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## Agenda Item 3c. Enhancing international cooperation in the investigation of cross-border competition cases: Tools and procedures

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Japan Fair Trade Commission

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IGE on Competition Law and Policy, UNCTAD

# **Developments of international enforcement cooperation : Tools and procedures for information exchange for cross border cartel cases**

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and do not necessarily reflect  
those of the JFTC.*





# Recent international cartel cases which the JFTC has taken action

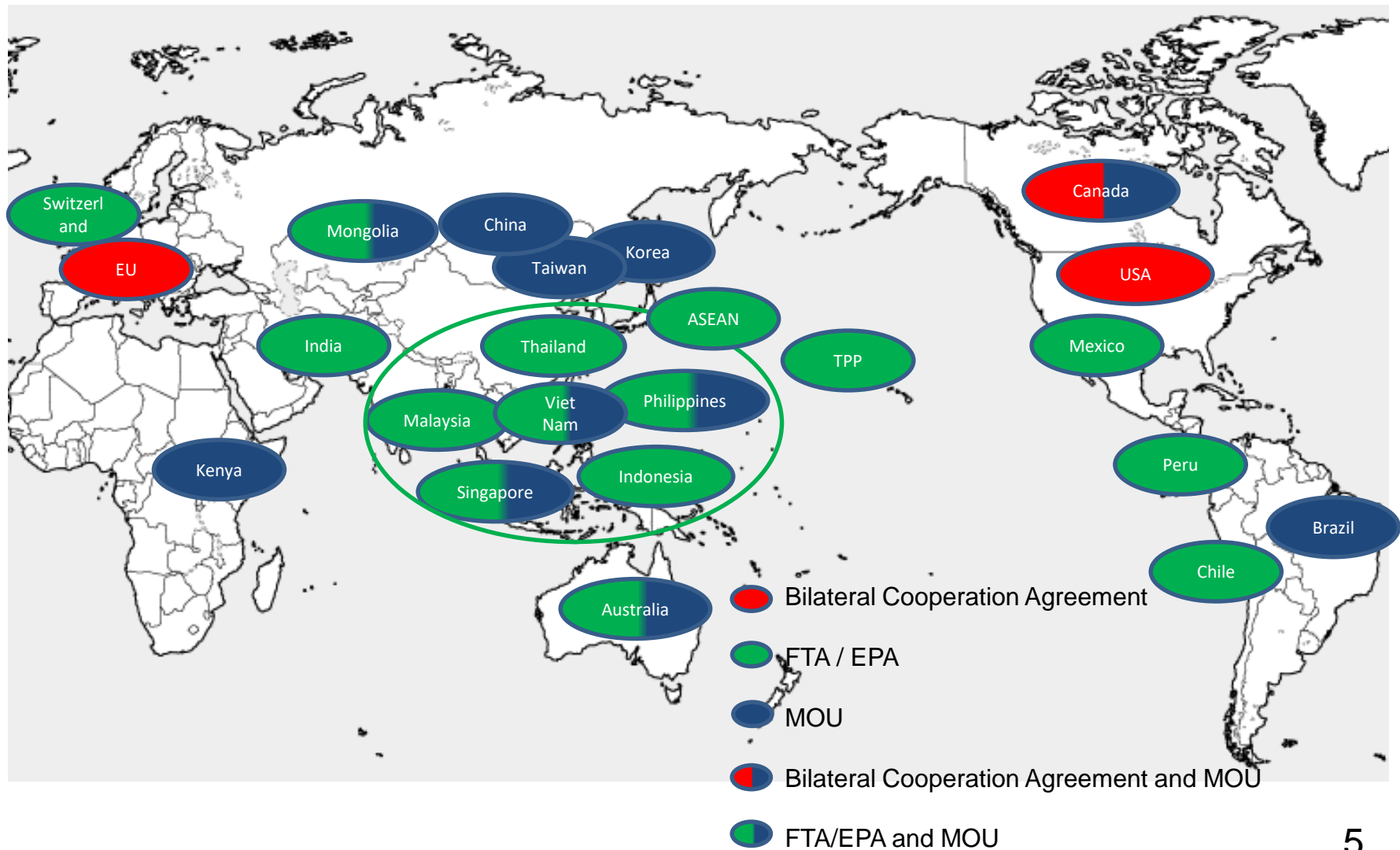
	Date of the JFTC's order	Name of the Case
1	February 2008	Marin Hose
2	October 2009	Cathode-ray Tube
3	January 2012	Wire Harness
4	November 2012	Automotive Parts
5	March 2013	Bearing(Automotive and industrial machinery)
6	March 2014	International Ocean Shipping Services for Cars
7	March 2016	Capacitor



## Development of International enforcement cooperation(1)

- Cooperation on international cartel investigation based on both informal and formal cooperation mechanism
  - Waiver for confidential information exchange (informal mechanism)
  - Cooperation Agreement, FTA, MOU etc. (formal mechanism)
- ⇒ *Exchange of information on the target market, target companies, target individuals and the date of simultaneous dawn raids or which agency starts investigation first.*

## JFTC's Cooperation Framework with Other Countries/Regions





# Development of International enforcement cooperation(2)

- Limited exchange of information after formal investigation procedure
  - “Information gateway” is needed for confidential information to be exchanged without waiver.

