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Trade Associations and the Japanese Antimonopoly Policy

Tatsuyoshi MASUDA

This paper examined the following two subjects. First, the formation factors of trade associations and the effects of Article 8 on formation were investigated. The incentives for formation tended to strengthen during the depression and to maintain an increasing profit within the industry concerned. The strict enforcement of Article 8 weakened incentives for formation. Second, the effects of investigation abilities of JFTC, surcharge payment system, and prior consultation system on trade association activities were investigated. An increase in the number of staff in the investigation department of JFTC resulted in an increase in the number of Article 8 decisions. Both the JFTC and companies reacted more sensitively to the payment amounts than the number of surcharge payment orders. The same results were found in the prior consultation system.

1. Introduction

The existing studies relating to Japanese trade associations can be classified as follows. Political scientists have analyzed trade associations as pressure groups (Matsumura, Ito, and Tsujinaka, 1986, and Tsujinaka, 1988). Economists and business historians have analyzed trade associations as an intermediary organization which links government with industry (Komiya, 1975, 1988, Okazaki, 1993, Yamazaki and Miyamoto, 1988, and Yonekura, 1993). Antimonopoly Law scholars¹⁾ have been legally interpreting competition restraint activities of the trade associations (Imamura, 1992, Sanekata, 1992, and Umakawa, 1992).

Japanese Antimonopoly Law (hereafter referred to as the "AML") put the trade association²⁾ under an obligation³⁾ to notify of its formation (Article 8-2), alteration (Article 8-3), and dissolution (Article 8-4) to the Japanese Fair Trade Commission (hereafter referred to as the "JFTC"). This notification system was prescribed in the Trade Association Law (Article 3) which was enacted in 1948 and then abolished in 1953. Part of the contents of the Trade Association Law was incorporated into the AML in the 1953 amendment.

1) On the history and content of regulations for the trade associations, refer to the Kosei Torihiki Inkaei Jimukyokuhen (1977). Jigyosha Mondai Kenkyukai (1993) reported the functions of trade associations and the relations for government. Ishii, Iyori, and Kaneko (1993), according to the above report, discussed the regulation method for trade associations.

The significance of this system is as follows. First, the JFTC, by collecting the fundamental information relating to organize trade associations, can supervise trade association activities, find its acts illegality⁴⁾, and then make it cease its acts. Second, the JFTC, by requiring notification, can make the trade association itself pay attention to the AML, and thus make it voluntarily cease illegal acts.

The JFTC is notified of the following kind of trade associations: voluntary associations (*Nin'i Dantai* in Japanese, i.e., non-profit organizations that consist of persons of common business), organizations that were established by Special

2) The term "trade association" as used in AML is defined in Article 2(2) as follows. The trade association shall mean any combination or federation of combinations of two or more entrepreneurs having as its principal purpose the furtherance of their common business interest as entrepreneurs and includes one taking either of the following forms: Provided, That a combination or federation of combinations of two or more entrepreneurs, whose stock or other share capital is owned by the constituent entrepreneurs, and whose principal purpose is to operate and which is actually operating a commercial, industrial, financial or any other business for profit shall not be included.

(1) Any association incorporated or not incorporated of which two or more entrepreneurs are members (including any position similar thereto).

(2) Any foundation with or without juridical personality of which two or more entrepreneurs control the appointment or dismissal of directors or managers, the execution or existence of business.

(3) Any partnership of which two or more entrepreneurs are members, or any contractual combination of two or more entrepreneurs. See Nakagawa (1984, pp. 4-5).

3) Each notification is defined as follows.

Article 8-2: Every trade association shall, when formed, in accordance with the Rules of the JFTC, file a notification thereof with the Commission within thirty days as from the date of its formation.

Article 8-3: When any change has occurred to the matters relating to notification under the preceding subsection, the trade association concerned shall, in accordance with the Rules of the JFTC, file a notification thereof with the Commission, within two months after the end of business year during which such change occurred.

Article 8-4: Every trade association shall, when dissolved, in accordance with the Rules of the JFTC, file a notification thereof with the Commission within thirty days from the date of its dissolution. See Nakagawa (1984, p.10).

When the representative of trade associations neglected one of the above provisions, or notified a false content, he shall be punished by a fine of not more than two million yen (Article 91-2).

This notification system was amended on January 1, 1992. The contents of the amendment are made up of the following two points.

(1) To strengthen supervision and guidance, the JFTC made the trade associations report market share in the industry concerned, and furthermore made them report internal organization (i.e., commission or sectional meeting).

(2) To simplify office work and to reduce notification difficulty, the JFTC simplified the writing method and reduced the paper work (Kosei Torihiki Iinkai Jimukyoku, 1993, p. 53).

