

# Unfair Competition Prevention Act

(Act No. 47 of May 19, 1993)

The entirety of the Unfair Competition Prevention Act (Act No. 14 of 1934) is amended.

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## Chapter I General Provisions

(Purpose)

Article 1 The purpose of this Act is to provide measures for preventing unfair competition and compensating loss or damage caused by such competition, in order to ensure fair competition among businesses and the proper implementation of related international agreements, thereby contributing 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, marks, containers, or packaging for goods belonging to a person's business, or any other indication of a person's goods or business; the same applies below) that is identical or similar to another person's indication of goods or business that is well-known among consumers as belonging to that person, or by transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines goods that use such an 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 the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines goods using such an indication;
  - (iii) the act of transferring, leasing, displaying for the purpose of transfer or lease, exporting, importing, or providing through telecommunications lines goods that imitate the form of another person's goods (excluding what is indispensable to their functioning);
  - (iv) the act of acquiring trade secrets by theft, fraud, duress, or other wrongful means (referred to as "act of wrongful acquisition of trade secrets" below), or the act of using or disclosing trade secrets acquired through an act of wrongful acquisition of trade secrets (including their disclosure in confidence to a specific person; the same applies to the following items, from the next one through item (ix), in Article 19, paragraph (1), item (vii), in Article 21, and in Article 4, item (i) of the Supplementary Provisions);
  - (v) the act of acquiring trade secrets while knowing that there has been a wrongful acquisition of trade secrets, or while not knowing this fact due to gross negligence; or the act of using or disclosing trade secrets acquired in such a manner;
  - (vi) the act of using or disclosing trade secrets, after acquiring those trade secrets and learning that there had been an act of wrongful acquisition, or while not knowing this fact due to gross negligence;
  - (vii) the act of using or disclosing trade secrets provided by a business holding those trade secrets (referred to as "trade secret holder" below) for the purpose of wrongful gain or to cause damage to the trade secret holder;
  - (viii) the act of acquiring trade secrets while knowing that the disclosure of trade secrets constitutes improper disclosure (meaning, in the case prescribed in the preceding item, the act of disclosing trade secrets for the purpose prescribed in the same item, or the act of disclosing trade secrets in breach of a legal duty to maintain secrecy; the same applies below), or knowing that there has been improper disclosure of the relevant trade secrets, or while not knowing this fact due to gross negligence; or the act of using or disclosing trade secrets acquired in such a manner;

- (ix) the act of using or disclosing trade secrets, after acquiring those trade secrets and learning that the relevant acquisition constitutes an act of improper disclosure of trade secrets, or that there had been an act of improper disclosure with regard to the relevant trade secrets, or while not knowing this fact due to gross negligence;
- (x) the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines things created by any of the acts stated in item (iv) through the preceding item (those acts being limited to acts of using a technical secret, meaning trade secrets that constitute technical information; the same applies below; referred to as "act of unauthorized use" in this item below); provided that the relevant case excludes situations in which a person that has received the things by transfer (limited to a person that, at the time of receiving the things, was unaware that they were created through an act of unauthorized use, and the lack of knowledge was not due to gross negligence) subsequently conducts an act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines those things);
- (xi) the act of acquiring shared data with limited access by theft, fraud, duress, or other wrongful means (referred to as "act of wrongful acquisition of shared data with limited access" below); or the act of using or disclosing shared data with limited access acquired through such wrongful acquisition;
- (xii) the act of acquiring shared data with limited access with the knowledge that there has been a wrongful acquisition of such data, or the act of using or disclosing shared data with limited access acquired in this manner;
- (xiii) the act of disclosing shared data with limited access after having acquired it and learning that there had been a wrongful acquisition of such data;
- (xiv) the act of using or disclosing shared data with limited access provided by a business holding that data (referred to as "holder of shared data with limited access" below), for the purpose of wrongful gain or to cause damage to the holder of shared data with limited access (provided that such use of the data for that purpose is limited to acts conducted in breach of the duties related to the management of that data);
- (xv) the act of acquiring shared data with limited access with knowledge that disclosing that data constitutes improper disclosure of shared data with limited access (meaning, in the case prescribed in the preceding item, the act of disclosing shared data with limited access for the purpose prescribed in the same item; the same applies below), or knowing that there has been improper disclosure of shared data with limited access regarding the relevant data, or the act of using or disclosing shared data with limited access acquired in such a manner;

