

Japanese Law News Monthly Bulletin 2004/11**HEADINGS****FOCUS in November**

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 November: Turning point for APEC forum

Chile-The Asia-Pacific Economic Cooperation forum will likely undergo a significant change during the second term of U.S. President George W. Bush. The Bush administration is about to form a new diplomatic team, and one senior Washington official said the president wants to tackle the issue of reconstructing the APEC forum:

<<http://www.asahi.com/english/world/TKY200411240136.html>> (24 Nov)

See also, <<http://www.yomiuri.co.jp/newse/20041109wo14.htm>> (9 Nov; full text in PDF is available on request)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041106b3.htm>> (6 Nov)

1. Equity (securities law, corporate law)

The Tokyo Stock Exchange plans to introduce tighter disclosure requirements for all listed companies next year, following revelations Seibu Railway Co. and other firms falsified their financial statements:

<<http://www.asahi.com/english/business/TKY200411120182.html>> (12 Nov)

Japan's financial regulator, alarmed by recent reporting scandals, is considering new governance rules, based on the US Sarbanes-Oxley Act, which would force listed companies to spell out how they guard against wrongdoing:
(full text is available on request)

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

Prosecutors were poised to arrest three former executives of UFJ Bank for allegedly obstructing a government inspection by destroying and altering documents in violation of the Banking Law:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041110a1.htm>> (10 Nov)

The number of corporate bankruptcies around the country fell 23.3 percent in October from a year earlier to 1,064 for the 22nd consecutive month of decline... It attributed the falling bankruptcies to the government-backed credit guarantee systems for small and midsize enterprises, and corporate revival programs under the Industrial Revitalization Corp. of Japan:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041116a3.htm>> (16 Nov)

The Finance Ministry plans to issue a new type of fixed-rate, five-year Japanese government bond next fiscal year targeted at individual investors:

<<http://www.yomiuri.co.jp/newse/20041126wo11.htm>> (26 Nov; full text in PDF is available on request)

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

The House of Representatives passed a law Thursday banning the resale of bank accounts through dubious means with the aim of countering the "ore, ore" (It's me calling) telephone scam:

<<http://www.yomiuri.co.jp/newse/20041126wo23.htm>> (26 Nov; full text in PDF is available on request)

4. Labour (employment law, pension system)

Annual salary systems based on individual achievement have been growing more diverse to better fit the nature of businesses and their corporate cultures. Some companies have adopted three-month or six-month systems under which salaries are based on performance. Other companies calculate annual salaries based on how well an employee has met a personal achievement goal set the previous year:

(cited at <<http://www.yomiuri.co.jp/index-e.htm>> visited on 6 Nov; full text in PDF is available on request)

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

The Tax Commission has decided to recommend the scaling down of the uniform, fixed-rate tax deductions on individual income and resident taxes. It is likely that both the ratio of the tax cuts and maximum amounts will be halved from January 2006:

<<http://www.yomiuri.co.jp/newse/20041110wo04.htm>> (10 Nov; full text in PDF is available on request)

<<http://www.asahi.com/english/business/TKY200411040119.html>> (4 Nov)

The Kyoto Protocol will come into effect in February, and debates on a proposal to impose an environment tax on the consumption and distribution of oil and coal are set to become heated:

<<http://www.yomiuri.co.jp/newse/20041112wo03.htm>> (12 Nov; full text in PDF is available on request)

<<http://asia.news.yahoo.com/041110/kyodo/d868lvfg0.html>> (10 Nov; full text in PDF is available on request)

The government is planning to launch a system in fiscal 2006 to purchase emission reduction credits earned by private firms that implement overseas projects that reduce greenhouse gas emissions:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041115a7.htm>> (15 Nov)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041109b2.htm>> (9 Nov)

The Environment Ministry and the Ministry of Economy, Trade and Industry want to compile a draft amendment to the Fluorocarbons Recovery and Destruction Law by the end of March and to seek a revision in fiscal 2005... The revision would require businesses to submit declarations when disposing of appliances that used CFCs to ensure CFC substitutes are passed on to the companies responsible for collecting and destroying them:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041103a7.htm>> (3 Nov)

Lawmakers Wednesday [24 Nov] postponed revising the Political Funds Control Law, having failed to agree on how to curb the money politics problem despite a recent donation concealment involving the largest faction of the Liberal Democratic Party:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041125a6.htm>> (25 Nov)

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

From Dec. 2, illegal overstayers who turn themselves in to immigration bureau officials will face greater leniency. Visa overstayers who meet certain conditions and who front up to regional immigration offices or liaison offices will not be detained. Although these individuals will face deportation after completing a few simple procedures, they likely would be allowed to return to Japan after about one year:

<<http://www.asahi.com/english/politics/TKY200411090169.html>> (9 Nov)

New Komeito, the junior partner in the governing coalition, has proposed a bill that would conditionally allow non-Japanese residents the right to vote at the local level:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041110f1.htm>> (10 Nov)

