

INDEX

- administrative guidance, 132
- administrative surcharge, 141, 178–79,
 - See* Japan
- introduction, 132
- revision, 184
- ringleader, 177
- severity, 177–78
- algorithms, 414
- Antitrust Criminal Penalty
 - Enforcement and Reform Act
- ACPERA, 47, 50, 51, 63, 65
- antitrust fund
 - Aluminum and Tantalum Capacitor cartel, 220
- assisting investigation, 219
- initiating investigation, 219
- ASEAN, 74–75
- ASEAN Economic Community, 15, 74, 280
- ASEAN Regional Guidelines
 - immunity, 84
 - marker, 89
 - reduction, 85
- ASEAN Regional Guidelines on
 - Competition Policy. *See* ASEAN Regional Guidelines
- Barnett, Thomas O., 4
- Beaton-Wells, Caron, 25
- Becker, Gary, 160–62
- bid-rigging, 10, 24, *See* Hong Kong;
 - ICN; India; Japan; leniency programme (Asia); Malaysia; Singapore; Taiwan; Thailand
- Brusick, Philipe, 76
- Bush, George H.W., 10
- Callies, Galf-Peter, 105, 115
- Callon, Michel, 112, 113
- carrot-and-stick approach, 38, 42, 52
- chaebols*, 14, 17, 18
- China
 - Anti-Monopoly Enforcement Authority, 246
 - due process, 251
 - NDRC, 243, 244
 - SAIC, 245, 250, 251
 - SAMR, 251
 - Mr. Confession, 242
 - NDRC Leniency Programme, 237–39
 - SAIC Leniency Programme, 237–39
 - State Administration for Market Regulation. *See* SAMR
 - tripartite enforcement structure, 245
 - Xu, Xinyu, 241, 242
- collaborative payoff, 40
- collusive payoff, 40
- Communist Party of China, 248
- Competition Guidelines: Leniency Programmes. *See* UNCTAD Leniency Guidelines
- convergence, 11, 27, 69, 71, 72, 77, 95, 96, 101–103, 121, 194, 213, 329, 395, 396, 410
- Corporate Leniency Policy (1978), 9, 10, 23, 37, 44
- Corporate Leniency Policy (1993), 10, 23, 45
 - automatic, 45
 - conditions, 46
 - criminal prosecution, 46

- Corporate Leniency Policy (1993) (cont.)
 - evaluation, 52
 - leniency plus, 49
 - marker, 48
 - originator, 46
 - penalty plus, 49
 - prison sentence, 46
 - ringleader, 46
 - treble damages, 50
 - Type A Leniency, 45
 - Type B Leniency, 46
- corruption. *See* Malaysia; Japan
- deferred prosecution agreements, 110
- depression cartels, 131
- DOJ-OFC
 - conditions, 363
 - immunity from suit, 363
 - leniency programme, 360
 - marker, 366
- Financial Conduct Authority, 113
- follow-on action, 43
- follow-on actions. *See* Hong Kong; India; Japan; Korea; Singapore
- Funahashi, Kazuyuki, 134
- GAO Report, 51, 52
- Global Competition Initiative, 71, 121
- Government Accountability Office, 51
- Griffin, James, 24
- Hammond, Scott, 39
- Hong Kong
 - bid-rigging, 309–11
 - cartel investigations, 309
 - Cooperation and Settlement Policy for Undertakings Engaged in Cartel Conduct
 - cooperation agreement, 319
 - leniency plus, 320
 - director disqualification, 315
 - First Conduct Rule
 - FCR, 306
 - Guideline on the First Conduct Rule, 308
 - Hong Kong Competition Tribunal
 - HKCT, 304, 307
 - Leniency Policy for Individuals, 324
 - application process, 325
 - confidentiality, 325
 - leniency agreement
 - termination, 325
 - ringleader, 324
 - scope, 324
 - Leniency Policy for Undertakings
 - confidentiality, 320
 - follow-on action, 318
 - follow-on claims, 323
 - initial consultation, 322
 - leniency agreement, 323
 - termination, 318
 - marker, 321
 - proffer process, 322
 - ringleader, 317
 - scope, 317
 - type 1 leniency, 318
 - type 2 leniency, 318
 - Second Conduct Rule, 306
 - sector-specific competition law, 309
- ICN, 71–73
 - bid-rigging, 94
 - Chapter 2 - Drafting and Implementing an Effective Leniency Policy. *See* ICN Leniency Guidelines
 - private enforcement, 91–92
 - risk of detection. *See* theory
 - severe sanctions. *See* theory
 - transparency and predictability. *See* theory
- ICN Checklist
 - reduction, 84
 - significant added value, 87
 - targeted inspection, 86
- ICN Cross-border Leniency Guideline, 93
- ICN Leniency Guidelines
 - anonymous consultation, 89
 - coercer, 82
 - cooperation, 88
 - disclosure, 88
 - immunity, 84
 - marker, 89