- (xvi) the act of disclosing shared data with limited access after acquiring the data and learning that the relevant acquisition constitutes an act of improper disclosure of shared data with limited access, or that there has been an act of improper disclosure of such data;
- (xvii) the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, or importing a device (including a machine that incorporates a device and a set of parts from which a device can be easily assembled) with a function that interferes with the effectiveness of technological restriction measures used for business purposes (excluding those used to restrict all but specific persons from viewing images, listening to sounds, running programs, or processing information (limited to information recorded in an electronic or magnetic record (meaning a record used in computerized information processing which is created in electronic, magnetic, or other forms that are not perceivable by the human senses alone; the same applies below); the same applies in this item, the following item, and paragraph (8) below), or from recording images, sounds, programs, or any other information), and enables viewing images, listening to sounds, running programs, processing information, or recording images, sounds, programs, or any other information (collectively referred to as "viewing images, etc." in this item below) when those activities are restricted by the relevant technological restriction measures, a recording medium on which a program with that function (including a combination of the program with other programs) or code with that function (meaning a single instruction given to a computer which only can produce a specific result; the same applies in the following item) has been recorded, or a machine on which the program or code with that function has been stored; the act of providing that program or code through telecommunications lines (if the device or program has any other function, these acts are limited to those conducted to provide the device or program for the purpose of enabling the viewing of images, etc. by interfering with the effectiveness of the technological restriction measures); or the act of providing a service that enables the viewing of images, etc. by interfering with the effectiveness of the technological restriction measures;
- (xviii) the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting or importing a device (including a machine that incorporates a device and a set of parts from which a device can be easily assembled) with a function that interferes with technological restriction measures used by another person in their business to restrict viewing images, listening to sounds, running programs, processing information, or recording images, sounds, programs, or other information to specific persons, and makes it possible for anyone other than those specific persons to engage in

- those activities (referred to as "viewing images, etc." in this item below), when those activities are restricted by the relevant technological restriction measures, a recording medium on which a program with that function (including a combination of the program with other programs) or code with that function has been recorded, or a machine on which that program or code has been stored; or the act of providing that program or code through telecommunications lines to any person other than the relevant specific persons (if the device or program has any other functions, these acts are limited to those conducted for the purpose of enabling the viewing of images, etc. by interfering with the technological restriction measures); or the act of providing a service that enables any person other than the relevant specific persons to view images, etc., by interfering with the technological restriction measures;
- (xix) the act of acquiring or holding the 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, marks, or any other indication of goods or services belonging to a person's business), or using such a domain name for the purpose of wrongful gain or causing damage to that person;
- (xx) the act of using an indication on goods or services, in an advertisement for the goods or services, or in trade documents or communications related to the goods or services, in a way that is likely to mislead as to the place of origin, quality, content, manufacturing process, purpose, or quantity of the goods, or the quality, content, purpose, or quantity of the services; the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines goods using such an indication; or the act of providing services using such an indication;
- (xxi) the act of making or circulating false allegations that harm the business reputation of a business competitor; or
- (xxii) an act by an agent or representative of a holder of a right to a trademark (the right is limited to a right that is equivalent to a trademark right; simply referred to as "right" in this item below), or by a person that was such an agent or representative within one year of the date of the act in question, without justifiable grounds and without the consent of the holder of the right, in a country that is a member of the Union established by the Paris Convention (as prescribed in Article 4, paragraph (1), item (ii) of the Trademark Act (Act No. 127 of 1959)), a country that is a member of the World Trade Organization, or a country that is a contracting party to the Trademark Law Treaty, which constitutes the use of a trademark identical or similar to the holder's trademark on goods or services identical or similar to

those related to the holder's right; the transfer, delivery, display for the purpose of transfer or delivery, export, import, or provision through telecommunications lines of goods that are identical or similar to those related to the holder's right, on which a trademark identical or similar to the holder's trademark has been used; or the provision of services identical or similar to those related to the holder's right, using a trademark identical or similar to the holder's trademark.

- (2) The term "trademark" as used in this Act means a trademark as prescribed in Article 2, paragraph (1) of the Trademark Act.
- (3) The term "marks" as used in this Act means marks as prescribed in Article 2, paragraph (1) of the Trademark Act.
- (4) The term "form of goods" as used in this Act means the external and internal shape of goods, as well as the pattern, color, gloss, and texture combined with the shape, which can be perceived by consumers when they use the goods in an ordinary manner.
- (5) The term "imitate" as used in this Act means the act of using the form of another person's goods to create goods that have a form substantially similar to that of the original 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 not publicly known.
- (7) The term "shared data with limited access" as used in this Act means technical or business information that is accumulated to a significant extent and managed by electronic or magnetic means (meaning electronic, magnetic, or any other form that cannot be perceived by the human senses alone; the same applies in the following paragraph), and is intended to be provided to specific persons on a regular basis (excluding trade secrets).
- (8) The term "technological restriction measures" as used in this Act means measures that restrict the viewing of images, listening to sounds, running of programs, or processing of information, or the recording of images, sounds, programs, or any other information by electronic or magnetic means; and which use methods in which signals to which a viewing device, etc. (meaning a device used for viewing images, listening to sounds, running programs, processing information, or recording images, sounds, programs, or any other information; the same applies in this paragraph below) responds in a specific way, and where such signals are recorded onto a recording medium or transmitted, or where images, sounds, programs, or other information are recorded or transmitted after being converted in a manner that requires a viewing device, etc. to specifically convert them.
- (9) The term "program" as used in this Act means a set of instructions for a computer to achieve a specific result.