However, a bill to grant permanent foreign residents the right to vote in local elections is not likely to be passed during the current Diet session:

(cited at <<http://www.yomiuri.co.jp/index-e.htm>> visited on 15 Nov; full text in PDF is available on request)

A Japanese court has rejected a request from a group of Chinese war-era slave laborers for a Chinese attorney to help them sue a Japanese firm for compensation. On Oct. 20, the judge ruled that plaintiffs could not hire Beijing-based lawyer Kang Jian, saying there was no need to use a lawyer from China. Kang has no Japanese bar credentials, the embassy source said. Xinhua said Japanese law permits assistants for litigants with particular physical or mental challenges, adding that the plaintiffs are elderly and need interpreters. Some have physical disabilities or lack education:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041111a7.htm>> (11 Nov)

Students at all Tokyo Metropolitan Government-run high schools will be forced to engage in community service beginning in the 2007 academic year:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041112a8.htm>> (12 Nov)

Public awareness of human-trafficking is low in Japan because of slow government action and a lack of legislation that directly addresses the problem, according a draft report by the International Labor Organization:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041125a4.htm>> (25 Nov)

See also, <<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041124a2.htm>> (24 Nov)

Although it upheld a redress award against NHK for defamation, the Supreme Court on Thursday [25 Nov] dismissed a 58-year-old woman's claim against the broadcaster, reversing a lower court ruling that had ordered it to air a correction to a 1996 program that referred to her divorce:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041126a3.htm>> (26 Nov)

The Chiba District Court on Thursday rejected a damages suit disputing the constitutionality of Prime Minister Junichiro Koizumi's visit to Yasukuni Shrine in August 2001, but refused to rule on its legitimacy:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041126a1.htm>> (26 Nov)

<<http://www.yomiuri.co.jp/newse/20041126wo33.htm>> (26 Nov; full text in PDF is available on request)

7. International Context (constitutional reform, international relations)

[International Security]

Japan's defense chief said Saturday [20 Nov] he would seek a law revision to allow the prime minister to order the firing of interceptor missiles without seeking cabinet and Security Council approval in the event of a ballistic missile attack on the nation:

<<http://www.yomiuri.co.jp/newse/20041122wo01.htm>> (22 Nov; full text in PDF is available on request)

[International Trade and Economy]

A recent report compiled by the Cabinet Office on cutting-edge European and U.S. firms attempts to determine the secrets of being internationally competitive in an increasingly globalized world economy. Despite its status as an economic power, Japan has ranked low in global competitiveness. Corporate efforts are vital to improving Japan's ranking, but the nation must aim to create an environment that fosters cooperation among companies, government bodies, universities and research institutes as well:

<<http://www.yomiuri.co.jp/newse/20041116wo12.htm>> (16 Nov; full text in PDF is available on request)

Japan and Malaysia agreed to accelerate talks to conclude a free-trade agreement as they ended their sixth round of negotiations Saturday [6 Nov] in Tokyo:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041107b2.htm>> (7 Nov)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041105a6.htm>> (5 Nov)

Indonesian President Susilo Bambang Yudhoyono expressed his commitment Saturday [6 Nov] to continue talks for an economic partnership with Japan, the head of a visiting delegation of Japanese business leaders said:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20041107b1.htm>> (7 Nov)

Japan is considering a free trade agreement with Chile out of concern the Latin American country's FTA agreements with other nations may put Japanese companies in the area at a disadvantage:

<<http://www.asahi.com/english/business/TKY200411100118.html>> (10 Nov)

<<http://home.kyodo.co.jp/all/display.jsp?an=20041123024>> (23 Nov; full text in PDF is available on request)

Trade negotiators from Japan and Thailand agreed Wednesday [11 Nov] to accept offers from each side on tariff eliminations for industrial goods if their free-trade agreement is approved:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041111a6.htm>> (11 Nov)

Japan and the Philippines are inching closer to a free trade agreement now that they have shelved the contentious issue of Japan's 270-percent sugar tariff:

<<http://www.asahi.com/english/business/TKY200411160186.html>> (16 Nov)

Japan and India are considering establishing a joint study panel on strengthening economic ties, with an eye toward a possible future bilateral free trade agreement:

<<http://www.yomiuri.co.jp/newse/20041124wo11.htm>> (24 Nov; full text in PDF is available on request)

The government plans to compile a trade policy next month that will advocate the pursuit of more free-trade agreements, Foreign Minister Nobutaka Machimura said Friday [26 Nov]. The government will work out criteria for selecting potential FTA partners, putting priority on ongoing and planned negotiations with partners mainly in Asia:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20041127a5.htm>> (27 Nov)

China and the 10-member Association of Southeast Asian Nations will phase out tariffs on most goods traded between them during the five-year period starting in July 2005, leaving only some 500 items under tariff protection:

<<http://home.kyodo.co.jp/all/display.jsp?an=20041128093>> (28 Nov; full text in PDF is available on request)