

Japanese Law News Monthly Bulletin 2004/10**HEADINGS****FOCUS in October**

1. **Equity (securities law, corporate law)**
2. **Debt (insolvency law, banking and finance law)**
3. **Goods and Services (contracting, competition law, IP, PL, consumer law)**
4. **Labour (employment law, pension system)**
5. **Oversight and Policy (administrative law, public official law, tax policy)**
6. **Social Context (NPO law, civil justice reforms, education)**
7. **Legal Policy (constitutional reform, international relations)**

**FOCUS in October: Koizumi opens Diet session with pledge to stick to reforms**

A 53-day extraordinary Diet session began Tuesday, with Prime Minister Junichiro Koizumi reiterating his determination to stick to his administrative reform initiatives, including the privatization of Japan's postal services. But Koizumi avoided some political land mines in his policy speech, most notably details regarding revisions to the Political Funds Control Law and key questions on diplomatic issues related to Iraq and North Korea – all expected to be hot topics in upcoming Diet debate:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041013a3.htm>> (13 October)

**1. Equity (securities law, corporate law)**

Japan has the lowest female representation on corporate boards in a listing of the world's 200 largest companies, according to a study released Friday [8 October]. The study by the nonprofit Corporate Women Directors International shows that Japan, despite boasting the world's second-largest economy and 27 companies in Fortune magazine's Global 200, has only three board seats held by women out of 431, or 0.7 percent:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041010a6.htm>> (10 October)

The Tokyo District Court reversed itself Tuesday [12 October] and ruled that 12 former top executives of Sogo Co. were not responsible for damaging the firm by approving dividends when the rehabilitated department store operator was in poor financial shape:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041013a5.htm>> (13 October)

The Tokyo Stock Exchange will strictly examine whether the stock of Seibu Railway Co. should be delisted following revelations that the size of its shares held by its largest shareholder Kokudo Corp. had been underreported, TSE President Takuo Tsurushima said Tuesday [26 October]:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=business&an=>> visited on 26 October); see also,

<<http://www.yomiuri.co.jp/newse/20041027wo11.htm>> (27 October; full text in PDF is available on request)

In December, banks will begin handling securities transactions on behalf of brokerages, bringing down one of the last regulatory walls separating banks and brokerages... At a news conference earlier this month, Uno reiterated that the industry is dead set against the FSA's plan, citing the lack of a mechanism to bar banks from using their influence as creditors and pressuring borrowers to take out insurance policies from them. He also warned that the partial deregulation scheduled for April ``could be delayed.":

<<http://www.asahi.com/english/business/TKY200410270110.html>> (27 October)

## **2. Debt (insolvency law, banking and finance law)**

Seiichiro Murakami, newly chosen state minister in charge of industrial revitalization, said the Industrial Revitalization Corp. of Japan will stop accepting new turnaround assignments in March, as scheduled... Set up in 2002, the IRCJ was given three years to bring troubled companies under its wing, and an additional two years to put them back on their feet. It will disband in March 2007:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041005a2.htm>> (5 October)

The Financial Services Agency filed a criminal complaint against UFJ Bank and three former executives Thursday [7 October] over their attempts to block inspections by concealing documents and refusing to answer questions:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041008a1.htm>> (8 October)

<<http://www.yomiuri.co.jp/newse/20041008wo21.htm>> (8 October; full text in PDF is available on request); see also,

<<http://www.yomiuri.co.jp/newse/20041006wo11.htm>> (6 October)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041014a4.htm>> (14 October)

Two errors have been found in a bill that was submitted to the Diet to pave the way for nonfinancial institutions to start their own trust businesses:

<<http://www.yomiuri.co.jp/newse/20041014wo14.htm>> (14 October; full text in PDF is available on request)

The new Bankruptcy Law, aimed at simplifying and quickening bankruptcy procedures for companies and individuals, will come into effect on Jan. 1... The new legal framework is easier to use for both ailing corporations seeking to rehabilitate themselves and those being liquidated:

(cited at <<http://www.yomiuri.co.jp/index-e.htm>> visited on 25 October; full text in PDF is available on request)

## **3. Goods and Services (contracting, competition law, IP, PL, consumer law)**

On Sept. 28, parcel delivery provider Yamato Transport Co. sued Japan Post, seeking a court injunction against its tie-up with convenience store chain operator Lawson Inc., which will handle parcels delivered by Japan Post:

<<http://asia.news.yahoo.com/041004/kyodo/d85gabi00.html>> (4 October)