⇒ ***OECD Recommendation Concerning International Co-operation on Competition Investigations and Proceedings (2014)***

-The AMA introduced information gateway provision in 2009 and the JFTC has concluded the second generation type of MOU with Australia (April 2015) and Canada (May 2017) which enable sharing of confidential information obtained during the course of investigation without waiver.

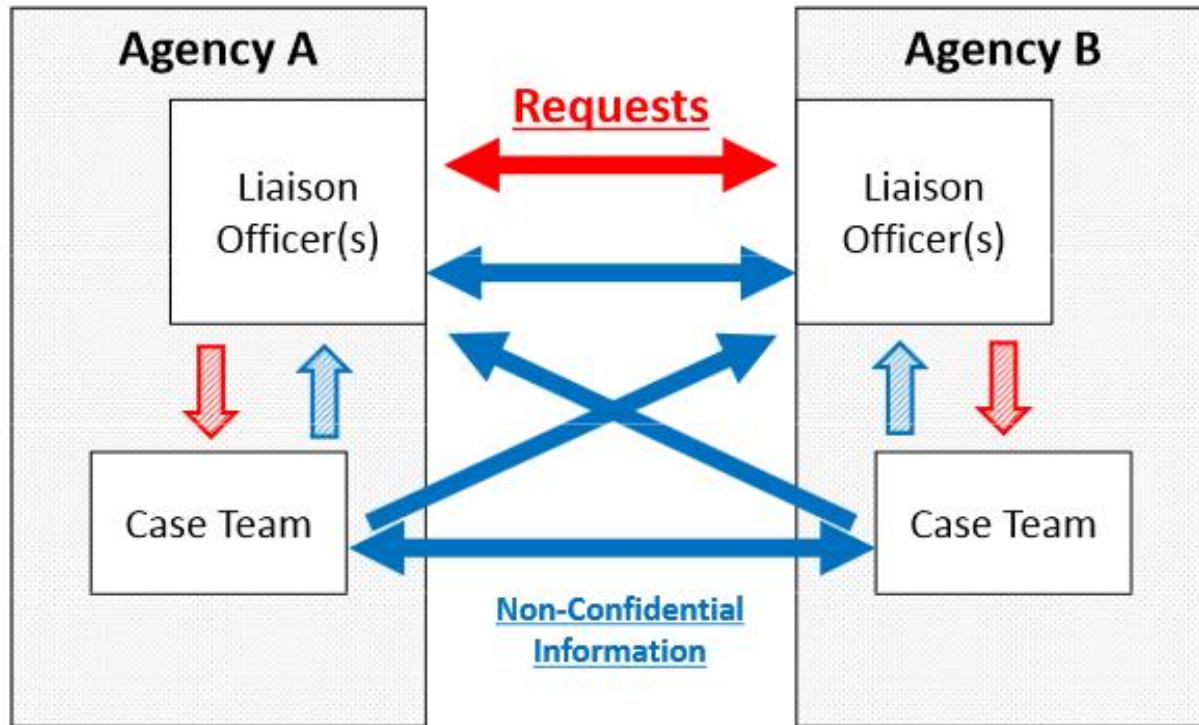


# Development of International enforcement cooperation(3)

- Increase of parallel or follow-on investigation by younger agencies
  - After the Wire harness case, parallel or follow-on investigations by younger agencies have occurred.
    - Development of competition law and active enforcement in developing countries since around 2010
    - Increase of follow-on leniency applications to other jurisdictions after the investigation of key jurisdictions
- **ICN Framework for Sharing of Non-Confidential Information for Anti-Cartel Investigation (2015)**
  - ⇒ Encourage information exchange and enforcement cooperation among member agencies



# ICN Framework for Promotion of Sharing Non-Confidential Information for Cartel Enforcement



- No need to conclude any framework with other agencies, just register!  
(Contact point for registration: [icn-list-maintenance@jftc.go.jp](mailto:icn-list-maintenance@jftc.go.jp))
- 33 authorities have been registered
- “Pick-up-the-phone” relationship





## Challenges for developing countries to initiate cross border cartel enforcement

- Lack of incentive of international cartelists to apply for leniency in developing countries

### □ Proactive usage of leniency program

⇒ “ICN Framework for Promotion of Sharing Non-Confidential Information for Cartel Enforcement” may support

### ➤ Role of the UNCTAD



**Thank you very much  
for your attention!**



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