

Japanese Law News Monthly Bulletin 2004/8**HEADINGS****FOCUS in August**

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. **Oversight and Policy (administrative law, public official law, tax policy)**
5. **Labour (employment law, pension system)**
6. **Social Context (NPO law, civil justice reforms, education)**
7. **Legal Policy (constitutional reform, international relations)**

FOCUS in August: Supreme Court approves UFJ-Mitsubishi Tokyo merger talks

The Supreme Court on Monday [30 August] gave the go-ahead to merger negotiations between UFJ Holdings Inc. and Mitsubishi Tokyo Financial Group Inc. that would create the world's largest banking group. Presiding Judge Toyozo Ueda turned down an appeal by Sumitomo Trust & Banking Co. against a Tokyo High Court decision Aug. 11 that quashed a ban imposed by the Tokyo District Court on UFJ discussing the sale of UFJ Trust Bank with Mitsubishi Tokyo:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040831a1.htm>> (31 August)

See also:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040818a1.htm>> (18 August)

<<http://home.kyodo.co.jp/all/display.jsp?an=20040812005>> (12 August; full text in PDF is available on request)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040812a1.htm>> (12 August)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040805a1.htm>> (5 August)

1. Equity (securities law, corporate law)

A former Seibu Railway Co. managing director was sentenced to a suspended 18-month prison term Tuesday [10 August] for providing as much as 187 million yen in benefits to a "sokaiya" corporate extortionist and his accomplices in 2001 so they wouldn't disrupt a shareholders' meeting:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040811a3.htm>> (11 August)

Two damages suits filed recently by shareholders of the temporarily nationalized Ashikaga Bank mark the start of efforts to hold those responsible for the bank's failure to account:

(cited at <<http://www.yomiuri.co.jp/newse/20040821wo13.htm>> visited on 21 August; full text in PDF is available on request)

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

Initially scheduled to take effect Sept. 1, a new law allowing the government to inject public funds into financial institutions to prevent insolvency took effect on August 1:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040802a5.htm>> (2 August)

Some experts praise the new type of consumer lender, alliances between banks and consumer lenders as a way for banks to boost profitability and survive global competition. Other see the alliances between banks and consumer financing firms represent a setback for efforts to rescue heavily indebted borrowers:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040819a2.htm>> (19 August)

The Financial Services Agency will call for preferential taxation treatment for regional banks in fiscal 2005 to help expedite the disposal of nonperforming loans:

(cited at <<http://www.yomiuri.co.jp/newse/20040824wo14.htm>> visited on 24 August; full text in PDF is available on request)

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

With the number of domestic mergers and acquisitions growing, the lower court ruling placed issues concerning the breakup of merger talks in a legal limbo. The UFJ incident also shed light on the poor awareness and understanding of contracts among Japanese corporations:

(cited at <<http://www.yomiuri.co.jp/newse/20040810wo11.htm>> visited on 10 August; full text in PDF is available on request).

The Nuclear and Industry Safety Agency will revise regulations on coolant water pipes at nuclear power plants and write a guideline following Japan's deadliest nuclear plant accident two days earlier:

(cited at <<http://asia.news.yahoo.com/040811/kyodo/d84cn4ho1.html>> visited on 11 August; full text in PDF is available on request)

Public prosecutors will receive papers on Kansai Electric Power Co. in connection with the steam pipe blowout at Mihama Nuclear Power Plant's No. 3 reactor in Mihamacho, Fukui Prefecture, that left four people dead and seven injured... The papers will be submitted by the Fukui Labor Bureau and the Tsuruga Labor Standard Inspection Office, which believe KEPCO violated the Industrial Safety and Health Law through its failure to inspect the pipe:

(cited at <<http://www.yomiuri.co.jp/newse/20040824wo24.htm>> visited on 24 August; full text in PDF is available on request)

Tokio Marine & Fire Insurance Co. and NTT Communications Corp. plan to tie up in launching a new insurance product next month to cover companies damaged by information leaks, informed sources said Thursday. The new product, to be announced in the near future, will cover up to several billion yen in losses caused by leaks of client information held by companies, up from the maximum 100 million yen at present:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=business&an=>> visited on 11 August)

To help curb the counterfeiting of Japanese goods overseas, the Foreign Ministry will assign officials in autumn to the nation's 189 diplomatic missions to protect intellectual property rights:

(cited at <<http://www.yomiuri.co.jp/newse/20040817wo22.htm>> visited on 17 August; full text in PDF is available on request)

The Agriculture, Forestry and Fisheries Ministry plans to reinforce its measures that aim to protect the intellectual property rights of those who develop varieties of farm produce:

(cited at <<http://www.yomiuri.co.jp/index-e.htm>> visited on 23 August; full text in PDF is available on request)

