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This English translation of the Unfair Competition Prevention Act has been prepared (up to the revisions of Act No. 54 of 2015 (Effective January 1, 2016)).

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Unfair Competition Prevention Act (Act No.47 of 1993)

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Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to provide measures, etc. for the prevention of Unfair Competition and for the compensation of damages caused by Unfair Competition, in order to ensure fair competition among business operators and proper implementation of international agreements related thereto, and thereby contribute to the sound development of the national economy.

(Definitions)

Article 2 (1) The term "Unfair Competition" as used in this Act means any of the following:

(i) the act of creating confusion with another person's goods or business by using an Indication of Goods or Business (meaning a name, trade name, Trademark, Mark, container or packaging for goods pertaining to a person's operations, or any other indication of a person's goods or business; the same applies hereinafter) that is identical or similar to the another person's Indication of Goods or Business that is well-known among consumers as that of the another person, or by assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing or providing through a telecommunications line those goods that use said indication;

(ii) the act of using an Indication of Goods or Business that is identical or similar to another person's famous Indication of Goods or Business as one's own, or of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing, or providing through a telecommunications line those goods that use said indication;

(iii) the act of assigning, leasing, displaying for the purpose of assignment or leasing, exporting or importing goods that Imitate the configuration of another person's goods (excluding configuration that is indispensable for ensuring the function of said goods);

(iv) the act of acquiring a Trade Secret by theft, fraud, duress, or other wrongful means (hereinafter referred to as the "Act of Wrongful Acquisition"), or the act of using or disclosing (including the disclosure in confidence to a specific person or persons; the same applies hereinafter) a Trade Secret through an Act of Wrongful Acquisition;

(v) the act of acquiring a Trade Secret with the knowledge, or with gross negligence in not knowing, that there has been an intervening Act of Wrongful Acquisition, or the act of using or disclosing a Trade Secret so acquired;

(vi) the act of using or disclosing an acquired Trade Secret after having learned, or with gross negligence in not having learned, subsequent to its acquisition, that there had been an intervening Act of Wrongful Acquisition;

(vii) the act of using or disclosing a Trade Secret that has been disclosed by the business operator that owns said Trade Secret (hereinafter referred to as the "Owner") for the purpose of acquiring a wrongful gain, or causing damage to said Owner;

(viii) the act of acquiring a Trade Secret with the knowledge, or with gross negligence in not knowing, that said Trade Secret's disclosure is an Act of Improper Disclosure (meaning, in the case prescribed in the preceding item, the act of disclosing a Trade Secret for the purpose prescribed in said item, or the act of disclosing a Trade Secret in breach of a legal duty to maintain secrecy; the same applies hereinafter) or that there has been an intervening Act of Improper Disclosure with regard to said Trade Secret, or the act of using or disclosing a Trade Secret so acquired;

(ix) the act of using or disclosing an acquired Trade Secret after having learned, or with gross negligence in not having learned, subsequent to its acquisition, that said Trade Secret's disclosure was an Act of Improper Disclosure or that there had been an intervening Act of Improper Disclosure with regard to said Trade Secret;

(x) the act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing, or providing through a telecommunications line Things created by the acts listed in item (iv) to the preceding item (limited to an act of using a Technical Secret (meaning a Trade Secret which is technical information; the same applies hereinafter); hereinafter referred to as an "Act of Unauthorized Use" in this item) (excluding an act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing, or providing through a telecommunications line said Things by a person who has received said Things by assignment (limited to a person who, at the time of receiving said Things by assignment, had no knowledge that the Things were created by an Act of Unauthorized Use, and such lack of knowledge was not based on gross negligence));

(xi) the act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, or importing, a device (including a machine that incorporates said device and a set of parts for said device that can be easily assembled) with a function that makes it possible to view images, hear sound, or run Programs, or record images, sound, or Programs (hereinafter referred to as "to View Images, etc." in this item) which are restricted by Technological Restriction Measures that are used for business purposes (excluding Technological Restriction Measures used by another person to restrict all but specific persons from viewing images, hearing sound, or running Programs, or recording images, sound, or Programs), by circumventing the effectiveness of said Technological Restriction Measures, or a recording medium on which a Program with said function (including a combination of said Program with other Programs) has been

recorded or Machine on which a Program with said function (including a combination of said Program with other Programs) has been restored; or the act of providing a Program with said function through a telecommunications line (if said device or Program has a combination of functions other than said function, this is limited to an act done in order to provide said device or Program for the purpose of making it possible to View Images, etc. by circumventing the effectiveness of said Technological Restriction Measures);

(xii) the act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting or importing, other than to specific persons, a device (including a machine that incorporates said device and a set of parts for said device that can be easily assembled) with a function that makes it possible to view images, hear sound, or run Programs, or record images, sound, or Programs (hereinafter referred to as "to View Images, etc." in this item) which are restricted by Technological Restriction Measures that are used by another person for business purposes to restrict all but specific persons from viewing images, hearing sound, or running Programs, or recording images, sound, or Programs, by circumventing the effectiveness of said Technological Restriction Measures or a recording medium on which a Program with said function (including a combination of said Program with other Programs) has been recorded or Machine on which a Program with said function (including a combination of said Program with other Programs) has been restored; or the act of providing a Program with said function through a telecommunications line, other than to specific persons (if said device or Program has a combination of functions other than said function, this is limited to an act done in order to provide said device or Program for the purpose of making it possible to View Images, etc. by circumventing the effectiveness of said Technological Restriction Measures);

(xiii) the act of acquiring or holding a right to use a Domain Name that is identical or similar to another person's Specific Indication of Goods or Business (meaning a name, trade name, Trademark, Mark, or any other indication of goods or business pertaining to a person's operation), or the act of using any said Domain Name, for the purpose of acquiring a wrongful gain or causing damage to another person;

(xiv) the act of using an indication on goods or services, in an advertisement thereof, or in trade documents or electronic correspondence thereof, in a way that is likely to cause a misconception as to the place of origin, quality, contents, manufacturing process, purpose, or quantity of said goods, or the quality, contents, purpose, or quantity of said services, or the act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing, or providing through a telecommunications line goods so indicated, or the act of providing services so indicated;

(xv) the act of making or circulating a false allegation that is injurious to the

business reputation of another person with which one is in a competitive relationship;

(xvi) an act by the agent or representative, or a person who was, within one year of the date of the act, an agent or representative, of the holder of a right to a Trademark (said right is limited to a right that is equivalent to a Trademark right; hereinafter simply referred to as a "Right" in this item) in a country of the Union established by the Paris Convention (meaning the Paris Convention as defined in Article 4, paragraph (1), item (ii) of the Trademark Act (Act No. 127 of 1959)) or in a member of the World Trade Organization or in a contracting party to the Trademark Law Treaty, without justifiable grounds and without the consent of the holder of said Right; which constitutes the use of a Trademark that is identical or similar to the Trademark under said Right on identical or similar goods or services regarding said Right; which constitutes the assignment, delivery, display for the purpose of assignment or delivery, export, import or provision through a telecommunications line of goods that are similar or identical to the goods regarding said Right and on which said Trademark has been used; or which constitutes the provision of services that are identical or similar to the services regarding said Right, using said Trademark.

(2) The term "Trademark" as used in this Act means a trademark as defined in Article 2, paragraph (1) of the Trademark Act.

(3) The term "Mark" as used in this Act means a mark as defined in Article 2, paragraph (1) of the Trademark Act.

(4) The term "Configuration of Goods" as used in this Act means the external and internal shape of goods and the pattern, color, gloss, and texture combined with said shape, which can be perceived through the human senses by consumers when they use the goods in an ordinary way.

(5) The term "Imitate" as used in this Act means the act of creating goods that are substantially identical to another person's goods, based on the configuration of said goods.

(6) The term "Trade Secret" as used in this Act means technical or business information useful for business activities, such as manufacturing or marketing methods, that is kept secret and that is not publicly known.

(7) The term "Technological Restriction Measures" as used in this Act means measures which restrict images from being viewed, sound from being heard, or Programs from being run, or images, sound, or Programs from being recorded, by Electromagnetic Means (meaning electronic means, magnetic means, or other means that cannot be perceived through the human senses), by a means of recording or onto a recording medium along with the image, sound, or Program or transmitting signals to which a Viewing Machine, etc. (meaning a machine used for viewing images, hearing sound, or running Programs, or recording images, sound, or Programs; the same applies hereinafter) has a specific reaction, or by a

means of converting images, sound, or Programs and recording on a recording medium or transmitting them, in a way that requires a specific conversion by the Viewing Machine, etc.

(8) The term "Program" as used in this Act means a set of instructions to a computer so that a specific result can be obtained.

