

AKTUELLE RECHTSENTWICKLUNG

Forthcoming Legislation

Hiroshi Oda

NEW LAW ON THE PREVENTION OF BRIBERY OF FOREIGN PUBLIC OFFICIALS ?

Japan is one of the 34 countries which signed the OECD Convention of Combating Bribery of Foreign Public Officials which came into force in 1999. The Law on the Prevention of Unjust Competition was duly amended and a provision which penalizes those who offer, promise, or give any undue pecuniary or other benefit to foreign public officials was introduced. Individuals are penalized by imprisonment of up to three years or a fine of up to three million yen. Juridical persons may be fined for a maximum of three million yen, if their representative, agent or employee commits the above offence.

Since its enactment in 1998, there has been no prosecution based on this provision.

The Ministry of Economy and Trade (METI) has recently asked its advisory body – the Council on Industrial Structure – to prepare a draft law which addresses this matter. The new law is to expand the scope of application to subsidiaries of Japanese companies abroad. It is also intended to introduce a system of confiscation of the profit obtained through bribery.

This is a response to the criticism by the OECD that the amount of fines is too low – by Japanese standard, it is high – and, also, the criticism by the US that the Law does not reach foreign subsidiaries.

METI intends to submit the bill to Parliament this autumn.