4) No trade association shall engage in any acts which come under any one from Article 8-1(1) to 8-1(5). Refer to the note in Table 2.

Law (e.g., the Small and Medium Sized Enterprise Organization Law and the Mining and Manufacturing R&D Associations Law⁵⁾ etc.), and juridical foundation (*Zaidan Hojin* in Japanese) and juridical association (*Shadan Hojin* in Japanese) that was prescribed in Civil Law (establishment of benevolent corporation: Article 34).

This paper has two purposes. First, we examined some of the important factors which affected the formation of the trade associations after World War II. As a factor of formation in Japan, it is often said that the then government has supported an individual entrepreneur to organize the trade associations through enacting a Special Law⁶⁾ or as the agency of industrial policy⁷⁾. In this paper, we pay attention to the formation of voluntary associations, and examine the effects of Article 8 on the formation of this type of organization. Second, we investigate the regulation effects of the JFTC on trade association activities.

In section 2, we survey the trends of the number of formation cases, and then examine the economic factors leading to formation. In particular, we investigate the relationship between the number of formation cases and the number of Article 8 decisions. In section 3, we survey the disposition of trade association cases by the JFTC. In section 4, we examine regulation effects of the JFTC on the trade association activities from the following two perspectives. First, we examine the relationship between the JFTC's investigation abilities (number of staff in the investigation department and investigation activity expenditure) and the disposition of cases. The JFTC formulated the *Guidelines Concerning the Activities of Trade Associations Under the Antimonopoly Law* (hereafter referred to as the "Guidelines") in August 27, 1979. However, in many cases, the question of whether or not a particular trade association activity may violate the AML must be determined on an individual basis. Therefore, in addition to publishing these *Guidelines*, a prior consultation system shall be established, to determine through individual consultation whether or not a contemplated activity may constitute a violation (Nakagawa, 1984, p.163). These *Guidelines* aim to provide an outline of the system of controls established by the AML relating to trade associations, to make clear through specific examples the types of trade association activities that may infringe the AML and thereby prevent violations

5) Goto (1993, pp.90-110) found that the number of Mining and Manufacturing R&D Associations increased after the first half of 1970s when the then government expressed to utilize organizations as an agency to which give a subsidy.

6) For example, Yonekura (1993, pp.202-203) investigated the circumstances under which Nihon Kanegata Kogyokai (Japan Metal Pattern's Association) was formulated by the Kikai Kogyo Shinko Rinji Shochiho (Machinery Industry Promotion Temporary Measures Law).

7) Refer to Komiya (1975, pp.307-311, 1988, pp.14-20) and Okazaki (1993).

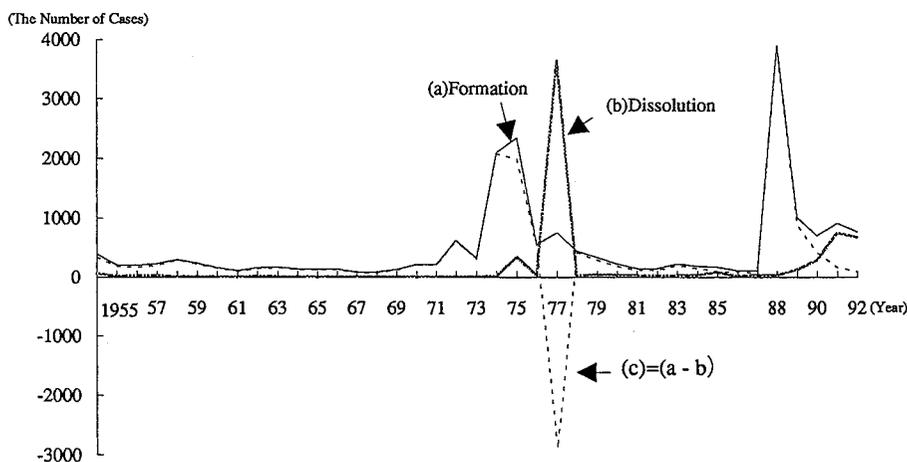
of the Law, while promoting proper activities by such associations (Nakagawa, *ibid.*, p.129). To examine the regulation effects of the *Guidelines*, the period of analysis is the 13 year period prior to and after 1979 when these *Guidelines* were published. In particular, we examine the effects of the prior consultation system on the trade association activities. Second, we investigate the deterrent effects of the surcharge payment system on illegal activities. Finally, in section 5, we summarize the conclusions, and consider some subjects for future study.