(9) The term "Domain Name" as used in this Act means letters, numbers, signs, or other symbols or combination thereof that correspond to the combination of numbers, signs, letters assigned to identify individual computers on the Internet.

(10) The term "Things" as used in this Act includes Programs.

Chapter II Demands for Injunction, Damages

(Right to Demand Injunction)

Article 3 (1) A person whose business interests have been infringed or are likely to be infringed due to Unfair Competition may make a demand to suspend or prevent that infringement, against the person that infringed or is likely to infringe said business interests.

(2) When making the demand under the preceding paragraph, the person whose business interests have been infringed or are likely to be infringed due to Unfair Competition may demand the destruction of Things that constituted the act of infringement (including Things created through the act of infringement; the same applies in Article 5, paragraph (1)), removal of equipment used for the act of infringement, or other act required for suspending or preventing the infringement.

(Damages)

Article 4 A person who intentionally or negligently infringes the business interests of another person through Unfair Competition is liable to compensate damages resulting therefrom; provided, however, that this Article does not apply to damages resulting from the act of using a Trade Secret after the rights prescribed in Article 15 have extinguished pursuant to said Article.

(Presumption of Amount of Damage)

Article 5 (1) When a person whose business interests have been infringed due to the Unfair Competition listed in Article 2, paragraph (1), items (i) to (x) or (xvi) (with regard to the Unfair Competition listed in items (iv) to (ix) of the same paragraph, limited to Unfair Competition that involves a Technical Secret) (hereinafter referred to as the "Infringed Party" in this paragraph) claims compensation of damages suffered by it due to said infringement, from a person

who has intentionally or negligently infringed said business interests, if the infringer has assigned Things that constituted the act of infringement, the quantity of the Things assigned (hereinafter referred to as the "Assigned Quantity" in this paragraph) multiplied by the amount of profit per unit of the Things that the Infringed Party could have sold in the absence of the act of infringement may be fixed as the amount of damages suffered by the Infringed Party, within the limits of an amount proportionate to the Infringed Party's ability to sell or conduct other acts concerning said Things; provided, however, that if there are circumstances that would have prevented the Infringed Party from selling a number of Things equivalent to all or part of the Assigned Quantity, an amount proportionate to the number of Things corresponding to said circumstances is deducted.

(2) When a person whose business interests have been infringed due to Unfair Competition claims compensation of damages suffered by it from a person who intentionally or negligently infringed said business interests, if said person has earned a profit through the act of infringement, said amount of profit is presumed to be the amount of damages that the person whose business interests were infringed has suffered.

(3) A person whose business interests have been infringed due to the Unfair Competition listed in Article 2, paragraph (1), items (i) to (ix), (xiii) or (xvi) may claim compensation of damage against a person who has intentionally or negligently infringed said business interests, in an amount equivalent to the amount of money that the infringed party should have been entitled to receive for the act prescribed in the relevant of the following items for the classification of Unfair Competition listed therein, as the amount of damages suffered by the infringed party:

(i) Unfair Competition listed in Article 2, paragraph (1), items (i) or (ii) - use of an Indication of Goods or Business pertaining to said infringement;

(ii) Unfair Competition listed in Article 2, paragraph (1), item (iii) - use of a Configuration of Goods pertaining to said infringement;

(iii) Unfair Competition listed in Article 2, paragraph (1), items (iv) to (ix) - use of a Trade Secret pertaining to said infringement;

(iv) Unfair Competition listed in Article 2, paragraph (1), item (xiii) - use of a Domain Name pertaining to said infringement; and

(v) Unfair Competition listed in Article 2, paragraph (1), item (xvi) - use of a Trademark pertaining to said infringement.

(4) The provisions of the preceding paragraph do not preclude a claim for compensation of damages exceeding the amount prescribed in that paragraph. In such a case, if the person who infringed said business interests did not do so intentionally or through gross negligence, the court may take this into consideration in determining the amount of damages to be compensated.

(Presumption of Act of Using Technical Secret by Person who Acquired said Technical Secret)

Article 5-2 If any of the acts prescribed in Article 2, paragraph (1), item (iv), (v), or (viii) (limited to an act of acquiring a Trade Secret) has been conducted with regard to a Technical Secret (limited to a Technical Secret regarding manufacturing methods or other information specified by Cabinet Order; the same applies hereinafter in this Article) and a person who has conducted said act conducts production of Things created by the act of using said Technical Secret or other act specified by Cabinet Order as an act from which it can be understood obviously that Technical Secret has been used (hereinafter referred to as the "Production, etc." in this Article), said person is presumed to have conducted the Production, etc. as an act prescribed in each said item (limited to an act of using a Trade Secret).

(Obligation to Clarify Specific Conditions)

Article 6 In litigation involving the infringement of business interests through Unfair Competition, if the opponent denies the specific conditions of the Things or process which is being asserted, by the person alleging that his/her business interests have been infringed or are likely to be infringed by Unfair Competition, to have constituted an act of infringement, the opponent must clarify the specific conditions of his/her own acts; provided, however, that this does not apply when the opponent has reasonable grounds for not being able to clarify this.

(Submission of Documents)

Article 7 (1) In litigation involving the infringement of business interests due to Unfair Competition, the court may, at the motion of a party, order a party to submit any documents necessary for proving the act of infringement or calculating the amount of damages caused by said act of infringement; provided, however, that this does not apply if the holder of the documents has justifiable grounds for refusing to submit them.

(2) If the court finds it necessary for determining the presence of the justifiable grounds prescribed in the proviso to the preceding paragraph, it may require the holder of the documents to present said documents. In such a case, no person may request disclosure of the presented documents.

(3) In the case referred to in the preceding paragraph, if the court finds it necessary to disclose the documents prescribed in the second sentence of the preceding paragraph and to hear opinions with regard to whether the justifiable grounds prescribed in the proviso to paragraph (1) are present, the court may disclose said documents to the Parties, etc. (meaning the parties (or if a party is a judicial person, its representative) or the parties' agents (excluding counsel or

assistants in court), employees, or other workers; the same applies hereinafter), their counsel, or their assistants in court.

(4) The provisions of the preceding three paragraphs apply mutatis mutandis to the presentation of the object of any observation that is necessary for proving said act of infringement in litigation involving the infringement of business interests due to Unfair Competition.

(Expert Opinion for Calculation of Damages)

Article 8 In litigation involving the infringement of business interests due to Unfair Competition, if the court, at the motion of a party, orders an expert opinion on the matters necessary for calculating the damages caused by the act of said infringement, the parties shall explain the matters necessary for forming an expert opinion to the expert witness.

(Determination of Reasonable Damages)

Article 9 In litigation involving the infringement of business interests due to Unfair Competition, if the court finds that damage actually incurred but it is extremely difficult for the court to prove the facts necessary for proving the amount of damage due to the nature of said facts, the court may determine a reasonable amount of damage based on the entire import of oral argument and the results of the examination of evidence.

(Protective Orders)

Article 10 (1) In litigation involving the infringement of business interests due to Unfair Competition, if a prima facie showing has been made that a Trade Secret owned by a party to the litigation falls under both of the following grounds, the court may, at the motion of the party and by means of a ruling, order a party, etc., counsel, or an assistant in court not to use the Trade Secret for any purpose other than in conducting the litigation, or to disclose it to a person other than a person subject to the order under this paragraph which relates to said Trade Secret; provided, however, that this does not apply if the party, etc., counsel, or assistant in court had already acquired or owned the Trade Secret by means other than the reading of the brief prescribed in item (i) or the examination or disclosure of evidence prescribed in the same item by the time at which said motion was made:

(i) the Trade Secret owned by the party is written in an already-submitted or a to-be-submitted brief, or is included in the contents of already-examined or to-be-examined evidence (including documents disclosed pursuant to Article 7, paragraph (3) or a document disclosed pursuant to Article 13, paragraph (4)); and

(ii) the party's business activities that are based on the Trade Secret under the preceding item are likely to become hindered by the use of said Trade Secret for any purposes other than those for conducting the litigation or by the disclosure of

said Trade Secret, and it is necessary to restrict the use or disclosure of said Trade Secret in order to prevent this.

(2) A motion for the order under the preceding paragraph (hereinafter referred to as the "Protective Order") must be made in writing and include the following matters:

(i) the person to whom the Protective Order would be issued;

(ii) facts that are sufficient for identifying the Trade Secret that would be made the subject of the Protective Order; and

(iii) facts that fall within the grounds listed in the respective items of the preceding paragraph.

(3) When issuing a Protective Order, the court shall serve a written ruling on the person to whom the Protective Order has been issued.

(4) A Protective Order takes effect when a written ruling is served on the person to whom the Protective Order has been issued.