- oral application, 90
- originator, 82
- ringleader, 82
- termination, 88
- India
 - awareness (leniency programme), 336
 - bid-rigging, 350
 - Competition Commission of India (Lesser Penalty) Regulations, 2009, 332
 - confidentiality, 345–49
 - damages, 341
 - director disqualification, 349
 - eligibility, 333
 - follow-on action, 339
 - individuals, 333
 - joint and several liability, 343
 - leniency plus, 352
 - marker, 333
 - private enforcement, 339–42
 - public procurement, 350
 - quantification of reduction, 333–34
 - settlement and commitment, 351
 - significant added value, 338
 - standing, 344
 - vital disclosure, 336, 338
 - withdrawal (leniency application), 353
- institutional investor, 414
- International Competition Policy Advisory Committee, 71, 121
- International Monetary Fund IMF, 17, 20
- Italianer, Alexander, 24
- Japan
 - administrative surcharge. *See* administrative surcharge
 - attorney-client privilege, 172
 - bid-rigging, 133, 136, 164, 173, 179, 182, 183
 - compulsory investigative powers, 180
 - corruption, 142
 - criminal prosecution, 180
 - due process, 182
 - follow-on action, 149
 - Guidelines on Treatment of Objects Recording Confidential Communications between Enterprises and Attorney, 172
 - Guidelines to the Reduction System for Cooperation in Investigation, 171
 - Leniency Programme (2005). *See* Leniency Programme (2005)
 - Leniency Programme (2009). *See* Leniency Programme (2009)
 - Leniency Programme (2019). *See* Leniency Programme (2019)
 - plea bargaining, 139, 142
 - price fixing agreements, 164
 - Prosecutor General, 140, 181, 210
 - ringleader, 182
 - Senior Officer for Immunity from or Reduction of Surcharges, 149, 167
 - statute of limitations, 179, 183, 184
 - Supreme Court, 4, 143, 144, 202, 210
 - suspended criminal sanction, 183
 - Tokyo High Court, 143
- Keidanren*, 130, 137, 138
- kensetsu zoku*, 136, 137, 139
- Klein, Joel, 4, 71
- Korea
 - conditions immunity, 198
 - conditions reduction, 198
 - corrective measure, 199
 - follow-on action, 209
 - Leniency Notice, 192, 199–202
 - Prosecutor General, 196
 - Supreme Court, 201
- Kroes, Neelie, 4
- leniency
 - definition, 77–78
- Leniency Notice (1996), 53–55
 - evaluation, 60–62
 - instigator, 53
 - ringleader, 53
 - Section A leniency, 53
 - Section B leniency, 53
 - Section C Leniency, 53
 - Section D Leniency, 53