- (10) The term "domain name" as used in this Act means letters, numbers, signs, or other symbols, or a combination of them, that corresponds to a combination of numbers, signs, or letters assigned to identify individual computers on the Internet.
- (11) The term "things" as used in this Act includes programs.

## **Chapter II Claims for Injunctions and Compensation for Loss or Damage**

### **(Right to Claim for an Injunction)**

- Article 3 (1) A person whose business interests have been or are likely to be harmed by infringement through unfair competition may file a claim against the person to suspend or prevent the infringement that has or is likely to harm business interests.
- (2) When filing a claim under the preceding paragraph, the person whose business interests have been or are likely to be harmed through unfair competition may request the destruction of things that constitute the act of infringement (including things created through the act of infringement), the removal of equipment used in the act of infringement, or any other actions necessary to suspend or prevent the infringement.

### **(Compensation for Loss or Damage)**

- Article 4 A person that intentionally or negligently commits an infringement that harms the business interests of another person through unfair competition is liable to compensate for any loss or damage resulting from it; provided, however, that this Article does not apply to loss or damage resulting from the use of trade secrets or shared data with limited access after the rights prescribed in Article 15 have extinguished pursuant to that Article.

### **(Presumption of Amounts for Loss or Damage)**

- Article 5 (1) If a person whose business interests have been harmed by an infringement through unfair competition stated in Article 2, paragraph (1), items (i) through (xvi) or (xxii) (referred to as "infringed party" in this paragraph below) files a claim for compensation for loss or damage suffered due to the infringement against a person that has intentionally or negligently committed the infringement that has harmed business interests (referred to as "infringer" in this paragraph below), and the infringer has transferred things (including electronic or magnetic records; the same applies in this paragraph below) that constitute the act of infringement (including when the infringer has transferred things produced by the act of infringement) or provided services produced by the act of infringement, the total amounts stated in the following items may be fixed as the amount of loss or damage suffered by the

infringed party:

- (i) the amount obtained by multiplying the amount of profit per unit of the things that the infringed party could have sold or the services that the infringed party could have provided if there had been no such act of infringement, by the portion of the quantity of the things transferred or the services provided by the infringer (referred to as "transferred quantity" in the following item) that does not exceed the quantity corresponding to the infringed party's ability to sell those things or provide those services (referred to as "saleable quantity" in the following item) (if there are circumstances that the infringed party is unable to sell the quantity of those things or provide the quantity of those services in whole or in part, the quantity remaining after deducting the quantity corresponding to the circumstances (referred to as "specified quantity" in the following item));
- (ii) an amount equivalent to the money to be received for the acts prescribed in (a) through (e) below for the respective categories of unfair competition stated in (a) through (e), for any quantity exceeding the saleable quantity that is part of the transferred or specified quantity (excluding cases where it is not established that the infringed party could have permitted the acts prescribed in (a) through (e) below for the respective categories of unfair competition stated in (a) through (e)):
  - (a) unfair competition as stated in Article 2, paragraph (1), items (i) or (ii): the use of an indication of goods or business in relation to the infringement;
  - (b) unfair competition as stated in Article 2, paragraph (1), item (iii): use of a form of goods in relation to the infringement;
  - (c) unfair competition as stated in Article 2, paragraph (1), items (iv) through (ix): use of trade secrets in relation to the infringement;
  - (d) unfair competition as stated in Article 2, paragraph (1), items (xi) through (xvi): use of shared data with limited access in relation to the infringement; and
  - (e) unfair competition as stated in Article 2, paragraph (1), item (xxii): use of a trademark in relation to the infringement.
- (2) If a person whose business interests have been harmed by infringement through unfair competition files a claim for compensation for loss or damage caused by another person that intentionally or negligently committed the infringement, and that other person has made a profit through the act of infringement, the amount of such profit is presumed to be the amount of loss or damage suffered by the infringed party.
- (3) A person whose business interests have been harmed by infringement through the unfair competition stated in Article 2, paragraph (1), items (i) through (ix), items (xi) through (xvi), item (xix), or item (xxii), may file a claim for



compensation for loss or damage against a person that intentionally or negligently committed the infringement. The claim may seek an amount equivalent to what the infringed party should have been entitled to receive for the act prescribed in the following items, as defined in the classification of unfair competition under those items, representing the amount of loss or damage suffered by the infringed party:

- (i) unfair competition as stated in Article 2, paragraph (1), items (i) or (ii): the use of an indication of goods or business in relation to the infringement;
  - (ii) unfair competition as stated in Article 2, paragraph (1), item (iii): the use of a form of goods in relation to the infringement;
  - (iii) unfair competition as stated in Article 2, paragraph (1), items (iv) through (ix): the use of trade secrets in relation to the infringement;
  - (iv) unfair competition as stated in Article 2, paragraph (1), items (xi) through (xvi): the use of shared data with limited access in relation to the infringement;
  - (v) unfair competition as stated in Article 2, paragraph (1), item (xix): the use of a domain name in relation to the infringement; and
  - (vi) unfair competition as stated in Article 2, paragraph (1), item (xxii): the use of a trademark in relation to the infringement.
- (4) When a court determines the amount of money to be received for any act prescribed in paragraph (1), item (ii), (a) through (e), and the items of the preceding paragraph, the court may consider the compensation that the person whose business interests have been harmed by the infringement would have received if they had reached an agreement on compensation for the act with the person that engaged in unfair competition, on the premise that unfair competition occurred.
- (5) The provisions of paragraph (3) do not preclude a claim for damages exceeding the amount prescribed in that paragraph. In such cases, if the person that committed the infringement that harmed business interests did not do so intentionally or due to gross negligence, the court may consider this in determining the amount of damages.

(Presumptions Regarding a Person Using a Technical Secret they Acquired)

Article 5-2 (1) If any of the acts stated in Article 2, paragraph (1), item (iv), (v), or (viii) (limited to acts of acquiring trade secrets) have been conducted with regard to a technical secret (limited to a technical secret concerning manufacturing methods or other information specified by Cabinet Order; the same applies below in this Article), and a person that has conducted such an act produces things using the technical secret or engages in other acts specified by Cabinet Order as acts from which it can be clearly understood that the technical secret has been used (referred to as "production, etc." in this Article

below), the person is presumed to have engaged in production, etc. as an act stated in each item (limited to acts of using trade secrets).

- (2) If a person possesses a recording medium containing a technical secret (meaning a document, drawing, or recording medium on which technical secrets are described or recorded; the same applies below in this Article), an object that represents the technical secret, or a transmitter identification code (meaning letters, numbers, symbols, or any other codes used to identify the transmitter of an automatic public transmission (meaning a transmission made automatically in response to a public request for direct reception by the public, excluding an automatic public transmissions that are classified as broadcasts or cablecasts); the same applies in paragraph (4)) associated with the recording medium containing the technical secret, after acquiring the technical secret, learns that there had been an intervening act of wrongful acquisition of trade secrets with regard to the relevant technical secret, or is unaware of that fact due to gross negligence, and the person engages in production, etc., the person is presumed to have engaged in production, etc. as an act of unfair competition as stated in Article 2, paragraph (1), item (vi) (limited to the act of using a trade secret).
- (3) If, after a technical secret has been disclosed by its holder, a person obtains the technical secret by any of the following means in violation of the duty to manage the technical secret, for the purpose of wrongful gain or causing damage to the holder of the technical secret, and the person engages in production, etc., the person is presumed to have engaged in production, etc., as an act of unfair competition (limited to the act of using a trade secret) as stated in Article 2, paragraph (1), item (vii):
- (i) misappropriating a recording medium containing technical secrets, etc. or an object that represents technical secrets;
  - (ii) reproducing a description or a record from a recording medium containing technical secrets, etc., or an object that represents technical secrets; or
  - (iii) not deleting a description or a record that should be deleted from a recording medium containing a technical secret, etc., and disguising this act as if the description or record in the recording medium containing the technical secrets, etc. had been deleted.
- (4) If a person possesses a recording medium containing the technical secret, an object that represents the technical secret, or a transmitter identification code associated with a recording medium containing the technical secret, after acquiring the technical secret, learns that an act of improper disclosure of the trade secret has occurred with regard to the technical secret, or that there had been an intervening act of improper disclosure, or is unaware of this fact due to gross negligence, and the person engages in production, etc., the person is presumed to have engaged in production, etc., as unfair competition as stated

in Article 2, paragraph (1), item (ix) (limited to the act of using a trade secret).

(Obligation to Clarify Specific Circumstances)

Article 6 In litigation involving infringement that may harm business interests through unfair competition, if a person claims that their interests have been or are likely to be harmed by such infringement, and the opposing party denies the specific circumstances surrounding the things or process that constitute the alleged infringement, the opposing party must clarify the specific circumstances of their actions; provided, however, that this does not apply if the opposing party has adequate grounds for being unable to clarify them.

(Submission of Documents)

Article 7 (1) In litigation involving the infringement that may harm business interests through unfair competition, the court may, on the motion of a party, order the other party to submit any documents necessary to prove the act of infringement or calculate the amount of loss or damage caused by the infringement; provided, however, that this does not apply if the holder of the documents has reasonable grounds to refuse submission.