(5) If the court dismisses a motion for a Protective Order, the party may file an immediate appeal against the judicial decision.

(Rescission of Protective Order)

Article 11 (1) A person who filed a motion for a Protective Order or a person to whom a Protective Order has been issued may file a motion to rescind the Protective Order with the court where the case record is kept (when no such court exists, the court that issued the Protective Order) on the grounds that a requirement prescribed in the preceding Article, paragraph (1) has not been met or is no longer being met.

(2) When the court makes a judicial decision on a motion to rescind a Protective Order, it shall serve a written ruling on the person who filed the motion and the opponent.

(3) An immediate appeal may be filed against a judicial decision on the motion to rescind a Protective Order.

(4) A judicial decision to rescind a Protective Order does not take effect until it becomes final and binding.

(5) If a court has made a judicial decision rescinding a Protective Order, and, during the same litigation in which the Protective Order was issued, a Protective Order for the protection of said Trade Secret was issued against any person other than the person who filed the motion for the rescission of the Protective Order or the opponent, the court shall immediately notify that person of the judicial decision rescinding the Protective Order.

(Notice of Request to Inspect Case Record)

Article 12 (1) If a court has made a ruling under Article 92, paragraph (1) of the Code of Civil Procedure (Act No. 109 of 1996) with regard to the case record in

litigation in which a Protective Order has been issued (excluding litigation in which all the Protective Orders have been rescinded), and a party has requested to inspect, etc. a portion of the record that contains the secret prescribed under the same paragraph, if the person who followed the procedures for filing said request has not had a Protective Order issued against him/her in the litigation, the court clerk shall, immediately after the request has been filed, notify the party who filed the motion under the same paragraph (excluding the person filing said request; the same applies in paragraph (3) of the fact that said request has been filed).

(2) In a case referred to in the preceding paragraph, the court clerk must not allow the person who followed the procedures for filing the request under the same paragraph to inspect, etc. the part of the record that contains the secret under the same paragraph until two weeks have elapsed since the date of the request (if a motion is filed for a Protective Order against the person who followed the procedures for filing the request on or before said date, until the date on which the judicial decision on the motion becomes final and binding).

(3) The provisions of the preceding two paragraphs shall not apply if there is consent among all parties who have filed a motion under Article 92, paragraph (1) of the Code of Civil Procedure to allow the person who filed the request under paragraph (1) to inspect, etc. the part of the record that contains the secret.

(Suspension of Open Examination of Parties)

Article 13 (1) In litigation involving the infringement of business interests due to Unfair Competition, if a party, etc. is to be examined as a party to the case, statutory agent, or witness with regard to a matter that serves as the basis for determining the presence or absence of said infringement and falls under a Trade Secret held by the party, and if the court, by the unanimous consent of the judges, finds that the party, etc. is unable to give a sufficient statement regarding the matter because it is clear that giving a statement regarding the matter in open court would significantly hinder the party's business activities that are based on said Trade Secret, and that, without said statement by the party, etc., the court will be unable to make the appropriate judicial decision solely from other evidence on the presence or absence of said infringement of business interests due to Unfair Competition which should be made based on the determination of said matter, the court may, by ruling, conduct an examination on the matter without opening it to the public.

(2) The court must hear the opinions of the Parties, etc. in advance before making the ruling under the preceding paragraph.

(3) In the case referred to in the preceding paragraph, if the court finds it necessary, it may order a party, etc. to present a document that outlines the matters to be stated. In such a case, no person may request disclosure of the

presented document.

(4) If the court finds it necessary to disclose the documents under the second sentence of the preceding paragraph and to hear the opinions of the Parties, etc., the counsel, or the assistant in court, the court may disclose the document to said person.

(5) If the court will conduct an examination on a matter without opening it to the public pursuant to the provisions of paragraph (1), it must make a statement to that effect along with the reason therefor to the members of the public before having them leave the courtroom. When the examination on said matter ends, the court must allow the members of the public to re-enter the courtroom.

(Measures to Restore Business Reputation)

Article 14 Upon the request of a person whose business reputation has been injured, the court may order the person who has intentionally or negligently engaged in Unfair Competition and thereby injured the business reputation of that person to take the necessary measures for restoring the business reputation of that person, in lieu of or in addition to compensation of damages.

(Extinctive Prescription)

Article 15 The right to demand the suspension or prevention of infringement under the provisions of Article 3, paragraph (1), against the act of using a Trade Secret among the acts of Unfair Competition listed in Article 2, paragraph (1), items (iv) to (ix), is extinguished by prescription if the person conducting said act conducts said act continuously and the holder of said right whose business interests have been infringed or are likely to be infringed by said act does not exercise the right within three years from the time when the person comes to know of said fact and the identity of the person conducting said act. The same applies when twenty years have elapsed from the time said act began.

Chapter III Acts Prohibited pursuant to International Agreement

(Prohibition on Commercial Use of Foreign State's National Flag)

Article 16 (1) No person shall use, as a Trademark, anything that is identical or similar to a foreign state's national flag, armorial bearing, or any other emblem specified by Ordinance of the Ministry of Economy, Trade and Industry (hereinafter referred to as the "Foreign State's National Flag, etc.") (such identical or similar thing is hereinafter referred to as the "Emblem Similar to a Foreign State's National Flag, etc."), nor shall any person assign, deliver, display for the purpose of assignment or delivery, export, import, or provide through a telecommunications line goods that use an Emblem Similar to a Foreign State's

National Flag, etc. as their Trademark, or provide services while using an Emblem Similar to a Foreign State's National Flag, etc. as a Trademark; provided, however, that this shall not apply when permission has been obtained from the government agency of the foreign state that is authorized to grant permission (including an administrative disposition similar to permission; the same applies hereinafter) for use of the Foreign State's National Flag, etc.

(2) In addition to what is prescribed in the preceding paragraph, no person shall use the foreign state's national armorial bearings specified by Ordinance of the Ministry of Economy, Trade and Industry which is referred to in the preceding paragraph (hereinafter referred to as the "Armoial Bearings of a Foreign State") in a manner that is likely to cause a misconception as to the place of origin of goods; nor shall any person assign, deliver, display for the purpose of assignment or delivery, export, import or provide through a telecommunications line goods that use the Armoial Bearings of a Foreign State; or provide services while using the Armoial Bearings of a Foreign State in said manner; provided, however, this shall not apply when permission has been obtained from the government agency of the foreign state that is authorized to grant permission to use the Armoial Bearings of a Foreign State.

(3) No person shall use anything that is identical or similar to the seal or sign that the national or local government of a foreign state uses for supervising or certification purposes which is specified by Ordinance of the Ministry of Economy, Trade and Industry (hereinafter referred to as the "Sign of a Foreign National Government, etc.") (such identical or similar thing is hereinafter referred to as the "Sign Similar to that of a Foreign National Government, etc.") as a Trademark on goods or for services that are identical or similar to goods or services for which said Sign of a Foreign National Government, etc. is used; nor assign, deliver, display for the purpose of assignment or delivery, export, import or provide through a telecommunications line, goods that use a Sign Similar to that of a Foreign National Government, etc. as their Trademark or provide services while using a Sign Similar to that of a Foreign National Government, etc. as a Trademark; provided, however, that this shall not apply when permission has been obtained from the government agency of the foreign state that is authorized to grant permission for use of the Sign of a Foreign National Government, etc.

(Prohibition of Commercial Use of Mark of International Organization)

Article 17 No person shall use anything that is identical or similar to a Mark representing an International Organization (meaning an intergovernmental international organization or an equivalent organization specified by Ordinance of the Ministry of Economy, Trade and Industry; the same applies hereinafter in this Article) which is specified by Ordinance of the Ministry of Economy, Trade

and Industry (such identical or similar thing is hereinafter referred to as the "Mark Similar to that of an International Organization") as a Trademark, in a manner that is likely to cause a misconception as to the existence of a relationship with that International Organization; or assign, deliver, display for the purpose of assignment or delivery, export, import or provide through a telecommunications line, goods that use a Mark Similar to that of an International Organization as their Trademark or provide services while using a Mark Similar to that of an International Organization as a Trademark, in said manner; provided, however, that this shall not apply when the permission of said International Organization has been obtained.

(Prohibition against Provision of Wrongful Gain to Foreign Public Officials)

Article 18 (1) No person shall give, or offer or promise to give, any money or other benefit to a Foreign Public Official, etc. in order to have the Foreign Public Official, etc. act or refrain from acting in relation to the performance of official duties, or in order to have the Foreign Public Officials, etc., use his position to influence another Foreign Public Official, etc. to act or refrain from acting in relation to the performance of official duties, in order to obtain a wrongful gain in business with regard to international commercial transactions.