- Leniency Notice (2002), 56–57
 - evaluation, 60–62
 - hypothetical leniency application, 57
 - Section A Leniency, 56
 - Section B Leniency, 56
 - significant added value, 56
- Leniency Notice (2006), 57–59
 - corporate leniency statements, 59
 - evaluation, 60–62
 - immunity, 57
 - joint and several liability, 59
 - marker, 58
 - targeted inspection, 58
 - termination cartel activity, 58
- Leniency Policy for Individuals (1994), 48
 - corporate confession, 48
- Leniency Programme (2005)
 - coercer, 152
 - conditions, 147
 - dawn raid, 147
 - dormant leniency applications, 156
 - immunity, 147
 - marker, 148
 - oral statements, 149
 - reduction, 147
 - unmeritorious leniency applications, 157
- Leniency Programme (2019)
 - after assessment rate, 170
 - conditions, 166
 - conference, 168
 - deterrence, 188–89
 - immunity, 165
 - joint application, 166
 - reduction, 165
 - specified rate, 169
- leniency programme (Asia)
 - bid-rigging, 398
 - coercer, 403
 - conditions, 409
 - confidentiality, 409
 - criminal sanctions, 403
 - dawn raid, 404
 - degree of lenient treatment, 408
 - distinctiveness, 410
 - early adoption, 396, 398
 - experimentation, 412
 - financial sanction, 402
 - immunity, 405
 - informal arrangement
 - criminal sanctions, 403
 - information requirement
 - post-investigation immunity, 407
 - reduction, 408
 - leniency plus, 413
 - marker, 405
 - order of application, 408
 - originator, 403
 - post-investigation, 404
 - post-investigation immunity, 406
 - pre-investigation, 404
 - reduction, 407
 - ringleader, 403
 - soft law, 401
 - vertical agreement, 414
- Lockheed Scandal, 142
- Lowe, Philip, 24
- Lysine cartel, 5, 133
- Mahalanobis Committee, 14
- Malaysia
 - bid-rigging, 285
 - cartel cases (number), 289
 - civil proceedings, 295
 - conditions, 288
 - cooperation, 288
 - corruption, 296–99, 301
 - Guidelines on Leniency Regime, 288
 - independent regulatory agency, 295
 - informant (first), 294
 - leniency programme
 - prerequisite, 293
 - marker, 288
 - media reports, 292
 - private enforcement, 289
 - reduction (maximum), 288
 - ringleader, 288, 294
 - unknown cartel, 288
- marker. *See* Corporate Leniency Policy (1993)
- Martina, Michael, 240, 242
- Ministry of Industry and International Trade, 131
- Monti, Mario, 3, 4

- multi-jurisdictional leniency
 - applications, 94
- Nambu, Toshiyuki, 24, 153, 156, 162
- negotiated justice, 27, 106–12, 108
- Notification on the Implementation
 - of the Leniency Programme.
 - See* Korea, Leniency
 - Notice
- OECD, 69–71
- OECD Report
 - coercer, 82
 - cooperation, 88
 - disclosure, 88
 - hypothetical proffer, 89
 - immunity, 84
 - instigator, 82
 - leniency plus, 86
 - penalty plus, 86
 - reduction, 85
 - ringleader, 82
 - risk of detection. *See* theory
 - severe sanctions. *See* theory
 - sustain a conviction, 87
 - termination, 88
 - transparency and predictability. *See* theory
- People's Republic of China.
 - See* China
- Pfleiderer case, 59
- Philippines
 - administrative proceedings, 360
 - bid-rigging, 358
 - civil proceedings, 360
 - conditional leniency, 367
 - conditions
 - conditional leniency, 368
 - discretionary immunity, 362
 - immunity from suit, 362
 - reduction, 363
 - confidential, 368
 - criminal proceedings, 360
 - discretionary immunity, 362
 - DOJ-OFC. *See* DOJ-OFC
 - fact-finding or preliminary inquiry, 361–62
 - immunity from suit, 358, 362
 - individual leniency, 359
 - information (marker), 365
 - initial contact, 364
 - leniency programme (PCC), 358
 - marker, 364–67
 - information, 365
 - perfect (marker), 365
 - reduction, 358, 363
 - prisoner's dilemma, 8, 23, 38–40, 50, 64
 - race for confession, 38, 48, 49, 53, 55, 60
 - Raghaven Commission, 18
 - rationalization cartels, 131
 - regulatory cooperation, 106, 111, 120, 123
 - International Competition Network, 121
 - regulatory experimentation, 27, 105, 112, 115, 125
 - regulatory failure, 107, 110
 - Report on Leniency Programs to Fight Hard Core Cartels. *See* OECD Report
 - risk of detection. *See* theory
 - rough consensus, 105, 115, 116, 121
- SAMR
 - coercer, 255
 - conditions, 257
 - discretionary power, 258
 - eligible, 255
 - evidence
 - immunity, 256
 - reduction, 257
 - Guidelines for the Application of the Leniency Programme to Horizontal Monopoly Agreements, 254
 - immunity, 255
 - information, 256
 - marker, 256, 257
 - oral application, 255
 - order of application, 256
 - originator, 255
 - Provincial Administration for Market Regulation, 252
 - reduction, 257