(2) If the court finds it necessary for determining whether or not the documents subject to the motion under the main clause of the preceding paragraph fall within the scope of documents referred to in the main clause of the same paragraph or whether or not there are reasonable grounds as provided in the proviso of the same paragraph, the court may have the holder of the documents present those documents to the court. In this case, no person may request the 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 referred to in the second sentence of the preceding paragraph and to hear opinions with regard to whether or not the documents subject to the motion under the main clause of paragraph (1) fall within the scope of documents referred to in the main clause of the same paragraph or whether or not there are reasonable grounds as provided in the proviso of the same paragraph, the court may disclose the documents to the parties, etc. (meaning the parties (or if a party is a corporation, its representative) or the parties' agents (excluding counsel or assistants in court), employees, or other workers; the same applies below), their counsel, or their assistants in court.

(4) In the case referred to in paragraph (2), if the court finds it necessary to disclose the documents as provided in the latter sentence of paragraph (2) and hear an explanation based on expert knowledge, the court may disclose the documents to a technical advisor as provided in Part I, Chapter V, Section 2, Subsection 1 of the Code of Civil Procedure (Act No. 109 of 1996), with the

consent of the parties.

- (5) The provisions of the preceding paragraphs apply mutatis mutandis to the presentation of the objective of an inspection that is necessary to prove the act of infringement in litigation involving infringement that may harm business interests through unfair competition.

(Expert Opinions on the Calculation of the Amount of Loss or Damage)

Article 8 In litigation involving infringement that may harm business interests through unfair competition, if the court, at the request of a party, orders an expert opinion on matters necessary to calculate the amount of loss or damage caused by the act of infringement, the parties must explain the necessary matters to the expert for forming the opinion.

(Determination of Reasonable Amount of Loss or Damage)

Article 9 In litigation involving infringement that may harm business interests through unfair competition, if the court finds that loss or damage has actually been incurred but it is extremely difficult to prove the facts necessary to determine the amount of loss or damage due to the nature of the facts, the court may determine a reasonable amount of loss or damage based on the entirety of the oral arguments and the results of the examination of the evidence.

(Orders to Protect Confidentiality)

Article 10 (1) In litigation involving infringement that may harm business interests through unfair competition, if a prima facie showing is made that trade secrets held by a party to the litigation fall under both of the following grounds, the court, at the request of the party, may, by ruling, order a party, etc., counsel, or assistant in court not to use the trade secrets for any purpose other than conducting the litigation, or not to disclose them to any person other than one subject to the order under this paragraph concerning the trade secrets; provided, however, that this does not apply if the party, etc., counsel, or assistant in court had already acquired or held the trade secrets by means other than reading the brief prescribed in item (i) or the examination or disclosure of evidence prescribed in the same item by the time the request was made:

- (i) the trade secrets held by the party are written in an already-produced or a to-be-produced brief, or are 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 based on the trade secrets under the

preceding item are likely to be hindered if the trade secrets are used for purposes other than conducting the litigation or are disclosed; it is necessary to restrict the use or disclosure of the trade secrets to prevent such hindrance.

- (2) A petition for the order under the preceding paragraph (referred to as "protective order" below) must be made in writing and include the following information:
  - (i) the person to whom the protective order is to be issued;
  - (ii) facts that are sufficient for identifying the trade secrets that are to be made the subject of the protective order; and
  - (iii) facts that fall within the grounds stated in the respective items of the preceding paragraph.
- (3) When issuing a protective order, the court must 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 petition for a protective order, the party may file an immediate appeal against the judicial decision.

#### (Rescission of Protective Orders)

- Article 11 (1) A person that filed a petition 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 (or, if no such court exists, with 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) If the court makes a judicial decision on a motion to rescind a protective order, it must serve a written ruling on the party that filed the motion and the opposing party.
  - (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, in the same litigation in which the protective order was issued, a protective order protecting trade secrets was issued against any person other than the party that filed the motion for rescission or the opposing party, the court must immediately notify that person of the decision rescinding the protective order.

#### (Notices of Requests to Inspect Case Records)

- Article 12 (1) If a court has made a ruling under Article 92, paragraph (1) of the

Code of Civil Procedure with regard to the case record in a litigation in which a protective order has been issued (excluding a litigation in which all the protective orders have been rescinded), a party has requested to inspect, etc. the part of the record that contains the secret prescribed under the same paragraph, and the person that followed the procedures for filing the request has not had a protective order issued against them in the litigation, the court clerk must, immediately after the request has been filed, notify the party that filed the motion under the same paragraph (excluding the person filing the request; the same applies in paragraph (3)) of the fact that the request has been filed.

- (2) In a case as referred to in the preceding paragraph, the court clerk must not allow the person that 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 (or, if a motion is filed for a protective order against the person in question on or before that date of the request, until the date on which the judicial decision on that motion becomes final and binding).
- (3) The provisions of the preceding two paragraphs do not apply if there is consent among all parties that have filed a motion under Article 92, paragraph (1) of the Code of Civil Procedure to allow the person that filed the request under paragraph (1) to inspect, etc. the part of the record that contains the secret.