(2) The term "Foreign Public Official, etc." as used in the preceding paragraph means any of the following persons:

(i) any person who engages in public service for national or local foreign governments;

(ii) any person who engages in the business affairs of an entity established under foreign special laws to carry out specific business affairs in the public interest;

(iii) any person who engages in the business affairs of an enterprise in which one or more of the national or local governments of foreign states directly owns a number of voting shares or an amount of capital subscription that exceeds 50 percent of that enterprise's total issued voting shares or total amount of capital subscription, or in which the majority of the Officers (meaning directors, auditors, council members, inspectors, liquidators, and other persons engaged in management of the business) are appointed or designated by one or more of the national or local foreign governments, and to which special rights and interests are granted by the national or local government of the foreign states for performance of its business, or a person specified by Cabinet Order as an equivalent person;

(iv) any person who engages in public services for an International Organization (meaning an international organization which is formed by governments or intergovernmental international organizations); or

(v) any person who engages in the business affairs under the authority of the

national or local government of a foreign state or an International Organization and is delegated by them.

Chapter IV Miscellaneous Provisions

(Exclusion from Application)

Article 19 (1) The provisions of Articles 3 to 15, Article 21 (excluding the part under Article 21, paragraph (2), item (vii)), and Article 22 shall not apply to the acts prescribed in each of the following items for the classification of Unfair Competition listed in the relevant item:

(i) Unfair Competition listed in Article 2, paragraph (1), items (i), (ii), (xiv), and (xvi): the act of using or indicating a generic term for goods or business (excluding the name of a place of origin of Things made from grapes or using grapes as an ingredient, which has become a generic term) or an Indication of Goods or Business that is in common usage for identical or similar goods or business (hereinafter collectively referred to as a "Generic Term, etc.") in the way that this is normally done, or the act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing, or providing through a telecommunications line goods that use or indicate a generic name in the way that this is normally done (including the act of providing services while indicating or using a Generic Term, etc. in the way that this is normally done, in the case of Unfair Competition listed in items (xiv) and (xvi) of said paragraph);

(ii) Unfair Competition listed in Article 2, paragraph (1), items (i), (ii), and (xvi): the act of using one's own name with no Wrongful Purpose (meaning the purpose of acquiring a wrongful gain, the purpose of causing damage to others, or any other Wrongful Purpose; the same applies hereinafter), or the act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing, or providing through a telecommunications line goods that use one's own name with no Wrongful Purpose (including an act of providing services while using one's own name with no Wrongful Purpose, in the case of Unfair Competition listed in the same items);

(iii) Unfair Competition listed in Article 2, paragraph (1), item (i): the act by a person who has used an Indication of Goods or Business that is identical or similar to another person's Indication of Goods or Business, since before said other person's Indication of Goods or Business became well-known among consumers; or by a person who has succeeded to a business regarding said Indication of Goods or Business, in using said Indication of Goods or Business with no Wrongful Purpose, or in assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing, or providing through a telecommunications line goods that use said Indication of Goods or Business with

no Wrongful Purpose;

(iv) Unfair Competition listed in Article 2, paragraph (1), item (ii) - the act by a person who has used an Indication of Goods or Business that is identical or similar to another person's Indication of Goods or Business, since before said other person's Indication of Goods or Business became famous; or by a person who has succeeded to a business regarding said Indication of Goods or Business, in using said Indication of Goods or Business with no Wrongful Purpose, or in assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing, or providing through a telecommunications line goods that use said Indication of Goods or Business with no Wrongful Purpose;

(v) Unfair Competition listed in Article 2, paragraph (1), item (iii): any of the following acts:

(a) the act of assigning, leasing, displaying for the purpose of assignment or lease, exporting or importing goods that Imitate the Configuration of Goods for which three years have elapsed since the date they were first sold in Japan; or

(b) the act by a person who has received goods that Imitate the configuration of another person's goods through assignment (limited to the person who, at the time of receiving said goods through assignment, was without knowledge that the goods Imitated the configuration of another person's goods, and was without gross negligence in not knowing said fact) in assigning, leasing, displaying for the purpose of assignment or lease, exporting, or importing said goods;

(vi) Unfair Competition listed in Article 2, paragraph (1), item (iv) to (ix) - the act by a person who has acquired a Trade Secret through a transaction (limited to the person who, at the time of acquiring said Trade Secret, was without knowledge that the disclosure of the Trade Secret was an Act of Improper Disclosure or that there had been an intervening Act of Wrongful Acquisition or Act of Improper Disclosure with regard to that Trade Secret, and was without gross negligence in not knowing said fact), in using or disclosing the Trade Secret within the scope of title acquired through said transaction;

(vii) Unfair Competition listed in Article 2, paragraph (1), item (x) - the act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing or providing through a telecommunications line Things created by the act of using a Trade Secret after the rights prescribed in Article 15 have extinguished pursuant to said Article;

(viii) Unfair Competition listed in Article 2, paragraph (1), items (xi) and (xii) - the act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing or providing through a telecommunications line, a Device prescribed in items (xi) and (xii) of said paragraph or a recording medium on which a Program prescribed in the same items has been recorded or a Machine on which a Program prescribed in the same items has been restored, which is used for testing or research for Technological Restriction Measures,.

(2) A person whose business interests have been infringed or are likely to be infringed through any of the acts listed in item (ii) or (iii) of the preceding paragraph may request the person specified in each of the following items for the classification of acts listed in the relevant item, to use an appropriate indication in order to prevent confusion with his/her goods or business:

(i) acts listed in item (ii) of the preceding paragraph: the person using his/her own name (including the person who by himself/herself assigns, delivers, displays for the purpose of assignment or delivery, exports, imports, or provides through a telecommunications line goods that use his/her own name); or

(ii) acts listed in item (iii) of the preceding paragraph: the person using the Indication of Goods or Business that is identical or similar to other person's Indication of Goods or Business, and the person who has succeeded to a business regarding said Indication of Goods or Business (including the person who by himself/herself assigns, delivers, displays for the purpose of assignment or delivery, exports, imports or provides through a telecommunications line, goods that use said Indication of Goods or Business).

(Delegation to Cabinet Order)

Article 19-2 (1) In addition to what is provided for in this Act, matters necessary for the adjustment of procedures between preservation for confiscation and disposition of delinquency that relate to disposition of delinquency shall be specified by Cabinet Order.

(2) In addition to what is provided for in this Act, matters necessary for procedures concerning intervention of a third party and a judicial decision under Article 32, procedures concerning preservation of confiscation and preservation of collection under Chapter VIII, and procedures for international mutual legal assistance under Chapter IX (excluding matters prescribed in the preceding paragraph) shall be specified by the Rules of the Supreme Court.

(Transitional Measures)

Article 20 If Cabinet Order or Ordinance of the Ministry of Economy, Trade and Industry pursuant to the provisions of this Act is enacted, revised, or abolished, said order or ordinance may, to the extent deemed reasonably necessary for said enactment, revision or abolition, specify required transitional measures (including transitional measures concerning penal provisions).

Chapter V Penal Provisions

(Penal Provisions)

Article 21 (1) A person who falls under any of the following items shall be

punished by imprisonment with required labor for not more than ten years, a fine of not more than twenty million yen, or both:

(i) a person who acquires a Trade Secret through an Act of Fraud, etc. (meaning the act of deceiving, assaulting, or intimidating a person; the same applies hereinafter in this Article) or through the Usurpation of Management (meaning the act of stealing property, breaking into a facility, making Unauthorized Access (meaning the act of Unauthorized Access prescribed in Article 2, paragraph (4) of the Unauthorized Computer Access Act (Act No. 128 of 1999)), or in any other way prejudicing the management that the Owner of a Trade Secret maintains; the same applies hereinafter in this Article) for the purpose of acquiring a wrongful gain or causing damage to said Owner;

(ii) a person who uses or discloses a Trade Secret acquired through an Act of Fraud, etc. or through the Usurpation of Management, for the purpose of acquiring a wrongful gain or causing damage to said Owner;

(iii) a person to whom the Owner of a Trade Secret has disclosed the Trade Secret, and who, for the purpose of acquiring a wrongful gain or causing damage to said Owner, obtains the Trade Secret by any of the following means, in breach of the legal duty regarding the management of the Trade Secret;

(a) misappropriating a Recording Medium Containing a Trade Secret, etc. (meaning a document, a drawing, or a recording medium in which a Trade Secret is described or recorded; the same applies hereinafter in this item) or an object that represents a Trade Secret;

(b) reproducing a description or a record from a Recording Medium Containing a Trade Secret, etc., or an object that represents a Trade Secret;

(c) not deleting a description or a record that should be deleted from a Recording Medium Containing a Trade Secret, etc., and disguising this act as if the description or record in the recording medium containing the Trade Secret, etc. had been deleted.