2. Analysis of Formation Factors

2.1. Trends of the Number of Trade Associations

Tsujinaka (1988, p. 58, p. 73) pointed out, as the formation period of general interest (or pressure) groups, the following three periods. The first period (from 1945 to 1957) is the reconstruction period after World War II. During this period, many trade associations were revived, and then they consolidated with each other. The Federation of Economic Organizations (*Keidanren* in Japanese), which acts as a representative of the economic organizations, was established in 1949. The second period (from the latter half of the 1950s to the first half of the 1970s) is the Rapid Growth Era. During this period, we observed an increasing number of formations of economic organizations. This increase was due to the support and led by the Ministry of International Trade and Industry (or *Genkyoku* in Japanese) which was necessary to strengthen industrial infrastructures as a preparation for trade and capital liberalization. During the third period (from 1975 to the 1980s), the first and second oil crises brought about in 1973 and 1979, respectively. Economic activity repeated cycles

Figure 1. The Number of Notifications of Trade Associations (Total)



Source: The data in the following Figures and Tables is calculated from the *Annual Report* (JFTC) unless otherwise noted.

of depression and low to medium growth. In particular, from the 1980s to the 1990s economic recession which originated from the yen's rise and the Heisei Boom was experienced.

Tsujinaka (ibid., p.17) thought that as the number of trade associations notified to the JFTC was influenced by an amendment of the AML or an alteration of legal interpretation, the JFTC's data is inadequate for us to investigate trade association activities. However, examining the relationship between formation factors of trade associations and the JFTC's regulation effects relating to Article 8, we employed the data in the *Annual Report* which is published by the JFTC.

Figures 1, 2, and 3 show the trends in the number of trade associations which notified the JFTC. Figure 1 shows the trend of all the trade associations (voluntary associations + organizations established by the Special Law). Fig-

Figure 2. The Number of Notifications of Voluntary Associations

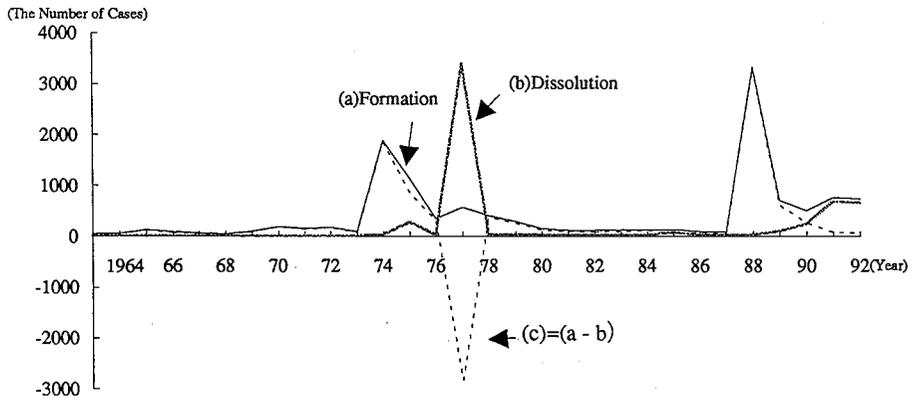
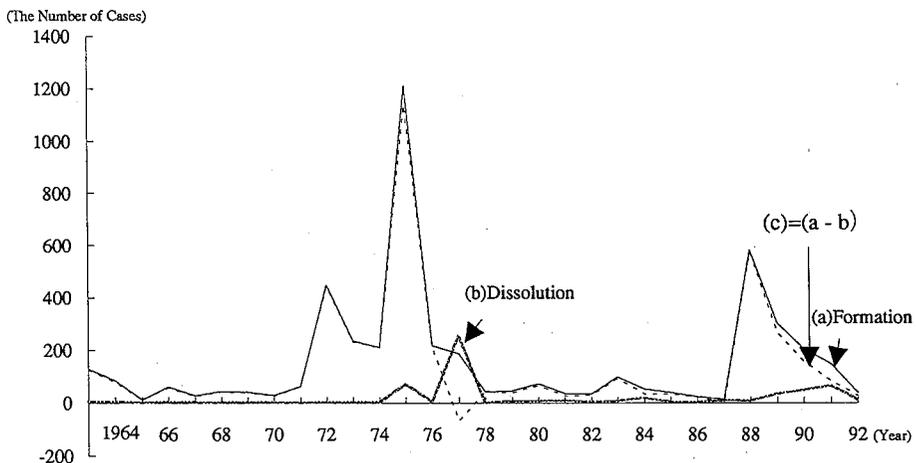


Figure 3. The Number of Notifications by The Special Law



ures 2 and 3 show the trends of voluntary associations and those organized by the Special Law, respectively. Reasons for increases and decreases in voluntary associations differ from that of the Special Law, but in this section we investigate the general tendency.