(Suspension of the Open Examination of Parties)

- Article 13 (1) In litigation involving infringement that may harm business interests through unfair competition, if a party, legal representative, or witness is to be examined regarding a matter that serves as the basis for determining whether the infringement occurred and the matter falls under trade secrets held by that party, and if the court, by the unanimous agreement of the judges, finds that the party, legal representative, or witness is unable to provide a sufficient statement because it is clear that giving such a statement in open court would significantly hinder the party's business activities based on the trade secrets, and that, without the statement, the court would be unable to make an appropriate judicial decision regarding whether the infringement occurred, the court may rule to conduct the examination of the matter in a closed session.
- (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, the court may order a party, etc., to present the court with a document outlining the matters to be stated. In such a case, no person may

request the 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 opinions, the court may disclose them to the relevant parties, etc., the counsel, or the assistant in court.
- (5) If the court is to 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 for it to the members of the public before having them leave the courtroom. When the examination on the 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 harmed, the court may order the person that has intentionally or negligently engaged in unfair competition and thereby injured the business reputation of that other person to take necessary measures to restore the other person's business reputation, in lieu of or in addition to compensation for loss or damage.

#### (Extinctive Prescription)

Article 15 (1) The right to claim suspension or prevention of infringement under the provisions of Article 3, paragraph (1) against the act of using trade secrets in the unfair competition stated in Article 2, paragraph (1), items (iv) through (ix) is extinguished by prescription in the following cases:

- (i) if the person conducting the act of infringement does so continuously, and the trade secret holder whose business interests have been or are likely to be harmed by that act does not exercise the right within three years from the time the holder becomes aware of the act and the identity of the person conducting it; and
  - (ii) twenty years have elapsed from the time the act in question began.
- (2) The provisions of the preceding paragraph apply mutatis mutandis to the right to claim the suspension or prevention of infringement under the provisions of Article 3, paragraph (1), against the act of using shared data with limited access in the unfair competition stated in Article 2, paragraph (1), items (xi) through (xvi). In this case, the term "the trade secret holder" in item (i) of the preceding paragraph is to be replaced with "the holder of shared data with limited access".

### **Chapter III Acts Prohibited based on International Agreements**

(Prohibition on the Commercial Use of the National Flag of Foreign States)

- Article 16 (1) No person may use anything that is identical or similar to a foreign state's national flag, coat of arms, or any other emblem specified by the Order of the Ministry of Economy, Trade and Industry (referred to as "foreign state's national flag, etc." below) (such identical or similar items are referred to as "emblems similar to a foreign state's national flag, etc." below) as their trademark. No person may transfer, deliver, display for the purpose of transfer or delivery, export, import, or provide through telecommunications lines goods using an emblem similar to a foreign state's national flag, etc. as their trademark. No person may provide services while using an emblem similar to a foreign state's national flag, etc. as a trademark; provided, however, that this does not apply if permission has been obtained from the government agency of the foreign state authorized to grant permission (including an administrative action similar to permission; the same applies below) for the use of the foreign state's national flag, etc.
- (2) Beyond what is prescribed in the preceding paragraph, no person may use a foreign state's coat of arms specified by the Order of the Ministry of Economy, Trade and Industry, as referred to in the preceding paragraph (referred to as "coat of arms of a foreign state" below) in a manner likely to mislead as to the place of origin of goods; no person may transfer, deliver, display for the purpose of transfer or delivery, export, import or provide through telecommunications lines goods using the coat of arms of a foreign state in that manner. No person may provide services while using the coat of arms of a foreign state in the same manner; provided, however, that this does not apply if permission has been obtained from the government agency of the foreign state authorized to grant permission to use the coat of arms of a foreign state.
- (3) No person may use anything that is identical or similar to the seal or sign used by the national or local government of a foreign state for supervision or certification purposes, as specified by the Order of the Ministry of Economy, Trade and Industry (referred to as "official markings of a foreign national government, etc." below) (such identical or similar items are referred to as "official markings similar to that of a foreign national government, etc." below) as a trademark on goods or for services that are identical or similar to those for which the official marking of a foreign national government, etc. is used. No person may transfer, deliver, display for the purpose of transfer or delivery, export, import or provide through telecommunications lines goods using an official marking similar to that of a foreign national government, etc. as their trademark. No person may provide services while using an official marking similar to that of a foreign national government, etc. as a trademark; provided, however, that this does not apply if permission has been obtained from the government agency of the foreign state that is authorized to grant permission for use of the official marking of a foreign national government, etc.