The Liberal Democratic Party on Tuesday [5 October] approved a bill to revise the Antimonopoly Law, raising antimonopoly surcharge rates for violations such as

bid-rigging to 10 percent, up from 6 percent, for large companies and to 4 percent, up from 3 percent, for smaller companies:

<<http://www.yomiuri.co.jp/newse/20041006wo12.htm>> (6 October; full text in PDF is available on request); see also,

<<http://www.yomiuri.co.jp/newse/20041005wo12.htm>> (5 October; full text in PDF is available on request)

<<http://www.yomiuri.co.jp/newse/20041007wo12.htm>> (7 October; full text in PDF is available on request)

METI is considering revising the Unfair Competition Prevention Law so that criminal penalties can be imposed on domestic corporate engineers found to have leaked industrial secrets to overseas companies:

(cited at <<http://www.yomiuri.co.jp/index-e.htm>> visited on 19 October; full text in PDF is available on request)

The Fair Trade Commission on Tuesday [5 October] searched about 40 firms including Mitsubishi Heavy Industries Ltd. and Kawasaki Heavy Industries Ltd. On suspicion of rigging bids to win steel bridge construction orders from the central and local governments:

<<http://www.yomiuri.co.jp/newse/20041006wo21.htm>> (6 October; full text in PDF is available on request)

A senior official of the Niigata Municipal Government and the head of a local construction company were arrested Tuesday [19 October] on suspicion of rigging bids for public works projects. This action by the Niigata District Public Prosecutor's Office was unprecedented in that the Fair Trade Commission had earlier decided not to file a criminal complaint over the case:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041020a1.htm>> (20 October)

Former Mitsubishi Motors Corp. President Katsuhiko Kawasoe denied in court Wednesday [6 October] that he was aware that some of MMC's trucks had defective clutches and thus that he failed to prevent a fatal accident in 2002. Meanwhile, in the first hearing of his trial before the Yokohama District Court, Takashi Usami, 64, former vice president of MMC and former chairman of Mitsubishi Fuso Truck & Bus Corp., also pleaded not guilty to the charge of professional negligence resulting in death:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041007a1.htm>> (7 October)

<<http://www.yomiuri.co.jp/newse/20041007wo21.htm>> (7 October; full text in PDF is available on request)

#### **4. Labour (employment law, pension system)**

The Internal Affairs and Communications Ministry may require employers to submit salary reports on all employees to prevent short-term employees from failing to pay individual residential taxes:

<<http://www.yomiuri.co.jp/newse/20041005wo11.htm>> (5 October; full text in PDF is available on request)

The government should consider opening the country to foreign unskilled labor and work to create public support for the issue:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041006a1.htm>> (6 October)

The collapse of the asset-inflated bubble economy has not only forced businesses to review employment conditions but has also drastically changed the consciousness of job seekers, business analysts said. According to a survey by the Japan Institute for Labor Policy and Training, about 60 percent of businesses have introduced a performance-based pay system, although around 30 percent of workers were opposed to the system:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041013a5.htm>> (13 October)

The future of planned reforms to the government employee management system has become unclear after the government decided not to submit related bills to the current extraordinary Diet session:

<<http://www.yomiuri.co.jp/newse/20041020wo02.htm>> (20 October; full text in PDF is available on request)

## **5. Oversight and Policy (administrative law, public official law, tax policy)**

With the Kyoto Protocol likely to take effect with the Russian government's decision Thursday to submit a bill for ratification of the Kyoto treaty, the creation of a market in which greenhouse gas emission credits are traded has become a real possibility... To meet the requirements, the Environment Ministry is considering establishing a market to trade CO2 emissions at home. If such a market is set up, businesses will have to pay for CO2 emissions in the same way they trade materials and fuels:

<<http://www.yomiuri.co.jp/newse/20041005wo33.htm>> (5 October; full text in PDF is available on request); see also,

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041007a3.htm>> (7 October)

With the Kyoto Protocol expected to be implemented next spring, a proposal to introduce an environment tax is beginning to attract renewed attention as a means of helping finance measures against global warming:

<<http://www.yomiuri.co.jp/newse/20041014wo13.htm>> (14 October; full text in PDF is available on request); see also,

<<http://www.yomiuri.co.jp/newse/20041013wo41.htm>> (13 October; full text in PDF is available on request)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041022a2.htm>> (22 October)

Junichiro Koizumi PM voiced hope Wednesday [20 October] that the Political Funds Control Law will be revised during the ongoing extraordinary Diet session:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041021a2.htm>> (21 October)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041022a8.htm>> (22 October)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041026f1.htm>> (26 October)