(iv) a person to whom the Owner of a Trade Secret has disclosed said Trade Secret and who, for the purpose of acquiring a wrongful gain or causing damage to said Owner, uses or discloses a Trade Secret obtained through the means set forth in "a" to "c" of the preceding item, in breach of the legal duty regarding the management of the Trade Secret;

(v) a person who is the Officer (meaning a council member, director, executive officer, executive member, inspector or auditor, or other equivalent person; the same applies in the following item) or employee of the Owner of a Trade Secret, to whom the Owner has disclosed the Trade Secret and who, for the purpose of acquiring a wrongful gain or causing damage to said Owner, uses or discloses said Trade Secret, in breach of the legal duty regarding the management of the Trade Secret (excluding the person listed in the preceding item);

(vi) a person who was the Officer or employee of the Owner of a Trade Secret, to

whom the Owner had disclosed the Trade Secret and who, for the purpose of acquiring a wrongful gain or causing damage to said Owner, has offered to disclose said Trade Secret, or received a request to use or disclose said Trade Secret, while at that job, in breach of the legal duty regarding the management of the Trade Secret, and uses or discloses it after leaving that job (excluding the person listed in item (iv));

(vii) a person who, for the purpose of acquiring a wrongful gain or causing damage to said Owner, uses or discloses a Trade Secret acquired by a disclosure that constitutes an offence prescribed in item (ii) or the preceding three items or paragraph (3), item (ii) (limited to the part regarding a disclosure that constitutes an offence prescribed in item (ii) and the preceding three items);

(viii) a person who, for the purpose of acquiring a wrongful gain or causing damage to said Owner, uses or discloses a Trade Secret acquired knowing that there has been an intervening disclosure that constitutes an offence prescribed in item (ii) or items (iv) through the preceding item or paragraph (3), item (ii) (limited to the part regarding a disclosure that constitutes an offence prescribed in item (ii) or items (iv) through the preceding item); or

(ix) a person who, for the purpose of acquiring a wrongful gain or causing damage to said Owner, assigns, delivers, displays for the purpose of assignment or delivery, exports, imports, or provides through a telecommunications line Things created by an act of said person or another person that constitutes an offence prescribed in item (ii) or items (iv) through the preceding item or paragraph (3), item (iii) (limited to an act of using a Technical Secret; hereinafter referred to as an "Act of Illegal Use" in this item and paragraph (1), item (ii) of the following Article) (excluding a person who has received said Things by assignment without knowing that said Things were created by an Act of Illegal Use and assigned, delivered, displayed for the purpose of assignment or delivery, exported, imported, or provided through a telecommunications line said Things).

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

(i) a person who, for a Wrongful Purpose, commits any act of Unfair Competition listed in Article 2, paragraph (1), item (i) or (xiv);

(ii) a person who, for the purpose of acquiring a wrongful gain through the use of the reputation or fame of another person's famous Indication of Goods or Business, or for the purpose of injuring said reputation or fame, commits any act of Unfair Competition listed in Article 2, paragraph (1), item (ii);

(iii) a person who, for the purpose of acquiring a wrongful gain, commits any act of Unfair Competition listed in Article 2, paragraph (1), item (iii);

(iv) a person who, for the purpose of acquiring a wrongful gain, or for the purpose of causing damage to another person who is using Technological

Restriction Measures for his/her business purposes, commits any act of Unfair Competition listed in Article 2, paragraph (1), item (xi) or (xii);

(v) a person who makes a false indication on goods or services or in an advertisement thereof or in trade documents, or electronic correspondence, that is likely to cause a misconception as to the place of origin, quality, contents, manufacturing process, purpose, or quantity of said goods, or the quality, contents, purpose, or quantity of said services (excluding a person listed in item (i));

(vi) a person who violates a Protective Order; or

(vii) a person who violates any provision of Article 16, 17, or 18, paragraph (1).

(3) A person who falls under any of the following items shall be punished by imprisonment with work for not more than ten years, a fine of not more than thirty million yen, or both:

(i) a person who commits offences prescribed in paragraph (1), item (i) or (iii) for the purpose of use outside Japan;

(ii) a person who makes a disclosure that constitutes offences prescribed in paragraph (1), item (ii) or items (iv) through (viii) knowing that the receiving party has the purpose of use outside Japan that constitutes said offences; or

(iii) a person who uses a Trade Secret of an Owner conducting business within Japan in a way that constitutes offences prescribed in paragraph (1), item (ii) or items (iv) through (viii).

(4) An attempt of offences prescribed in paragraph (1) (excluding item (iii)) and items (i) (excluding the part regarding paragraph (1), item (iii)), (ii), and (iii) of the preceding paragraph shall be punished.

(5) The offences prescribed in paragraph (2), item (vi) may not be prosecuted without a complaint.

(6) The offences prescribed in each item of paragraph (1) (excluding item (ix)), paragraph (3), item (i) or (ii) or paragraph (4) (excluding the part regarding paragraph (1), item (ix)) shall also apply to a person who commits said offences outside Japan in connection with a Trade Secret of an Owner conducting business within Japan.

(7) The offence prescribed in paragraph (2), item (vi) shall also apply to a person who commits said offence outside Japan.

(8) The offence prescribed in paragraph (2), item (vii) (limited to the part under Article 18, paragraph (1)) shall be governed by Article 3 of the Penal Code (Act No. 45 of 1907).

(9) The provisions of paragraphs (1) through (4) do not preclude the application of penal provisions under the Penal Code or any other Act.

(10) The property listed in the following items may be confiscated:

(i) property caused or acquired by means of a criminal acts, or acquired as reward for the criminal acts which constitute the offences prescribed in

paragraphs (1), (3), and (4); and

(ii) property acquired as the fruit of the property listed in the preceding item, property acquired as consideration of the property listed in the same item, property received in exchange for these property, and other property acquired pursuant to the holding or disposition of the property listed in the same item.

(11) The provisions of Articles 14 and 15 of the Act on Punishment of Organized Crime and Control of Crime Proceeds (Act No. 136 of 1999; hereinafter referred to as the "Organized Crime Punishment Act") apply mutatis mutandis to the confiscation under the preceding paragraph. In such a case, "each item of paragraph (1) or each item of paragraph (4) of the preceding Article" in Article 14 of the Organized Crime Punishment Act is deemed to be replaced with "each item of Article 21, paragraph (10) of the Unfair Competition Prevention Act".

(12) When the property listed in each item of paragraph (10) cannot be confiscated or it is deemed to be inappropriate to confiscate said property due to the nature of said property, the condition of its use, existence or non-existence of rights of any person other than the offender regarding said property or other circumstances, the equivalent value thereof may be collected from the offender.

Article 22 (1) When the representative of a judicial person, or the agent, employee, or other worker of a judicial person or of any person has committed the violation listed in any of the provisions of the following items with regard to the business of said judicial person or said person, in addition to the offender being subject to punishment, said judicial person shall be punished by the fine prescribed in said items, and said person shall be punished by the fine prescribed in the relevant Article:

(i) paragraph (3), item (i) of the preceding Article (limited to the part regarding paragraph (1), item (i) of the same Article), (ii) (limited to the part regarding paragraph (1), items (ii), (vii), and (viii) of the same Article), or (iii) (limited to the part regarding paragraph (1), items (ii), (vii), and (viii) of the same Article) or paragraph (4) (limited to the part regarding paragraph (3), item (i) (limited to the part regarding paragraph (1), item (i) of the same Article), (ii) (limited to the part regarding paragraph (1), items (ii), (vii), and (viii) of the same Article) and (iii) (limited to the part regarding paragraph (1), items (ii), (vii), and (viii) of the same Article) of the same Article) of the same Article - fine not more than one billion yen;

(ii) paragraph (1), item (i), (ii), (vii), (viii), or (ix) (excluding cases where a person who has committed an Act of Illegal Use concerning the offences prescribed in items (iv) through (vi) of the same paragraph or paragraph (3), item (iii) of the preceding Article (limited to the part regarding paragraph (1), items (iv) through (vi) of the same Article) (hereinafter referred to as an "Specified Act of Illegal Use" in this item and paragraph (3)) falls under the category) or paragraph (4) (limited to the part regarding paragraph (1), item (i), (ii), (vii),

(viii), or (ix) of the same Article (excluding cases where a person who has committed an Specified Act of Illegal Use falls under the category)) of the same Article - fine not more than five hundred million yen;

(iii) paragraph (2) of the preceding Article - fine not more than three hundred million yen.