The number of formations in each trade association increased remarkably in 1974, 1975, and 1988. The increases in 1974 and 1975 is considered to be due to entrepreneurs who, by organizing the industry concerned, attempted to tide over the period of depression originating from the first oil crisis in 1973, but the JFTC urged the unnotified organizations to notify during this period (Kosei Torihiki linkai Jimukyokuhon, 1977, p. 408). As the number of formations increase, many illegal cases relating to trade associations also occurred. For example, Tsuchihara's study (1976, p. 6) found that the total number of decisions was 491 cases during the period 1953-1974, and the number of decisions relating to the trade associations was 311 cases out of the total cases. 236 cases out of 311 cases related to Article 8-1(1). There were 121 cases related to this Article decision during the period 1970-1974. Under these circumstances, the JFTC published the report *Approach to the Regulation on Trade Associations* in October 21, 1975. The reason why the number of formations increased after 1988 is said to be due to the JFTC diffusing the notification system in relation to the shifting of consumption tax which was introduced in 1989 (*Annual Report*, 1989, p. 114). For example, the real increase number (=formation-dissolution) of voluntary associations was 3,299 (=3,320-21) cases, and that of the Special Law was 575 (=581-6) cases. In total, there were 3,874 (=3,901-27) cases. The number of dissolutions in each trade association increased in 1977 and 1991. We can not clarify the reasons for dissolution, but the number of dissolutions also increased after the number of formations increased remarkably.

As a reason for dissolution, we can speculate the following two points. First, trade associations were organized without good preparation. Second, the size of the organization was not optimum, or its staff was not good at managing.

2.2. Factor Analysis

In this section, we examine the formation factors of the voluntary associations. In particular, we pay attention to the relationship between the number of Article 8 decisions and the number of formations. The period of analysis is from 1963 to 1992. We employ the following regression equation.

$$\text{Log}(Y_i) = a_0 + \text{Log}\sum a_1 \cdot X_i + U_i.$$

Dependent variables (Y_i) are the real number of formations (=formations-dissolutions) in each industry.

According to Tsujinaka (1988, pp.50-67), we classify the independent variables (X_i) as follows:

The macro-level: X_1 =economic growth ratio (GNP; relative to previous year),

The micro-level: X_2 =the number of enterprises (the number of increases relative to previous year),

X_3 =current profit ratio of net worth,

The legal system: X_4 = the number of Article 8 decisions.

The following are the data sources: for the number of trade associations and Article 8 decisions are Kosei Torihiki Inkaei Nenji Hokoku, Kakunendoban [Japanese Fair Trade Commission, *Annual Report*]. For GNP, Keizaiyoran [Economic Planning Agency, *Economic Survey*] was used. For the number of enterprises and the current profit ratio of net worth are Hojin Kigyo Tokei Nenpo, Kakunendoban [Ministry of Finance, *Special Issues of Corporate Business Statistics, Annual Edition*].

We analyzed 8 industries, but we consider estimation results for the following 3 industries with significant results.

Construction Industry:

$$\text{Log}(Y_1) = 1.2449 - 1.0426*(X_1) - 0.0993(X_2) + 1.7099(X_3) - 0.9447*(X_4)$$

$$(0.3459) (-2.9628) \quad (-0.8689) \quad (1.4818) \quad (-2.8762)$$

R^2 : 0.3986, D.W.: 1.9438, F: 5.8057*.

() : t-values, * : 1% (two-tailed test).

Transportation • Telecommunication Industries etc.:

$$\text{Log}(Y_2) = -0.4964 - 0.3705(X_1) - 0.0334(X_2) + 1.7505*** (X_3) - 0.9116*(X_4)$$

$$(-0.218) (-0.9232) \quad (-0.3026) \quad (1.8022) \quad (-3.6811)$$

R^2 : 0.3762, D. W. : 2.118, F: 3.769**.

** : 5%, *** : 10%.

Service Industries :

$$\text{Log}(Y_3) = 4.6343 - 0.485(X_1) - 0.0163(X_2) + 0.1395(X_3) - 0.9244*(X_4)$$

$$(1.7072) (-1.4105) \quad (-0.2018) \quad (0.1795) \quad (-3.6058)$$

R^2 : 0.4611, D. W. : 1.3754, F: 5.3477*.

When we observed the signs of the regression coefficient in each industry, economic growth ratio (X_1), the number of enterprises (X_2), and Article 8 decisions (X_4) were negative, and the profit ratio (X_3) was positive.

The incentives for formation of associations differ in macro and micro levels. From the macro level, we confirmed the negative correlation between economic growth ratio and number of formations. That is to say, formation tended to strengthen during the depression. In particular, the construction industry had a high significance in economic growth ratio and Article 8 decisions.

Judging from the signs on the micro level, formation was not to coordinate an increasing number of enterprises, but to maintain an increasing profit within the industry concerned. This relationship was obvious in the transportation • telecommunication industries.

