

JAPAN: 2005 AMENDMENTS TO THE UNFAIR COMPETITION PREVENTION LAW

Entry into force: 1 November 2005

1. Increase of the Sanctions against Natural Persons

(Penal Provisions)

Article 21-(1)

Any person who falls under any of the following items shall be punished by imprisonment with work for not more than five years or a fine not more than 5 million yen, or both:

(Omission)

(xi) a person who violates any provision of Article 9, 17, or 18(1).

2. Related Provisions in the UCPL

(Purpose)

Article 1

The purpose of this Law is to provide measures for the prevention of unfair competition and for compensation for damages from unfair competition, etc, in order to ensure fair competition among business entities and the full implementation of international agreements related thereto, and thereby to contribute to the sound development of national economy.

(Prohibition of bribery of foreign public official)

Article 18-(1)

No person shall give, offer or promise any pecuniary or other advantage, to a foreign public official, in order that the official act or refrain from acting in relation to the performance of official duties, or in order that the official, using his position, exert upon another foreign official so as to cause him to act or refrain from acting in relation to the performance of official duties, in order to obtain or retain improper business advantage in the conduct of international business.

Article 18-(2)

The term “foreign public official” used in paragraph (1) shall mean any of the following persons:

- (i) Any person who engages in public services for national or local foreign governments;
- (ii) Any person who engages in services for an entity constituted under foreign special laws to carry out specific tasks public interest;
- (iii) Any person who engages in services for an enterprise of which the number of stocks with the right to vote or the amount of capital subscription directly owned by one or more of national or local foreign government exceeds one-half of that enterprise’s total issued stocks with the right to vote or total subscribed capital, or of which the number of executives (including directors, statutory auditors, trustees, inspectors, liquidators or other persons who engage in management of its business) appointed or named by one or more national or local foreign government exceeds one-half of that enterprise’s executives, and to which special privileges are given by national or local foreign governments to do its business; and such person as defined in the government ordinances as “foreign public official”;
- (iv) Any person who engages in public services for an international organisation (here in after, an “international organisation” means an international organisation which is formed either by governments or by an international organisation formed by governments)
- (v) Any person who exercises a public function which falls under. The authorised competence of national or local foreign governments or an international organisation and is delegated by them.

3. Related Provision in the Code of Criminal Procedure (Statute of Limitations)

(Statute of limitations for public prosecution)

Article 250

The statute of limitations shall be completed upon the lapse of the period as mentioned hereunder:

- (1) Fifteen years with regard to offences punishable by death penalty;
- (2) Ten years with regard to offences punishable by penal servitude or imprisonment for life;
- (3) Seven years with regard to offences punishable by penal servitude or imprisonment for the maximum period of more than ten years;
- (4) Five years with regard to offences punishable by penal servitude or imprisonment for the maximum period of less than ten years;
- (5) Three years with regard to offences punishable by penal servitude or imprisonment for the maximum period of less than five years or fine;
- (6) One year with regard to offences punishable by penal detention or minor fine.