(Prohibition of the Commercial Use of Marks of International Organizations)

Article 17 No person may use anything that is identical or similar to a mark representing an international organization (meaning an intergovernmental organization or an equivalent organization specified by the Order of the Ministry of Economy, Trade and Industry; the same applies in this Article below), which is specified by the Order of the Ministry of Economy, Trade and Industry (such identical or similar items are referred to as "mark similar to that of an international organization" below) as a trademark in a manner likely to mislead as to the existence of a relationship with that international organization. No person may transfer, deliver, display for the purpose of transfer or delivery, export, import or provide through telecommunications lines, goods using a mark similar to that of an international organization as their trademark in that manner. No person may provide services while using a mark similar to that of an international organization as their trademark, in the same manner; provided, however, that this does not apply if permission from the relevant international organization has been obtained.

(Prohibition against the Provision of Wrongful Gains to Foreign Public Officials)

Article 18 (1) No person may give, offer to give, or promise to give any money or other benefit to a foreign public official, etc. in order to have them act or refrain from acting in relation to the performance of their official duties, or to have them use their position to influence another foreign public official, etc. to act or refrain from acting in such a manner, so that the person in question can make any wrongful gain in business regarding 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 that engages in public service for a national or local foreign government;
- (ii) any person that engages in the business operations of an entity established under foreign special laws to carry out specific business operations in the public interest;
- (iii) any person that is a business engaged in business operations where one or more national or local governments of foreign states directly own more than 50 percent of the voting shares or capital subscription of the business, or where the majority of officers (meaning directors, auditors, council members, inspectors, liquidators, and others involved in the management of the business) are appointed or designated by one or more national or local foreign governments, and that is granted special rights or interests by such

- governments for the performance of its business; or any person specified by Cabinet Order as an equivalent person;
- (iv) any person that engages in public services for an international organization (meaning an international organization which is formed by governments or intergovernmental organizations); or
- (v) any person that engages in business operations under the authority of the national or local government of a foreign state or an international organization and that are delegated by any of them to the person in question.

## **Chapter IV Miscellaneous Provisions**

### **(Exclusion from Application)**

Article 19 (1) The provisions of Articles 3 through 15, Article 21, and Article 22 do not apply to the acts prescribed in the following items, as defined in the classification of unfair competition under those items:

- (i) unfair competition as stated in Article 2, paragraph (1), items (i), (ii), (xx), and (xxii): the act of using or indicating a common name 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 common name), or using an indication of goods or business that is in common usage for identical or similar goods or business (collectively referred to as "common name, etc." below), in the manner this is normally done, or the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines goods that use or indicate a common name in the way this is normally done (including the act of providing services while indicating or using a common name, etc. in the way this is normally done, in cases of unfair competition stated in items (xx) and (xxii) of the same paragraph);
- (ii) unfair competition as stated in Article 2, paragraph (1), items (i), (ii), and (xxii): the act of using one's own name without wrongful purpose (meaning the purpose of making any wrongful gain, causing damage to others, or any other wrongful purpose; the same applies below), or the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines goods using one's own name without wrongful purpose (including the act of providing services while using one's own name without wrongful purpose, in cases of unfair competition stated in the same items);
- (iii) unfair competition as stated in Article 2, paragraph (1), items (i) and (ii): in cases where, as a result of the trademark registration under Article 4, paragraph (4) of the Trademark Act, or as a result of the trademark registration pursuant to the provisions of the proviso of Article 8, paragraph

- (1), the proviso of Article 8, paragraph (2), or the proviso of Article 8, paragraph (5) of the same Act, a trademark right to a similar registered trademark (meaning a registered trademark as prescribed in Article 2, paragraph (5) of the same Act; the same applies in this item and item (ii) of the following paragraph) to be used (meaning the use prescribed in Article 2, paragraph (3) of the same Act; the same applies in this item below) for identical goods or services, or a trademark right to an identical or similar registered trademark to be used for similar goods or services, has come to belong to different holders of trademark rights, the act of the holders of trademark right, whether exclusive or non-exclusive, using the registered trademark without wrongful purpose;
- (iv) unfair competition as stated in Article 2, paragraph (1), item (i): the act of a person using an indication of goods or business that is identical or similar to another person's indication of goods or business, prior to the other person's indication becoming well-known among consumers; or the act of a person succeeding to a business related to that indication of goods or business and using that indication without wrongful purpose; or the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines goods using that indication without wrongful purpose;
- (v) unfair competition as stated in Article 2, paragraph (1), item (ii): the act of a person using an indication of goods or business that is identical or similar to another person's indication of goods or business, prior to the other person's indication becoming famous; or the act of a person succeeding to a business related to that indication of goods or business and using that indication without wrongful purpose; or the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines goods using that indication without wrongful purpose;
- (vi) unfair competition as stated in Article 2, paragraph (1), item (iii): any of the following acts:
- (a) the act of transferring, leasing, displaying for the purpose of transfer or lease, exporting, importing, or providing through telecommunications lines goods that imitate the form of goods if three years have elapsed since the date they were first sold in Japan;
- (b) the act by a person that has received goods that imitate the form of another person's goods through transfer (limited to a person that, at the time of receiving the goods, did not know, without gross negligence, that the goods imitated the form of another person's goods), of transferring, leasing, displaying for the purpose of transfer or lease, exporting, importing, or providing the goods through telecommunications lines;

