

不正競争防止法施行令（暫定版）

Order for Enforcement of the Unfair Competition Prevention Act (Tentative translation)

（平成十三年十二月五日政令第三百八十八号）
（Cabinet Order No. 388 of December 5, 2001）

内閣は、不正競争防止法（平成五年法律第四十七号）第十一条第二項第三号の規定に基づき、この政令を制定する。

The Cabinet hereby enacts this Cabinet Order pursuant to the provisions of Article 11, paragraph (2), item (iii) of the Unfair Competition Prevention Act (Act No. 47 of 1993).

（技術上の秘密の内容）

(Contents of a Technical Secret)

第一条 不正競争防止法（以下「法」という。）第五条の二第一項の政令で定める情報は、情報の評価又は分析の方法（生産方法に該当するものを除く。）とする。

Article 1 The information specified by Cabinet Order as referred to in Article 5-2, paragraph (1) of the Unfair Competition Prevention Act (hereinafter referred to as the "Act") is the method of evaluating or analyzing information (excluding methods that fall under the category of manufacturing methods).

（技術上の秘密を使用したことが明らかな行為）

(Acts Obviously Involving the Use of Technical Secrets)

第二条 法第五条の二第一項の政令で定める行為は、法第二条第一項第十号に規定する技術上の秘密（情報の評価又は分析の方法（生産方法に該当するものを含む。）に係るものに限る。）を使用して評価し、又は分析する役務の提供とする。

Article 2 The act specified by Cabinet Order as referred to in Article 5-2, paragraph (1) of the Act is the provision of services for evaluating or analyzing by using a technical secret (limited to a technical secret regarding a method of evaluating or analyzing information (including methods that fall under the category of manufacturing methods)) as prescribed in Article 2, paragraph (1), item (x) of the Act.

（外国公務員等で政令で定める者）

(Foreign Public Officials Specified by Cabinet Order)

第三条 法第十八条第二項第三号の政令で定める者は、次に掲げる事業者（同号に規定する事業者を除く。）であってその事業の遂行に当たり外国の政府又は地方公共団体から特に権益を付与されているものの事務に従事する者とする。

Article 3 (1) The persons specified by Cabinet Order set forth in Article 18,

paragraph (2), item (iii) of the Act are to be persons who engage in the business affairs of the following undertaking (excluding the undertakings prescribed in the same item) to which special rights and interests are granted by the national or local government of the foreign states for performance of its business:

一 一又は二以上の外国の政府又は地方公共団体により、総株主の議決権の百分の五十を超える議決権を直接に保有されている事業者

(i) an undertaking in which voting rights exceeding 50 percent of all shareholders' voting rights are directly held by one or more of the national or local governments of foreign states;

二 株主総会において決議すべき事項の全部又は一部について、外国の政府又は地方公共団体が、当該決議に係る許可、認可、承認、同意その他これらに類する行為をしなければその効力が生じない事業者又は当該決議の効力を失わせることができる事業者

(ii) an undertaking for which, with respect to all or part of the matters to be resolved at a shareholders meeting, the resolution will not become effective unless the national or local government of a foreign state conducts permission, authorization, approval, consent or any other act similar thereto, or which may invalidate the resolution;

三 一又は二以上の外国の政府、地方公共団体又は公的事業者により、発行済株式のうち議決権のある株式の総数若しくは出資の金額の総額の百分の五十を超える当該株式の数若しくは出資の金額を直接に所有され、若しくは総株主の議決権の百分の五十を超える議決権を直接に保有され、又は役員（取締役、監査役、理事、監事及び清算人並びにこれら以外の者で事業の経営に従事しているものをいう。次項において同じ。）の過半数を任命され若しくは指名されている事業者（第一号に掲げる事業者を除く。）

(iii) an undertaking in which one or more of the national or local governments or public undertakings of foreign states directly owns a number of voting shares or an amount of capital subscription that exceeds 50 percent of that undertaking's total issued voting shares or total amount of capital subscription, or in which voting rights exceeding 50 percent of the voting rights of all shareholders are directly held by one or more of the national or local governments or public undertakings of foreign states, or in which the majority of officers (meaning directors, auditors, council members, inspectors, liquidators, and other persons engaged in management of the business; the same applies in the following paragraph) are appointed or designated by one or more of the national or local foreign governments or public undertakings of foreign states (excluding undertakings prescribed in item (i)).

2 前項第三号に規定する「公的事業者」とは、法第十八条第二項第三号に規定する事業者並びに前項第一号及び第二号に掲げる事業者をいう。この場合において、一又は二以上の外国の政府、地方公共団体又は公的事業者により、発行済株式のうち議決権

のある株式の総数若しくは出資の金額の総額の百分の五十を超える当該株式の数若しくは出資の金額を直接に所有され、若しくは総株主の議決権の百分の五十を超える議決権を直接に保有され、又は役員の過半数を任命され若しくは指名されている事業者は、公的事業者とみなす。

(2) The term "public undertaking" prescribed in item (iii) of the preceding paragraph means an undertaking as prescribed in Article 18, paragraph (2), item (iii) of the Act and an undertaking as set forth in items (i) and (ii) of the preceding paragraph. In this case, an undertaking in which one or more of the national or local foreign governments or public undertakings of foreign states directly owns a number of voting shares or an amount of capital subscription that exceeds 50 percent of that undertaking's total issued voting shares or total amount of capital subscription, or in which voting rights exceeding 50 percent of the voting rights of all shareholders are directly held by one or more of the national or local governments or public undertakings of foreign states, or in which the majority of officers are appointed or designated by one or more of the national or local foreign governments or public undertakings of foreign states is deemed to be a public undertaking.