The Tokyo High Court ordered animation company, Nippon Animation Co. and its sound and image subsidiary, Onkyo Eizo System Co to pay approximately 88 million yen in damages to 361 voice actors for converting cartoons they performed on into videos and DVDs without their consent:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040826a6.htm>> (26 August)

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

[Tax Policy]

A government panel on the tax system plans to propose reducing the tax deductions allowed on salaried workers' retirement benefits beginning as early as fiscal 2006:

(cited at <<http://www.yomiuri.co.jp/newse/20040802wo11.htm>> visited on 2 August; full text in PDF is available on request)

[Privatization]

Japan and the United States are considering holding talks in Tokyo around Aug. 20 on the privatization of the government-run "kampo" life insurance program:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040801b1.htm>> (1 August)

The government's key policy-setting panel agreed Monday [2 August] on a plan to privatize the nation's postal services as four independent businesses of mail delivery, postal savings, "kampo" life insurance and management of network of over-the-counter services at post offices:

(cited at <<http://home.kyodo.co.jp/all/display.jsp?an=20040803003>> visited on 3 August; full text in PDF is available on request). See also:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040807a1.htm>> (7 August)

<<http://www.asahi.com/english/politics/TKY200408100123.html>> (10 August)

<<http://www.yomiuri.co.jp/newse/20040811wo13.htm>> visited on 11 August; full text in PDF is available on request)

The government is considering asking privatized postal entities to invest the bulk of postal savings deposited before privatization in government financial instruments, primarily bonds:

<<http://www.asahi.com/english/politics/TKY200408040159.html>> (4 August). See also:

<<http://www.yomiuri.co.jp/newse/20040801wo11.htm>> visited on 1 August; full text in PDF is available on request)

[Environment Law]

To reduce the domestic emission level of carbon dioxide (CO2)... the Environment Ministry has decided to start a program from fiscal 2005 that will allow corporations to sell CO2 emission credits to underachieving firms if they have achieved their own reduction goals:

(cited at <<http://www.yomiuri.co.jp/newse/20040804wo02.htm>> visited on 4 August; full text in PDF is available on request). See also:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040807a4.htm>> (7 August)

The Environment Ministry plans to draw up guidelines aimed at encouraging lending to and investments by financial institutions in environment-friendly firms... The guidelines will offer pointers for lenders and investors in selecting target companies and also draw their attention by demonstrating that environment-friendly companies have generated higher returns on investments than other firms, they said:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=business&an=>>> visited on 9 August)

The Saitama prefectural government aims to introduce its own environment tax on residents for the purpose of preserving greenery:

(cited at <<http://www.yomiuri.co.jp/index-e.htm>> visited on 27 August; full text in PDF is available on request)

The Saga District Court ordered the government Thursday [26 August] to suspend construction of an inner dike in the Isahaya Bay reclamation project in line with a request by 106 fishermen:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040827a1.htm>> (27 August)

5. Labour (employment law, pension system)

The government compiled a draft of a set of civil servant system reform bills Sunday featuring a new performance-based wage system for civil servants in which they are ranked in four grades:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=politics&an=>>> visited on 2 August)

Japan plans to toughen curbs on bureaucrats landing plum private-sector jobs after retirement and will introduce a performance-based promotion system:

(cited at <<http://asia.news.yahoo.com/040805/kyodo/d848sto00.html>> visited on 5 August; full text in PDF is available on request)

Companies with employees that put in more than 100 hours of overtime per month might be made to have such workers undergo medical checkups to reduce the incidence of suicides and "karoshi," or death from overwork:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040821a7.htm>> (21 August)

The DPJ submitted to both houses of the Diet a bill to repeal the country's controversial pension reform laws and seeking more fundamental reforms during fiscal 2006, but the

four related lower house committees voted it down Wednesday [4 August] on the strength of the ruling coalition. A vote at the House of Councillors is pending: (cited at <<http://home.kyodo.co.jp/all/display.jsp?an=20040805122>> visited on 5 August; full text in PDF is available on request)

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

[Social Security]

A high-level private advisory panel to Chief Cabinet Secretary Hiroyuki Hosoda has held its first meeting on drastically reforming the social security system (including health care, nursing care and the pension system), with panelists examining all its burdens and benefits:

(cited at <<http://www.yomiuri.co.jp/newse/20040801wo01.htm>> visited on 1 August; full text in PDF is available on request). See also:

<<http://www.yomiuri.co.jp/newse/20040813wo04.htm>> (13 August; full text in PDF is available on request)

[Criminal Justice]

Murderers and rapists will spend longer behind bars under proposed revisions to the penal code and criminal procedures code:

<<http://www.asahi.com/english/nation/TKY200407310176.html>> (31 July)

The government said Wednesday [11 August] that a plan for a new privately run prison in Mine, Yamaguchi Prefecture, will be authorized as part of a program to create special deregulation zones:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040812b1.htm>> (12 August)