(2) In a case referred to in the preceding paragraph, a complaint prescribed in paragraph (5) of the preceding Article which is filed against the offender for an offence prescribed in paragraph (2), item (vi) of the same Article shall also have effect with respect to the judicial person or the person, and a complaint filed against the judicial person or the person shall also have effect with respect to said offender.

(3) The period of prescription for the punishment by fine to which a judicial person or person is subject pursuant to the provisions of paragraph (1) in regard to violation under paragraph (1), item (i), (ii), (vii), (viii), or (ix) (excluding cases where a person who has committed an Specified Act of Illegal Use falls under the category), paragraph (2), paragraph (3), item (i) (limited to the part regarding paragraph (1), item (i) of the preceding Article), (ii) (limited to the part regarding paragraph (1), item (ii), (vii), or (viii) of the same Article), or (iii) (limited to the part regarding paragraph (1), item (ii), (vii), or (viii) of the same Article) or paragraph (4) (limited to the part regarding paragraph (1), item (i), (ii), (vii), (viii), or (ix) of the same Article (excluding cases where a person who has committed an Specified Act of Illegal Use falls under the category) or paragraph (3), item (i) (limited to the part regarding paragraph (1), item (i) of the same Article), (ii) (limited to the part regarding paragraph (1), item (ii), (vii), or (viii) of the same Article), or (iii) (limited to the part regarding paragraph (1), item (ii), (vii), or (viii) of the same Article) of the same Article, is the same as that for the offences referred to in the provisions of the same Article.

Chapter VI Special Provisions on Criminal Proceedings

(Protective Rulings for Trade Secrets)

Article 23 (1) When the court is handling a case involving a crime prescribed in Article 21, paragraph (1), (3) or (4) or a crime prescribed in paragraph (1) of the preceding Article (excluding item (iii)), the victim, the victim's statutory agent, or the attorney entrusted by either of these persons files a petition not to reveal a matter in open court that will identify all or part of the information that constitutes the Trade Secret regarding the case, and the court finds it to be appropriate, upon hearing the opinions of the accused or defense counsel, the court may rule that said matters will not be revealed in open court, setting the scope for this.

(2) The petition referred to in the preceding paragraph must be made to the public prosecutor in advance. In such a case, the public prosecutor shall notify as such to the court together with the prosecutor's opinion.

(3) When the court is handling a case prescribed in paragraph (1) and the public prosecutor, the accused, or defense counsel files a petition not to reveal a matter in open court that would allow all or part of the information that constitutes a Trade Secret held by the accused or other persons to be identified, if the court finds that the matter is indispensable as proof of the offence or for the defense of the accused but that there is a risk that revealing the matter in open court would significantly hinder the accused's or other persons' business activities that are based on the Trade Secret, and if the court finds it to be appropriate, upon hearing the opinions of the opponent, the court may rule that said matters will not be revealed in open court, setting the scope of this.

(4) When the court has made a ruling prescribed in paragraph (1) or the preceding paragraph (hereinafter referred to as the "Protective Ruling"), and the court finds it to be necessary, upon hearing the opinions of the public prosecutor and the accused or defense counsel, the court may decide, in a ruling, on a term of address or other expression to use in lieu of the name or other expression for the matter that allows the constituent information of a Trade Secret to be identified ("matter that allows the constituent information of a Trade Secret to be identified" means a matter that allows all or part of the information that constitutes a Trade Secret to be identified, which shall not be revealed in open court pursuant to a Protective Ruling; the same applies hereinafter).

(5) If the court has issued a Protective Ruling but has come to find that it is inappropriate for the matter that allows the constituent information of a Trade Secret to be identified not to be revealed in open court, or the case has no longer come under the case prescribed in paragraph (1) because applicable penal statutes have been withdrawn or altered pursuant to Article 312 of the Code of Criminal Procedure (Act No. 131 of 1948), the court must rescind, in a ruling, the all or part of the Protective Ruling and the all or part of the ruling prescribed in the preceding paragraph regarding said Protective Ruling (hereinafter referred to as the "Ruling on a Term of Address, etc.") .

(Special Provisions on Manner of Reading Out Charging Sheet)

Article 24 If a Protective Ruling has been issued, the charging sheet must be read out, under Article 291, paragraph (1) of the Code of Criminal Procedure, in a manner that does not reveal the matter that allows the constituent information of a Trade Secret to be identified. In this case, the public prosecutor must show the charge sheet to the accused.

(Limiting Examinations)

Article 25 (1) If a Protective Ruling has been issued and examinations or statements by persons concerned in the case include the matter that allows the constituent information of a Trade Secret to be identified, unless limiting said examinations or statements could materially interfere with proof of the offence or could be substantially detrimental to the defense of the accused, the presiding judge may limit said questions or statements. The same applies to questions for the accused by persons concerned in the case.

(2) The provisions of Article 295, paragraphs (4) and (5) of the Code of Criminal Procedure apply mutatis mutandis when the public prosecutor or attorney acting as defense counsel has disobeyed an order under the provisions of the preceding paragraph.

(Examination of Witnesses on Day Other Than Trial Date)

Article 26 (1) When the court has issued a Protective Ruling, if the court examines a witness, expert witness, interpreter, or translator, or if the accused makes a statement voluntarily; and, upon hearing the opinions of the public prosecutor and the accused or defense counsel, the court finds that there is a risk that examinations or statements of the witness, the expert witness, the interpreter, or the translator, or questions for the accused or statements of the accused will include the matter that allows the constituent information of a Trade Secret to be identified and that revealing said matter in open court would significantly hinder the victim's, accused's, or other persons' business activities that are based on the Trade Secret; and the court finds that doing so is unavoidable in order to prevent said risk, the court may conduct said examination or the proceedings for asking the accused questions provided in Article 311, paragraphs (2) and (3) of the Code of Criminal Procedure on a day other than a trial date.

(2) The provisions of Article 157, paragraphs (1) and (2), Article 158, paragraphs (2) and (3), Article 159, paragraph (1), Article 273, paragraph (2), Article 274 and Article 303 of the Code of Criminal Procedure apply mutatis mutandis to the proceedings for asking the statement of the accused under the provisions of the preceding paragraph. In this case, the phrase "the accused or defense counsel" in Article 157, paragraph (1), Article 158, paragraph (3) and Article 159, paragraph (1) of the Code of Criminal Procedure is deemed to be replaced with "defense counsel, the co-defendants, or their defense counsel"; "the accused and defense counsel" in Article 158, paragraph (2) of said Code is deemed to be replaced with "defense counsel, the co-defendants, and their defense counsel"; "the trial date" in Article 273, paragraph (2) of said Code is deemed to be replaced with "the date of the proceedings for asking the statement of the accused under the provisions of Article 26, paragraph (1) of the Unfair Competition Prevention Act"; "the trial date" in Article 274 of said Code is

deemed to be replaced with "the date, time, and location of the proceedings for asking the statement of the accused under the provisions of Article 26, paragraph (1) of the Unfair Competition Prevention Act"; "documents which contain the results of the examination of witnesses or other persons, inspections, seizure or search, and objects seized" in Article 303 of said Code is deemed to be replaced with "documents which contain the results of the proceedings for asking the statement of the accused under the provisions of Article 26, paragraph (1) of the Unfair Competition Prevention Act"; and "documentary or material evidence" in the same Article is deemed to be replaced with the "documentary evidence".

(Examination of Witnesses on Day Other Than Trial Date)

Article 26 (1) If the court has issued a Protective Ruling, and the court examines a witness, expert witness, interpreter, or translator, or the accused makes a statement voluntarily; and, upon hearing the opinions of the public prosecutor and the accused or defense counsel, the court finds that there is a risk that examinations or statements of the witness, the expert witness, the interpreter, or the translator, or questions for the accused or statements of the accused will include the matter that allows the constituent information of a Trade Secret to be identified and that revealing said matter in open court would significantly hinder the victim's, accused's, or other persons' business activities that are based on the Trade Secret; and the court finds that doing so is unavoidable in order to prevent said risk, the court may conduct said examination or the proceedings for asking the accused questions provided in Article 311, paragraphs (2) and (3) of the Code of Criminal Procedure on a day other than a trial date.