See also, <<http://www.yomiuri.co.jp/newse/20041008wo03.htm>> (8 October; full text in PDF is available on request)

It has decided that Japanese laws should have official English translations. The task force within the government's Office for Promotion of Justice System Reform will set up a commission in December to study which laws should be translated into English:

<<http://www.asahi.com/english/politics/TKY200410230148.html>> (23 October)

## **6. Social Context (NPO law, civil justice reforms, education)**

A group of lawyers plans to call for legislation aimed at protecting the human rights of non-Japanese and reducing discrimination against them:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041004a1.htm>> (4 October)

An Osaka District Court judge has ordered a convicted rapist serve a longer jail term than prosecutors sought. The Judge ordered Naoto Nakajima to serve 14 years in jail after being convicted for five counts of rape, two years more than prosecutors sought:

<<http://mdn.mainichi.co.jp/news/20041004p2a00m0dm009001c.html>> (4 October)

The Tokyo Family Court approved a bid by transsexual entertainer Maki Carrousel, 61, to change her officially registered sex to female from male... She was among the first to make applications to family courts nationwide when landmark legislation took effect in July enabling people with gender identity disorder to change their sex in family registries under certain conditions:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041005b4.htm>> (5 October)

The government plans to unify welfare policies covering services for physically and mentally disabled people, according to officials. The Health, Labor and Welfare Ministry will compile a bill to this end for submission to next year's ordinary Diet session, together with other bills aimed at helping disabled people find jobs and providing services for them in local communities:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041008b4.htm>> (8 October)

<<http://www.asahi.com/english/opinion/TKY200410210144.html>> (21 October)

The Liberal Democratic Party and its coalition partner, New Komeito, decided Wednesday [20 October] to submit legislation to the current Diet session to ban sales of prepaid mobile phones, which are often used in fraud crimes:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041021a7.htm>> (21 October)

The ruling coalition agreed Monday [25 October] to start deliberations in the Diet on a bill to enable foreigners with permanent residence status to vote in local elections despite protests within the ruling Liberal Democratic Party. Diet affairs chiefs from the LDP and its coalition partner New Komeito party agreed to start discussion on the bill in the House of Representatives Special Committee on Political Ethics and Election Law, lawmakers of the parties said:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=politics&an=>> visited on 26 October); see also,

## 7. International Context (constitutional reform, international relations)

### [International Security]

The government maintains that it had made the right decision to support the U.S.-led war against Iraq, despite the conclusion of the U.S. chief weapon inspector that there were no stockpiles of weapons of mass destruction there:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041008a5.htm>> (8 October)

An advisory panel does not recommend Japan and Germany as permanent membership candidates of the U.N. Security Council in its draft report:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041022a3.htm>> (22 October)

### [International Trade]

The Japan Business Federation, called on the government Monday [4 October] to ease its decades-old ban on arms exports:

<<http://www.japantoday.com/e/?content=news&cat=1&id=314339>> (5 October)

<<http://www.asahi.com/english/politics/TKY200410050169.html>> (5 October)

Japan and Mexico said Tuesday [5 October] they will put their free-trade agreement into effect as soon as possible:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041006b1.htm>> (6 October)

Japan's separate negotiations with Thailand, the Philippines, Malaysia and South Korea for bilateral free trade agreements (FTAs) have run into a brick wall:

<<http://www.asahi.com/english/opinion/TKY200410110071.html>> (11 October)

Tokyo is set to propose to Manila during their ongoing free trade talks that it will allow Filipino nurses and caregivers to work indefinitely in Japan if they obtain Japanese government qualifications:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041026a6.htm>> (26 October)

### [WWII-Related Issues]

More than 100 Japanese who had been left behind in China at the end of World War II filed a lawsuit against the government Monday, each seeking 33 million yen in compensation for what they called Tokyo's slow action and insufficient support in helping them settle in Japan:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041005a3.htm>> (5 October)

The Nagasaki Municipal Government on Thursday [7 October] appealed a recent ruling by the Nagasaki District Court that overseas atomic-bomb sufferers do not have to visit Japan to apply for victims' allowances:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041008a8.htm>> (8 October)

The real source of controversy over Prime Minister Junichiro Koizumi's repeated visits to Yasukuni Shrine is the fact that Class-A war criminals are being honored along with Japan's war dead, Wang Yi, China's envoy to Japan, said Thursday:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041008b1.htm>> (8 October)