- sandbox, 113
- sector regulators, 93–94
- severe sanctions. *See* theory
- Sherman Act, 13, 44, 196, 302, 400
- Singapore
 - access to files, 273
 - bid-rigging, 261, 277
 - CCCS Guidelines on the Appropriate Amount of Penalty 2016, 268
 - conditions, 266
 - cooperation, 278
 - discovery, 273
 - domestic cartel, 264, 276–78
 - fast track procedure, 268
 - follow-on action, 273
 - immunity, 267
 - initial contact, 270
 - international cartel, 264, 274–76
 - international cooperation, 281
 - leniency plus, 268
 - marker, 266, 270, 271
 - mitigating factor. *See* cooperation
 - oral statement, 272
 - reduction
 - up to 100%, 267
 - up to 50%, 267
 - relevant market, 279
 - Reward/Whistle Blowing Scheme, 269
 - stand-alone action, 273
- Snyder, Brent, 304, 305
- Sokol, Daniel, 10, 228, 231
- Sotheby's-Christies cartel, 9
- stand-alone action, 43
- Structural Impediments Initiative SII, 17, 132
- Supreme Command of Allied Powers SCAP, 13, 140
- Suwazono, Sadaaki, 156, 157
- Taiwan
 - antitrust fund. *See* antitrust fund
 - bid-rigging, 219, 222, 231
 - CD-ROM cartel, 219
 - conditions, 216
 - confidentiality, 218
 - eligible, 215
 - file access, 228
 - ICN Checklist, 222, 223
 - immunity, 217
 - investigation-assisting, 215, 216
 - investigation-initiating, 215, 216
 - leniency programme
 - benefit, 225
 - costs, 227
 - interpretation, 229
 - marker, 218
 - multinational enterprises, 230
 - oral application, 216
 - private enforcement, 228
 - reduction, 217
 - statute of limitations, 231
 - statutes of limitations, 231
 - strategic application, 231
- Takeo, Miki, 141, 143
- Tanaka, Kakuei, 142
- Thailand
 - Administrative Court, 374
 - bid-rigging, 377
 - Constitution, 384
 - criminal penalty, 385
 - criminal sanctions, 385
 - financial penalty, 386
 - independence, 375
 - Intellectual Property and International Trade Court, 374
 - leniency programme
 - benefit, 381
 - denied, 383
 - margin of appreciation
 - fine, 387
 - softcore cartels, 384
- theory
 - risk of detection, 41, 79
 - severe sanctions, 40–41, 79
 - transparency and predictability, 41–42, 79
- trans-governmental regulatory networks, 120
- transparency and predictability. *See* theory
- Tung, Chee-Hwa, 16

UNCTAD, 73–74	termination, 88
UNCTAD Leniency Guidelines	transparency and predictability. <i>See</i>
anonymous consultation, 89	theory
cooperation, 88	unknown information, 87
disclosure, 88	
immunity, 84	Van den Bergh, Roger, 161, 187
leniency plus, 85	
marker, 89	Woodall, Brian, 135
omnibus question, 85	
originator, 82	Xi, Jinping, 248
penalty plus, 85	
reduction, 85	Yamanaka, Sadanori, 27, 135, 137–39,
risk of detection. <i>See</i> theory	141, 145
severe sanctions. <i>See</i> theory	
significant added value, 87	Zumbansen, Peer, 105, 115
targeted inspection, 86	