(2) The provisions of Article 157, paragraphs (1) and (2), Article 158, paragraphs (2) and (3), Article 159, paragraph (1), Article 273, paragraph (2), Article 274 and Article 303 of the Code of Criminal Procedure apply mutatis mutandis to the proceedings for asking the statement of the accused under the provisions of the preceding paragraph. In this case, the phrase "the accused or defense counsel" in Article 157, paragraph (1), Article 158, paragraph (3) and Article 159, paragraph (1) of the Code of Criminal Procedure is deemed to be replaced with "defense counsel, the co-defendants, or their defense counsel(s)"; "the accused and defense counsel" in Article 158, paragraph (2) of said Code is deemed to be replaced with "defense counsel, the co-defendants, and their defense counsel(s)"; "the trial date" in Article 273, paragraph (2) of said Code is deemed to be replaced with "the date of the proceedings for asking the statement of the accused under the provisions of Article 26, paragraph (1) of the Unfair Competition Prevention Act"; "the trial date" in Article 274 of said Code is deemed to be replaced with "the date, time, and location of the proceedings for asking the statement of the accused under the provisions of Article 26, paragraph (1) of the Unfair Competition Prevention Act"; "documents which

contain the results of the examination of witnesses or other persons, inspections, seizure or search, and objects seized" in Article 303 of said Code is deemed to be replaced with "documents which contain the results of the proceedings for asking the statement of the accused under the provisions of Article 26, paragraph (1) of the Unfair Competition Prevention Act"; and "documentary or material evidence" in the same Article is deemed to be replaced with the "documentary evidence".

(Order to Produce or Show Document that Outlines Matters for Examining)

Article 27 If the court finds it to be necessary in issuing a Ruling on a Term of Address, etc. or in deciding that the examination or the proceedings for asking the statement of the accused will be conducted on a day other than a trial date pursuant to the provisions of the preceding Article, paragraph (1), the court may order the public prosecutor and the accused or defense counsel to produce a document that outlines the matters involved in the examining or statements to be made by the persons concerned in the case or the questions for the accused.

(Special Provisions on the Manner of Reading Out Documentary Evidence)

Article 28 If a Protective Ruling has been issued, the documentary evidence must be read out, under the provisions of Article 305 paragraph (1) or (2) of the Code of Criminal Procedure, in a manner that does not reveal the matter that allows the constituent information of a Trade Secret to be identified.

(Rulings in Pretrial Conference Procedures)

Article 29 The following acts may be taken in pretrial conference procedures and the interim conference procedures:

(i) A Protective Ruling, a Ruling on a Term of Address, etc., or a ruling rescinding these rulings; or

(ii) A decision that the examination or the proceedings for asking the statement of the accused will be conducted on a day other than a trial date pursuant to the provisions of Article 26, paragraph (1).

(Request for Protective Handling of Trade Secret in Disclosure of Evidence)

Article 30 (1) If the public prosecutor or defense counsel finds that, in providing an opportunity to inspect documentary or material evidence pursuant to the provisions of Article 299, paragraph (1) of the Code of Criminal Procedure in a case prescribed in Article 23, paragraph (1), there is a risk that revealing a matter that allows all or part of the information that constitutes a Trade Secret to be identified as prescribed in Article 23, paragraph (1) or (3) would significantly hinder the victim's, accused's, or other persons' business activities that are based on the Trade Secret, the public prosecutor or defense counsel may notify the opponent of this risk and request that the opportunity be provided in such a way that the parties concerned (including the accused) do not learn of said

matters, unless said matters are necessary for proof of the offence or investigation of the offence, or for the defense of the accused; provided, however, that for a request that the opportunity be provided in such a way that the accused does not learn of said matters, this is limited solely to matters that are not written in the charging sheet.

(2) The provisions of the preceding paragraph apply mutatis mutandis if the public prosecutor or defense counsel discloses evidence under the provisions of Part II, Chapter III, Section 2, Subsection 1, Division 2 of the Code of Criminal Procedure (including as applied mutatis mutandis pursuant to the provisions of Article 316-28, paragraph (2) of said Code).

(Delegation to Rules of Supreme Court)

Article 31 In addition to what is provided for in this Act, matters necessary for the enforcement of the provisions referred to in Articles 23 to the preceding Article are specified by the Rules of the Supreme Court.

Chapter VII Special Provisions on Procedures Concerning Confiscation

(Procedures for Confiscation of Property of Third Party)

Article 32 (1) If a Claim, etc. (meaning property other than real property and movables; the same applies in Article 34) which is the property listed in each item of Article 21, paragraph (10) belongs to a person other than the accused (hereinafter referred to as a "Third Party" in this Article), and the Third Party is not allowed to participate in the proceedings of the case under public prosecution, a judicial decision for confiscation may not be made.

(2) The provisions of the preceding paragraph also apply if the property on which there exists superficies, a mortgage, or any other rights of a Third Party is to be confiscated pursuant to the provisions of Article 21, paragraph (10) and the Third Party is not allowed to participate in the proceedings of the case under public prosecution.

(3) The provisions of Article 18, paragraphs (3) through (5) of the Organized Crime Punishment Act apply mutatis mutandis to the case where the property on which there exists superficies, a mortgage, or any other rights of a Third Party is to be confiscated and the relevant rights should be continued to exist pursuant to the provisions of Article 15, paragraph (2) of the Organized Crime Punishment Act as applied mutatis mutandis pursuant to Article 21, paragraph (11).

(4) In addition to the matters otherwise provided by this Act, the provisions of the Act on Emergency Measures on Criminal Procedure to Confiscate Items Owned by Third Parties (Act No. 138 of 1963) apply mutatis mutandis to the procedures for confiscation of property prescribed in paragraphs (1) and (2).

(Disposition of Confiscated Claims)

Article 33 The provisions of Article 19 of the Organized Crime Punishment Act apply mutatis mutandis to the confiscation under Article 21, paragraph (10), and the provisions of Article 20 of the Organized Crime Punishment Act apply mutatis mutandis to the case where a request for registration of a transfer of rights is to be made to the relevant organization based on a judicial decision to confiscate the property for which registration is required in the case of transfer of its rights. In such a case, "Section 1 of the following Chapter" in the same Article is deemed to be replaced with "Chapter VIII of the Unfair Competition Prevention Act".

(Special Provisions on Criminal Compensation)

Article 34 The provisions of Article 4, paragraph (6) of the Criminal Compensation Act (Act No. 1 of 1950) apply mutatis mutandis to the contents of compensation under the same Act with regard to the execution of confiscation of Claims, etc.

Chapter VIII Preservation Proceedings

(Protective Order in Anticipation of Confiscation)

Article 35 (1) With regard to the case under public prosecution concerning the offences prescribed in Article 21, paragraphs (1), (3), and (4), if a court finds that there are reasonable grounds to consider that the relevant property is the property which may be confiscated pursuant to paragraph (10) of the same Article (hereinafter referred to as the "Property to be Confiscated") and it is necessary for the confiscation of said property, the court may issue a protective order in anticipation of confiscation to prohibit the disposition of said property, at the request of a public prosecutor or by its own authority.

(2) In cases where a court has issued or intends to issue a protective order in anticipation of confiscation with regard to property on which there exists superficies, a mortgage, or any other rights, if the court finds that there are reasonable grounds to consider that said rights will be extinguished through the confiscation and it is necessary for the confiscation of said property, or if the court finds that there are reasonable grounds to consider that said rights are fake, the court may issue an ancillary protective order separately to prohibit the disposition of said rights, at the request of a public prosecutor or by its own authority.

(3) If a judge finds that there are the grounds and necessity prescribed in the preceding two paragraphs, even before the institution of prosecution, the judge

may conduct the disposition prescribed in the preceding two paragraphs at the request of a public prosecutor or a judicial police officer (with regard to the judicial police officer who is a police officer, limited to a person who is a police inspector or in a higher rank designated by the National Public Safety Commission or the Prefectural Public Safety Commission).

(4) In addition to what is provided for in the preceding three paragraphs, the disposition under these provisions shall be governed by the provisions of the prohibition of the disposition pursuant to the protective order in anticipation of confiscation and the ancillary protective order under Chapter IV, Sections 1 and 3 of the Organized Crime Punishment Act.

(Protective Order in Anticipation of Collection)

Article 36 (1) With regard to the case under public prosecution concerning the offences prescribed in Article 21, paragraphs (1), (3), and (4), if there are reasonable grounds to consider that the collection should be conducted pursuant to paragraph (12) of the same Article and there is a likelihood that it will be impossible or extremely difficult to execute a judicial decision on collection, the court may issue a protective order in anticipation of collection to prohibit the accused to dispose the property, at the request of a public prosecutor or by its own authority.

(2) If a judge finds that there are the grounds and necessity prescribed in the preceding paragraph, even before the institution of prosecution, the judge may conduct the disposition prescribed in the same paragraph, at the request of a public prosecutor.

(3) In addition to what is provided for in the preceding two paragraphs, the disposition under these provisions shall be governed by the provisions of the prohibition of the disposition pursuant to the protective order in anticipation of collection under Chapter IV, Sections 2 and 3 of the Organized Crime Punishment Act.