The Justice Ministry will seek legal revisions to deal with crimes committed by children under 14, mainly aiming to eliminate the lower age limit for detention at reformatories and define police rights to investigate such cases, government sources said Tuesday [24 August]. The move comes amid growing public concern over an increasing number of serious crimes committed by juveniles aged 13 or younger, who cannot be punished under the Penal Code and must be exempted from conventional police investigation:

(cited at <<http://home.kyodo.co.jp/all/news.jsp?news=japan&an=>> visited on 24 August)

[Education]

The Justice Ministry has decided to produce supplementary teaching materials designed to give middle school students the legal knowledge they need as members of society:

(cited at <<http://www.yomiuri.co.jp/newse/20040801wo23.htm>> visited on 1 August; full text in PDF is available on request)

Local governments may be empowered to do away with the current uniform primary and lower secondary schooling years and set those periods according to local needs, according to a draft plan for reforming the nation's compulsory education system seen by Kyodo News:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040808a1.htm>> (8 August)

<<http://www.asahi.com/english/nation/TKY200408100125.html>> (10 August)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040811a7.htm>> (11 August)

[Human Life]

A couple have appealed to the Osaka High Court after a family court rejected their request earlier this month to register their twins born to an American surrogate mother as their children. The family court dismissed the request on the grounds that his wife did not provide eggs or give birth to the twins:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040826a9.htm>> (26 August)

<<http://www.yomiuri.co.jp/newse/20040815wo01.htm>> (15 August; full text in PDF is available on request)

Amid growing mistrust in medical services, the health ministry will set up an independent body to investigate whether suspicious deaths have been caused by malpractice:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040822a7.htm>> (22 August)

[WWII-Related Issues]

Thirteen Chinese filed a damages suit Tuesday [10 August] against the Japanese government and Mitsubishi Materials Corp., seeking a combined 184 million yen, and an apology, for being used as forced laborers during World War II. Rulings on Chinese slave labor cases vary, with the Hiroshima High Court in July ruling in favor of Chinese plaintiffs while the Fukuoka High Court in May ruled against Chinese forced laborers:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040811a8.htm>> (11 August)

7. International Context (constitutional reform, international relations)

[International Security]

The government has decided to compile a bill to enable it to deploy the Self-Defense Forces overseas any time it deems necessary, aiming to submit it to the Diet next year:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040801a9.htm>> (1 August)

The government seems to finally be ready to get serious about its efforts to achieve the long-cherished objective of becoming a permanent member of the U.N. Security Council:

(cited at <<http://www.yomiuri.co.jp/newse/20040802wo02.htm>> visited on 2 August; full text in PDF is available on request)

Japan and other nations that have ratified the Comprehensive Nuclear Test Ban Treaty (CTBT) plan to hold a foreign ministers meeting in New York in late September in a bid to facilitate the early entry into force of the treaty:

(cited at <<http://www.yomiuri.co.jp/newse/20040811wo41.htm>> visited on 11 August; full text in PDF is available on request)

[International Trade]

Japan on Sunday [1 August] welcomed a framework global trade agreement adopted by the World Trade Organization in Geneva partly because it includes Tokyo's demand for special treatment of politically sensitive products such as rice:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040802a1.htm>> (2 August)

Japan and South Korea began their fifth round of talks Monday [23 August] to negotiate a free-trade agreement by the end of next year:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nb20040824a7.htm>> (24 August)

Prime Minister Junichiro Koizumi said Monday [9 August] the nation's three rules on arms exports should be reviewed to take into account changes in circumstances over time:

(cited at <<http://www.yomiuri.co.jp/newse/20040810wo03.htm>> visited on 10 August; full text in PDF is available on request). See also:

<<http://www.asahi.com/english/politics/TKY200408230216.html>> (23 August)

<<http://www.yomiuri.co.jp/newse/20040823wo33.htm>> (23 August; full text in PDF is available on request)

[Constitutional Reform]

Christopher Weeramantry, former vice president of the International Court of Justice in the Hague, said the war-renouncing Article 9 is one of the world's most outstanding constitutional provisions:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040813f2.htm>> (13 August)

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040818a7.htm>> (18 August)

Alarmed by ever-louder calls within political circles to revise the Constitution, some 50 Democratic Party of Japan lawmakers set up a study group Monday [2 August] on foreign and security policy:

<<http://www.japantimes.co.jp/cgi-bin/getarticle.pl5?nn20040803a6.htm>> (3 August)

See also: <<http://www.yomiuri.co.jp/newse/20040821wo01.htm>> (21 August; full text in PDF is available on request)

Cf <<http://www.yomiuri.co.jp/newse/20040827wo02.htm>> (27 August; full text in PDF is available on request)