When we examined the influences of the legal system, each industry had a negative and significant correlations between Article 8 decisions and formation. We can understand that strict enforcement of Article 8 by the JFTC weakens incentives for formation of associations.

3. Disposition of Cases

In this section, to examine the regulation effects of the *Guidelines*, disposition of cases by the JFTC during the 13 year period before and after 1979 were surveyed.

3.1. The Number of Decisions

Table 1. Trends in The Number of Decisions

Article Year	Former part of Article 3	Latter part of Article 3	Article 8	Article 19	Total
1947-1952	3	45	52	27	127
1953-1959	2	9	16	12	39
1960-1965	0	23	147	26	196
1966-1979	1	114	166	27	308
1980-1992	0	76	62	48	186
Total	6	267	443	140	856

Note. The figures during the period 1947-1952 are the decisions that were judged by the Trade Associations Law. Therefore, the number of total Article 8 decisions is 391 (=443-52) cases.

Article 3: Prohibition of private monopolization (Former part) or unreasonable restraint of trade (Latter part).

Article 8: Prohibited acts of a trade association, filing requirement.

Article 19: Prohibition of unfair trade practices.

Source: Koseitorihiki Inkai Shinketusyu (*Fair Trade Commission Decision Reporter*).

Table 1 shows the number of decisions after the AML was enacted in 1947. In total, the number of decisions relating to trade associations was half of the total decisions. For example, the number of trade association (443 cases) to the total number of decisions (856 cases) was about 52% in 1992. After 1953, which is the year when the current Article 8 was introduced, it was about 43%. Before and after the period 1966-1979, the number of latter part of Article 3 decisions increased. On the other hand, the number of Article 8 decisions decreased. This was due to the change of applied Articles. Many cases relating to trade associa-

tions were disposed with Article 8-1(1) as “substantially restraining competition in any particular field of trade” until about 1972. However, after this year, many cases were disposed of with the latter part of Article 3 as “unreasonable restraint of trade” by the constituent entrepreneurs. For these reasons, the number of latter part of Article 3 decisions have increased gradually. After 1980, the number of decisions was reversed between Article 8 and latter part of Article 3.

3.2. The Number of Article 8 Decisions

Table 2. Trends in The Number of Article 8 Decisions

Year Article	1953-59	1960-69	1970-79	1980-92	Total
8-1(1)	5	110	152	42	309
(2)	—	—	—	—	—
(3)	1	4	0	7	12
(4)	9	28	11	17	65
(5)	6	22	7	6	41
8-2	—	—	1	—	1
Total	21	164	171	72	428

Note. A reason that the figure (428 cases) in this table is more than the previous table (391 cases in Table 1), is due to applying two kinds of articles to the same case.

Contents of this Article are as follows.

Article 8-1(1): Substantially restraining competition in any particular field of trade.

Article 8-1(2): Entering into an international agreement or an international contract as provided for in Article 6(1).

Article 8-1(3): Limiting the present or future number of entrepreneurs in any particular field of business.

Article 8-1(4): Unjustly restricting the functions or activities of the constituent entrepreneurs (meaning an entrepreneur who is a member of the trade association).

Article 8-1(5): Causing entrepreneurs to employ such acts as constitute unfair trade practices.

Article 8-2: Filing a notification of formation. See Nakagawa (1984, pp. 10-11).

Source: Same as for Table 1.

Table 2 shows the items in the number of Article 8 decisions. In total, the majority of decisions were related to Article 8-1(1), and next was Articles 8-1(4), (5), and (3) in order. One interesting point was that many decisions relating to Articles 8-1(4) and (5) during the period 1960-1969 (that is, the Rapid Growth Era). We can speculate that Articles 8-1(4) and (5) cases occurred frequently during the depression, and certainly each illegal act occurred in 9 cases (Article 8-1(4)) and 4 cases (Article 8-1(5)) in the depression (that is, “Shoken Fukyo” in 1965), but each illegal act occurred in 11 cases and 7 cases in the Boom (that is, “Izanagi Keiki”) from November 1965 to June 1970. Trade associations violat-

ed Articles 8-1(4) and (5) regardless of boom or depression. In the Rapid Growth Era, the findings that trade associations engaged in many acts which came under Article 8-1(4) and Article 8-1(5) signify that associations were necessary to strengthen their unity under severe competitive conditions.

During the period 1970-1979, there were many cartel cases (Article 8-1(1)). After the publication of *Guidelines*, the number of cases relating to Article 8-1(1) decreased, and this reduction suggests that the prior consultation system for trade association activities takes effect.

