd. by Japan Display Inc. → Liquid crystal displays (LCDs)

# (Reference) Past business combination cases 2

## Cases where business combinations were approved by defining cross-border markets (from FY2020 to November 2025)

	Cases	Sector
1	FY2025: Acquisition of shares of Japan Marine United Corporation by Imabari Shipbuilding Co., Ltd.	Ocean-going vessels (shipbuilding)
2	FY2024: Integration of Novo Holdings A/S and Catalent, Inc.	Various CDMO services
3	FY2024: Integration of Hewlett Packard Enterprise Company and Juniper Networks, Inc.	Data center switches, campus switches, and wireless LAN access points
4	FY2024: Acquisition of Ansys, Inc. by Synopsys, Inc.	<b>Various semiconductor design and analysis software (semiconductors)</b> , and various optical design software
5	FY2024: Acquisition of shares of Nippon Cargo Airlines Co., Ltd. by ANA Holdings Inc.	International air cargo transport services on routes to and from Japan
6	FY2023: Acquisition of shares of Asiana Airlines Inc. by Korean Air Lines Co., Ltd.	International air passenger transport services and international air cargo transport services on routes to and from Japan
7	FY2022: Joint share transfer by Riken Corporation and Nippon Piston Ring Co., Ltd.	<b>Piston rings (marine equipment)</b>
8	FY2022: Acquisition of shares of Tenneco Inc. by Pegasus Holdings III LLC.	Polycrystalline alumina fibers
9	FY2022: Establishment of a joint investment company by Imabari Shipbuilding Co., Ltd. and Hitachi Zosen Corporation for the large marine engine business	Ocean-going vessels (shipbuilding)
10	FY2022: Integration of Microsoft Corporation and Activision Blizzard, Inc.	PC operating system services
11	FY2021: Acquisition of shares of Siltronic AG by GlobalWafers GmbH	<b>Various silicon wafers (semiconductors)</b>
12	FY2020: Acquisition of shares of BASF Colors & Effects Japan Ltd. by DIC Corporation	Various pigments
13	FY2020: Acquisition of shares of Maxim Integrated Products, Inc. by Analog Devices, Inc.	<b>Various general-purpose analog ICs (semiconductors)</b>
14	FY2020: Integration of Google LLC and Fitbit, Inc.	Operating systems for wristwatch-type wearable devices and smartphones
15	FY2020: Establishment of a joint investment company etc., by Imabari Shipbuilding Co., Ltd. and Japan Marine United Corporation for the design and sale of merchant vessels	Ocean-going vessels (shipbuilding)

## A business combination approved taking into account competitive pressure from overseas

### •FY2023: Integration of the nonwoven fabric business by Mitsui Chemicals, Inc. and Asahi Kasei Corporation

Note: The combined market share of the parties' corporate groups would be high (approx. 45%, ranking first. There are other domestic enterprises with shares of approximately 25% and 20%).

⇒ Approved on the grounds that import pressure exists, given that imports from China and South Korea have increased in recent years and customs duties on imports from major exporting countries have been abolished.

## A business combination approved taking into account competitive pressure from related markets

### FY2024: Acquisition of shares of Mitsui Chemicals Industrial Materials Co., Ltd. by Maeda Kosen Co., Ltd.

Note: The combined market share of the parties' corporate groups would be high (approx. 85%, ranking first. There are two other domestic enterprises with shares of approx. 5%).

⇒ Approved on the grounds that competitive pressure from indirectly related markets exists, given that the share of construction methods using the relevant product is not large and alternative methods are available.

## A business combination approved taking into account competitive pressure from users

### FY2023: Integration of the generator business by Mitsubishi Electric Corporation and Mitsubishi Heavy Industries, Ltd.

Note: The combined market share of the parties' corporate groups would be high (approx. 50%, ranking first. There are other domestic enterprises with shares of approx. 25% and approx. 5%).

⇒ Approved on the grounds that competitive pressure from users exists, given that electric power companies, as purchasers, have bargaining power such as the ability to calculate price levels.

## A business combination approved taking into account efficiencies

### FY2024: Acquisition of shares of a newly established manufacturing subsidiary of Nippon Chutetsukan Co., Ltd. by Kubota Corporation

Note: The efficiency improvement claimed by the parties through reduction of CO<sub>2</sub> emissions was examined in line with the Green Guidelines, and it was recognized that the three requirements for efficiencies were satisfied.

## A business combination approved taking into account the financial conditions of the parties' corporate groups

### FY2018: Acquisition of shares of CAN System Co., Ltd. by USEN-NEXT HOLDINGS Co., Ltd.

Note: The combined market share of the parties' corporate groups would be almost monopolistic (approx. 90%, ranking first. There are other domestic enterprises with shares of approx. 5% or less).

⇒ Approved on the grounds that the parties were in insolvency, and therefore it was highly probable that they would exit the market in the near future.

## A business combination approved taking into account the scale of a certain transaction field

### FY2018: Acquisition of shares of The Eighteenth Bank, Ltd. by Fukuoka Financial Group, Inc.

Note: Remote island areas where competitors other than the parties' corporate groups are virtually absent.

⇒ Approved on the grounds that the market size in certain economic zones is extremely small, making it difficult to maintain competition among multiple enterprises.

## A business combination approved subject to remedies to resolve concerns

### FY2024: Acquisition of shares of a newly established manufacturing subsidiary of Nippon Chutetsukan Co., Ltd. by Kubota Corporation

Note: Approved subject to behavioral remedies, such as implementing access restrictions to sensitive information and restrictions on personnel transfers, to ensure that sensitive information is not shared between the parties' corporate groups.