Chapter IX Procedures for International Mutual Legal Assistance in Execution of Judicial Decision and Preservation for Confiscation and Collection

(Provision of Mutual Assistance)

Article 37 (1) If a foreign state makes a request for assistance for execution of a final and binding decision on confiscation or collection, or preservation of property for confiscation or collection with regard to a criminal case of said foreign state (limited to the case where the act constituting the offence which is alleged to have been committed in said case constitutes the offences prescribed in

Article 21, paragraph (1), (3), or (4) if said act were to be committed in Japan), unless the relevant case falls under any of the following items, assistance may be provided for said request:

(i) when it would be deemed impossible to impose a punishment under Japanese laws and regulations if the act constituting the Offence for which Assistance is Requested (meaning an offence which is alleged to have been committed in a request for assistance; the same applies hereinafter in this paragraph) were to be committed in Japan;

(ii) when the case constituting the Offence for which Assistance is Requested is pending before a Japanese court, or when a final and binding judgment has been issued thereon by a Japanese court;

(iii) with regard to assistance for execution of a final and binding decision concerning confiscation or assistance through preservation for confiscation, when the property regarding the request would not be subject to a judicial decision on confiscation or preservation for confiscation concerning the Offence for which Assistance is Requested under Japanese laws and regulations, if the act constituting the Offence for which Assistance is Requested were to be committed in Japan;

(iv) with regard to assistance for execution of a final and binding decision concerning collection or assistance through preservation for collection, when the case would not be one that a court may issue a judicial decision on collection or preservation for collection concerning the Offence for which Assistance is Requested under Japanese laws and regulations, if the act constituting the Offence for which Assistance is Requested were to be committed in Japan;

(v) when it is deemed that, with respect to assistance for execution of a final and binding decision concerning confiscation, a person who has reasonable grounds to consider that said person has the property regarding the request or superficies, a mortgage, or any other rights thereon, or with respect to assistance for execution of a final and binding decision concerning collection, a person who is subject to said judicial decision, was unable to claim said person's rights in the proceedings for said judicial decision due to grounds not attributable to said person; or

(vi) with regard to assistance through preservation for confiscation or collection, except for the request based on a judicial decision on preservation for confiscation or collection which was rendered by a court or a judge of a requesting country or the request after the final and binding decision on confiscation or collection, when there is no reasonable ground to suspect that the act constituting the Offence for which Assistance is Requested has been committed or when it is deemed that there is no grounds prescribed in Article 35, paragraph (1) or paragraph (1) of the preceding Article if said act were to be committed in Japan.

(2) In providing assistance for execution of a final and binding decision on confiscation regarding the property on which there exists superficies, a mortgage, or any other rights, if said right was to be continued to exist upon confiscation of said property under Japanese laws and regulations, said rights shall be continued.

(Confiscation that is Deemed to be Collection)

Article 38 (1) In the case of a request for assistance for execution of a final and binding decision to confiscate, in lieu of the property listed in each item of Article 21, paragraph (10), the property whose value is equivalent to the value of said property and which is held by the person who was subject to said judicial decision, said final and binding decision are deemed to be the final and binding decision to collect the value of said property from said person, in providing assistance pursuant to this Act.

(2) The provisions of the preceding paragraph apply mutatis mutandis to a request for assistance through preservation for confiscation of the property, in lieu of the property listed in each item of Article 21, paragraph (10), whose value is equivalent to the value of said property.

(Transfer of Property in Providing Assistance to Requesting Country)

Article 39 If a foreign state, which has made a request for assistance for execution of a final and binding decision on confiscation or collection prescribed in Article 37, paragraph (1), makes a request for transfer of property or an equivalent sum of money in providing said assistance, all or part of said property or equivalent sum of money may be transferred.

(Treatment of Assistance Pursuant to Organized Crime Punishment Act)

Article 40 In addition to what is provided for in the preceding three Articles, assistance under Article 37 and transfer under the preceding Article shall be governed by the provisions of assistance and transfer under Chapter VI of the Organized Crime Punishment Act.

Supplementary Provisions [Extract]

(Effective Date)

Article 1 This Act shall come into effect on the day specified by Cabinet Order, within a period not exceeding one year from the day of its promulgation. (Came into effect on May 1, 1994, by Cabinet Order No. 44 of 1994)

(Transitional Measures)

Article 2 Except as otherwise provided, the provisions of the post-revision Unfair Competition Prevention Act (hereinafter referred to as the "New Act") also apply to matters that arose before this Act came into effect; provided, however, that this does not preclude any effect that had arisen based on the pre-revision Unfair Competition Prevention Act (hereinafter referred to as the "Former Act").

Article 3 The provisions of Article 3, the main clause of Article 4, and Article 5 shall not apply to the continuation of any of the following acts that were commenced before this Act came into effect:

(i) an act that falls under the act listed in Article 2, paragraph (1), item (ii) (excluding an act that falls under item (i) of the same paragraph); or

(ii) among the acts listed in Article 2, paragraph (1), item (xiv), the act of using an indication on services, in an advertisement thereof, or in trade documents or electronic correspondence thereof, in a way that is likely to cause a misconception as to the quality, contents, purpose, or quantity of said services, or the act of providing services while using said indication.

Article 4 The provisions of Articles 3 to 5, Article 14, and Article 15 of the New Act shall not apply to acts of Unfair Competition listed in Article 2, paragraph (1), items (iv) to (vi), item (viii), and item (ix) of the New Act in connection with an Act of Wrongful Acquisition prescribed in item (iv) of the same paragraph or an Act of Improper Disclosure prescribed in item (viii) of the same paragraph that took place before June 15, 1991, if said acts of Unfair Competition are committed on or after said date (excluding an act that falls under the following items), or to the continuation of the act of using a Trade Secret prescribed in item (vii) of the same paragraph that was commenced before said date:

(i) the act of disclosing a Trade Secret as prescribed in Article 2, paragraph (1), items (iv) to (vi), item (viii), and item (ix) of the New Act; or

(ii) the act of acquiring a Trade Secret as prescribed in Article 2, paragraph (1), item (v) and (viii) of the New Act, and the act of using a Trade Secret that was acquired through said act.

Article 5 The provisions of Article 7 of the New Act apply to litigation filed after this Act comes into effect, and with regard to litigation filed before this Act comes into effect, the provisions then in force shall remain applicable.

Article 6 The provisions of Article 14 shall not apply to the continuation of an act that falls under the act listed in Article 2, paragraph (1), item (ii) or (xiv) that was commenced before this Act comes into effect (excluding an act that falls under item (i) of the same paragraph).

Article 7 A person who has obtained a permission prescribed in Article 4, paragraphs (1) to (3) or Article 4-2 of the Former Act before this Act comes into effect is deemed to have obtained a permission respectively prescribed in the provisos to Article 16, paragraphs (1) to (3) or the proviso to Article 17 of the New Act.

Article 8 The provisions of Article 16 of the New Act shall not apply to a person who has obtained the permission prescribed in Article 4, paragraph (4) of the Former Act as of the time this Act comes into effect.

Article 9 The provisions of Article 17 of the New Act shall not apply to the continuation of anything that falls under the category of the act of using a Mark Similar to that of an International Organization (excluding a Mark identical or similar to the emblem, flag, or other insignia, abbreviation, or name of an international intergovernmental organization that is designated by the competent minister as prescribed in Article 4-2 of the Former Act; hereinafter referred to as the "Mark Similar to that of a Private International Organization") as a Trademark, or the act of assigning, delivering, displaying for the purpose of assignment or delivery, exporting, importing, providing through a telecommunications line goods that use a Mark Similar to that of a Private International Organization as a Trademark or providing services using a Mark Similar to that of a Private International Organization as a Trademark, which is prescribed in Article 17 of the New Act, if said act is commenced before this Act comes into effect.

Article 10 The provisions of Article 21 (excluding the part under Article 21, paragraph (2), item (vi)) and Article 22 of the New Act shall not apply to the continuation of an act that falls under the act listed in Article 3, item (ii) of the Supplementary Provisions of this Act, if said act was commenced before this Act comes into effect.

Article 11 With regard to a request prescribed in Article 3 of the Former Act made by a foreign national prescribed in the same Article against an act that was committed before this Act comes into effect, the provisions then in force shall remain applicable.

(Transitional Measures for Application of Penal Provisions)

Article 13 With regard to application of the penal provisions to an act that was committed before this Act comes into effect, the provisions then in force shall remain applicable.

(Delegation to Cabinet Order)

Article 14 In addition to what is provided for in Articles 2 to 11 and Article 13 of the Supplementary Provisions of this Act, the transitional measures necessary for enforcement of this Act shall be specified by Cabinet Order.