3.3. The Item of Investigation Cases

Table 3. The Item of Investigation (Each Action Type) Cases

	Recommendation (Decision)	Initiation of Hearing Proceedings	Self-Elimination ¹⁾ (Warning + Caution)	Evidence Imperfectness ²⁾ (Annulment)
Price Cartel				
1967-1979	(308) ³⁾		384	135
1980-1992	118	5	475	115
Other Cartels ⁴⁾				
1967-1979	(34)		60	16
1980-1992	4	1	47	31
Unfair Trade Practices				
1967-1979	(53)		217	50
1980-1992	47	4	679	417
The Others: Trade Associations				
1967-1979	(17)		11	7
1980-1992	17	2	172	67

Note. 1) Self-elimination means that entrepreneurs or trade associations cease voluntarily their suspicious acts before the JFTC commences an initial search; then the JFTC sends a warning or caution.

2) Evidence imperfectness is defined as the JFTC closing an investigation for suspicious acts due to not having sufficient evidence. This case is expressed as the annulment case in the *Annual Report*.

3) The figures in parentheses are the number of recommendations (decisions) + the number of initiation of hearing proceedings because of being not accepting the recommendation.

4) This type consists of the following: quantity, market, prohibition of price reduction, prohibition of customer movement, restrictive equipment etc.

Table 3 shows the item of investigation cases during the 13 year period before and after 1979. Comparing these periods, the number of recommendations (decisions) and initiation of hearing proceedings relating to the others (Trade Associations) did not occur a large change. However, the number of investigation annulment cases (self-elimination and evidence imperfectness) increased greatly after 1980. That is to say, the number of self-elimination cases and the number of evidence imperfectness cases were about 16 times and about 9.6 times

larger than before 1979, respectively. Assuming from the reduction of the number of Article 8 decisions after 1980, this finding suggests that after the publication of *Guidelines* trade associations tended to intensify precautions for the JFTC's investigation activity, and also the JFTC's illegality judgements for trade association activities tend to be cautious.

When we observed illegal act types beside trade associations, the number of self-elimination cases was greatly increased in price cartels and unfair trade practices after 1980. The number of evidence imperfectness cases reduced in only price cartel, and increased in other illegal acts. In particular, unfair trade practices increased remarkably.

3.4. The Surcharge Payment Order

Table 4 illustrates the number of cases and the paid amounts by the surcharge payment system, which was enacted in the 1977 amendment.

Until 1990, the number of payment order cases was 78 cases in total. The number of cartel cases in trade associations was 37 cases out of the total number. The number of paid companies was 1,190 companies in total. The number of companies relating to the trade associations was 862 companies out of the total number.

The number of paid companies in Article 8 was larger than the latter part of Article 3. Assuming the application province of Article, this finding is obvious. The mode of the number of paid companies was as follows. In the latter part of Article 3, it was 6-10 companies and next 1-5 companies. In the Article 8-1(1), it was 11-16 companies and next 6-10 companies. The number of cartel participants of Article 8 extended to the most 86 companies.

The average cartel implementation period was 13.8 months. Contrasting this period between the latter part of Article 3 and Article 8-1(1), the former and the latter were 14.5 months and 13.1 months, respectively. We can not find a large difference between the applied Articles. Examining the cartel type and the number of companies relating to Article 8-1(1), many cases were the order adjustment cartel.

The total surcharge amount was about ¥23.58 billion. The surcharge amount relating to the latter part of Article 3 and Article 8-1(1) were about ¥19.59 billion and about ¥3.9 billion, respectively.

Judging from the simple correlation analysis (that is, variables: the number of cartel participants, the surcharge amount, and the cartel implementation period), the latter part of Article 3 and the total had high and positive correlations with the surcharge amount and implementation period. In Article 8-1(1), we had high and positive correlations between the number of participants and the surcharge amount, and furthermore between the number of participants and

implementation period. That is to say, this finding suggests that in the trade association's cartel both the surcharge amount and the implementation period related closely the number of participants.

Table 4. Cartel Type, Applied Articles, and Surcharge Payment Amount (1978-1990)

Type\Article	Latter Part of Article 3	Article 8-1 (1)	Total
Price Increase	32 (238)	15 (304)	47 (542)
Price Maintenance	3 (34)	3 (26)	6 (60)
Order Adjustment	6 (56)	19 (532)	25 (588)
Total	41 (328)	37 (862)	78 (1,190)
Payment Amount (Ten thousand yen)	1,959,907	398,618	2,358,525

Note. The figures in parentheses are the number of cartel participants.
Source: Masuda (1995).

3.5. The Prior Consultation System

Table 5 illustrates the trend of the number of consultation cases. The number of cases have increased gradually. This increase is a result of popularization of the AML or public relations of the JFTC. The number of cases had an inverse relation to the trend of the number of Article 8 decisions. Contents⁸⁾ of consultation depend on the then economic conditions. For instance, until about 1983, many consultations related to the price setting among the constituent entrepreneurs, but in recent years increased among other business activities (quality, standard, information activities, and joint undertakings etc.) in addition to price setting. Examining the distribution of associations from the number of constituent entrepreneurs⁹⁾, small and medium sized enterprises and big companies held about 70% and about 10%, respectively. We can understand from this finding that many big companies establish a department of judicial affairs, and thus have more knowledge or information relating to the AML than the small and medium sized enterprises.

Table 5. The Number of Prior Consultation Cases

Year	The number of cases
1982	284
83	418
84	451
85	392
86	465
87	538
88	443
1989	600
90	845
91	960
92	808

Source: Yamanishi (1989),
The Fair Trade
Commission, Ed., (1994).

8) On the trends in content of consultation, see Kosei Torihiki Iinkai Jimukyokuhen (1994, p. 6).

9) According to Jigyousha Mondai Kenkyukai (1993, p.5), many organizations were composed of small and medium sized enterprises.

4. Regulation Effects

In this section, we examine the following two points. First, we examine the relationship between the JFTC's investigation abilities (number of staff in the investigation department and investigation activity expenditure) and the disposition of cases, and then consider the regulation effects of the JFTC on trade association activities. Second, the deterrent effects of the surcharge payment system on trade association illegal activities were examined. We also investigate the effects of the prior consultation system on the trade association activities.

We employ the following regression equation.

$$\text{Log}(Y_i) = b_0 + \text{Log}\Sigma b_1 \cdot X_i + U_i.$$

Dependent variables are,

$Y_{1,2}$: The number of total Article 8 decisions,

$Y_{3,4}$: The number of Article 8-1(1) decisions,

$Y_{5,9}$: The number of annulment cases ($Y_5 = Y_6 + Y_7$, $Y_9 = Y_{10} + Y_{11}$),

$Y_{6,10}$: The number of self-elimination cases,

$Y_{7,11}$: The number of evidence imperfectness cases,

$Y_{8,12}$: The number of prior consultation cases.

Independent variables are,

X_1 : The number of staff in the investigation department,

X_2 : The investigation activity expenditure rate (investigation activity expenditure / the total budget of JFTC),

X_3 : The number of surcharge payment order cases,

X_4 : The surcharge payment amounts (ten thousand yen: per entrepreneur).

Table 6 shows the results of estimation. The period of analysis from (Y_1) to (Y_4) is during the 13 year period before and after 1979 when the *Guidelines* were published. The signs of two dependent variables reversed before and after the publication of *Guidelines*. This finding signifies that the JFTC has changed the priority of investigation before and after this year. To increase the number of decisions, an effective means was to increase the number of staff. That is to say, after the publication of *Guidelines*, an increase of staff (X_1) had positive and significant correlations both with the total number of Article 8 decisions (Y_2) and the number of Article 8-1(1) (Y_4).

As we could not obtain the annulment cases data before 1979, we examined the period 1980-1992. Total annulment cases (Y_5) was not significant, but two coefficients have negative signs. This finding suggests that an increase of investigation ability results in reduction of the number of disposition cases. Self-elimination cases (Y_6) of companies, which means to cease voluntarily its suspicious act, was not significant. Evidence imperfectness (Y_7) was negative, and this

Table 6. Results of Estimation

	Constants	X ₁	X ₂	X ₃	X ₄	R ²	D. W.	Period
Y ₁	11.025*** (1.838)	-2.011 (-1.515)	0.211 (0.922)			0.365	2.363[4.446***]	1967-79
Y ₂	-12.384*** (-2.72)	2.957** (3.632)	-0.426*** (-2.072)			0.38	2.588[4.673***]	1980-92
Y ₃	9.697 (1.443)	-1.793 (-1.206)	0.341 (1.327)			0.385	2.45[4.748***]	1967-79
Y ₄	-10.935*** (-2.437)	2.536*** (2.638)	-0.178 (-0.879)			0.318	2.968[3.795]	1980-92
Y ₅	3.97 (1.228)	-0.213 (-0.308)	-0.213 (-1.46)			0.151	1.6[2.06]	1980-92
Y ₆	1.453 (0.541)	0.24 (0.417)	-0.096 (-0.788)			-0.13	1.81[0.311]	1980-92
Y ₇	10.581**** (1.863)	-1.902 (-1.563)	-0.556**** (-2.166)			0.549	1.388[8.305*]	1980-92
Y ₈	0.703 (0.623)	1.148* (4.76)	0.115**** (2.193)			0.84	1.634[27.287*]	1982-92
Y ₉	4.039* (7.622)			-0.082 (-0.554)	-0.201*** (-2.385)	0.24	1.839[0.081]	1980-92
Y ₁₀	3.116* (7.264)			0.022 (0.182)	-0.105 (-1.545)	0.04	1.932[1.253]	1980-92
Y ₁₁	3.851** (2.862)			-0.275 (0.732)	-0.424**** (1.986)	0.156	0.955[2.111]	1980-92
Y ₁₂	1.248 (1.599)			0.637 (1.336)	0.753* (5.108)	0.726	1.592[16.907*]	1982-92

R²=Coefficient of determination adjusted for degrees of freedom.

() : t-values, [] : F-values.

*, **, ***, ****: Significant at the 1%, 2%, 5%, 10% level (two-tailed test), respectively.

variable had a significant correlation at the 10% level in the investigation expenditure. That is to say, an increase of investigation expenditure enriches the contents of the investigation, and thus resulted in the reduction of evidence imperfectness cases.

The number of self-elimination cases did not depend on enrichment of the investigation abilities. We can speculate this result as follows. After the publication of *Guidelines*, the JFTC has enforced the prior consultation system. We could confirm that the number of consultation cases (Y₈) had positive and significant correlations in both variables, and in particular had significance at the 1% level in the number of staff. We can assume that this system affects the number of self-elimination cases.

(Y₉) to (Y₁₂) show the cartel deterrent effects of the surcharge payment system. Annulment (Y₉) had a negative correlation in both the number of payment order cases (X₃) and the paid amount (X₄). In particular, (Y₉) was significant at the 5% level in the paid amounts. The number of self-elimination cases (Y₁₀) was not significant, but has a negative correlation with the paid amount (X₄). On the other hand, evidence imperfectness cases of the JFTC (Y₁₁) had a negative correlation in both variables. In particular, (Y₁₁) was

significant at the 10% level in the paid amounts. That is to say, both JFTC and companies reacted more sensitively to the payment amounts than the number of payment order. These findings suggest that as the surcharge payment results in an increase of economic cost for the charged companies, they cease illegal acts voluntarily, or they tend to contend at a hearing proceedings, and thus the JFTC is cautious about illegal judgements.

The number of prior consultation cases (Y_{12}) had a positive correlation in both variables. In particular, (Y_{12}) was significant at the 1% level in the paid amounts. Trade associations reacted more sensitively than the number of payment order cases.

5. Concluding Remarks

The main results of this paper can briefly be summarized as follows: The incentives for formation of trade associations tended to strengthen during the depression. The incentive was not to coordinate an increasing number of enterprises, but to maintain an increasing profit within the industry concerned. In particular, the number of Article 8 decisions provided a negative incentive for the formation of associations. This finding suggests that strict enforcement of Article 8 weakened incentives for the formation of associations.

After the publication of *Guidelines*, an increase of staff resulted in an increase both in the total number of Article 8 decisions and the number of Article 8-1(1) decisions. On the annulment cases, an increase of investigation expenditure resulted in the reduction of evidence imperfectness cases. As the JFTC's investigation abilities were enriched, the number of prior consultation cases also increased. The surcharge payment system evidently affected both the total number of annulment cases and the number of evidence imperfectness cases. In particular, an increase of paid amounts resulted in reduction of the number of evidence imperfectness cases. This finding suggests that as the surcharge payment results in an increase of economic cost for the charged companies, they tend to contend at a hearing proceedings, and thus the JFTC is cautious about an illegal judgement. The number of prior consultation cases was positive and there were significant correlations in the surcharge payment amount. Trade associations reacted more sensitively than the number of payment order cases.

Finally, we point out some subjects for future study. First, it is necessary to investigate the optimum size of the association. Regarding trade associations as a kind of club goods which Buchanan (1965) constructed, associations have an exact optimum size. Because formation of associations benefits the constituent entrepreneurs, but at the same time entails maintenance cost. Utilizing the notion of optimum size, we can interpret formation and development of associations. This method also became a clue to understand the causes of dissolution.

Second, it is necessary to examine the relationship between formation of association and market concentration ratio. This examination means that as the market concentration ratio increases, associations can easily practice competition restraint act, but on the other hand, they are unwilling to arouse public attention (Salaman and Siegfried, 1977, p.1038) in relation to antimonopoly policy. We can guess that incentives for formation of associations in small and medium sized enterprises are larger than big companies. Because, even if big companies did not form a group, they already have market control power or negotiation power for government. According to Stigler's study (1974, p.364), the size (budget and the number of staff) of trade associations was negatively correlated in market concentration ratio. Through the amendment of notification system in 1992, we can obtain data (i. e., market share and a list of members) relating to associations, thus these subjects will be resolved.

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