- (vii) unfair competition as stated in Article 2, paragraph (1), items (iv) through (ix): the act by a person that has acquired trade secrets through a transaction (limited to a person that, at the time of acquiring the trade secrets, did not know, without gross negligence, that the disclosure of those trade secrets was an act of improper disclosure or that there had been an intervening act of wrongful acquisition or improper disclosure of trade secrets with regard to the trade secrets in question), of using or disclosing the trade secrets within the scope of the title acquired through the transaction;
  - (viii) unfair competition as stated in Article 2, paragraph (1), item (x): the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, or providing through telecommunications lines things created by the use of trade secrets after the rights prescribed in Article 15, paragraph (1) have been extinguished pursuant to that paragraph;
  - (ix) unfair competition as stated in Article 2, paragraph (1), items (xi) through (xvi): any of the following acts:
    - (a) the act by a person that has acquired shared data with limited access through a transaction (limited to a person that, at the time of acquiring the shared data with limited access, was unaware that the disclosure of that data was an act of improper disclosure or that there had been an act of wrongful acquisition or improper disclosure of shared data with limited access with regard to that data), of disclosing the shared data with limited access within the scope of the title acquired through the transaction;
    - (b) the act of acquiring shared data with limited access in which the information accumulated to a significant extent is the same as any information that has been made publicly available without compensation, or the act of using or disclosing such acquired shared data with limited access;
  - (x) unfair competition as stated in Article 2, paragraph (1), items (xvii) and (xviii): the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing a device prescribed in items (xvii) and (xviii) of the same paragraph; a recording medium on which a program or code prescribed in those items has been recorded; or a machine on which a program or code prescribed in the same items has been stored, where the device, recording medium, or machine is used for testing or research related to technological restriction measures; the act of providing the program or the code through telecommunications lines; or the act of providing a service prescribed in those items, conducted for testing or research on technological restriction measures.
- (2) A person whose business interests have been or are likely to be harmed by any of the acts of infringement prescribed in items (ii) through (iv) of the preceding paragraph may request another person, prescribed in each of the

following items and defined in the classification of acts under these items, to affix an indication appropriate to prevent confusion between that person's goods or business and their own:

- (i) acts prescribed in item (ii) of the preceding paragraph: the person using their own name (including the person that personally assigns, delivers, displays for the purpose of transfer or delivery, exports, imports, or provides through telecommunications lines goods using their own name);
- (ii) the act prescribed in item (iii) of the preceding paragraph: the holder of the trademark right, the exclusive right to use the trademark, and the non-exclusive right to use the trademark relating to one of the registered trademarks referred to in the same item; and
- (iii) acts prescribed in item (iii) of the preceding paragraph: the person using an indication of goods or business that is identical or similar to another person's indication of goods or business, and the person that has succeeded to a business related to that indication (including the person that personally assigns, delivers, displays for the purpose of transfer or delivery, exports, imports, or provides through telecommunications lines goods using that indication).

#### (Jurisdiction over Actions Involving Trade Secrets)

- Article 19-2 (1) An action against a person that commits any act of unfair competition stated in Article 2, paragraph (1), item (iv), (v), (vii) or (viii), in connection with a trade secret of a trade secret holder conducting business within Japan, may be filed with a Japanese court; provided, however, that this does not apply if the trade secret is used exclusively for business outside Japan.
- (2) The provisions of Article 10-2 of the Code of Civil Procedure apply mutatis mutandis to an action over which the Japanese courts have jurisdiction pursuant to the provisions of the preceding paragraph. In this case, the term "the preceding Section" in that Article is to be replaced with "Article 19-2, paragraph (1) of the Unfair Competition Prevention Act".

#### (Scope of Application)

- Article 19-3 The provisions of Chapter I, Chapter II, and this Chapter also apply if a person commits an act of unfair competition stated in Article 2, paragraph (1), item (iv), (v), (vii), or (viii) outside Japan, in connection with a trade secret managed within Japan by a trade secret holder; provided, however, that this does not apply if the trade secret is used exclusively for business outside Japan.

#### (Delegation to Cabinet Order)

- Article 19-4 (1) Beyond what is prescribed in this Act, the matters concerning measures to collect arrears, which are necessary for the procedural alignment

between those measures and the direct freezing of assets are to be specified by Cabinet Order.

- (2) Beyond what is prescribed in this Act, matters necessary for procedures concerning a third party's participation and a judicial decision under Article 32, procedures for the direct freezing of assets and the value freezing of assets under Chapter VIII, and procedures for international mutual legal assistance under Chapter IX (excluding matters prescribed in the preceding paragraph) are to be specified by the Rules of the Supreme Court.

(Transitional Measures)

Article 20 If Cabinet Orders or Orders of the Ministry of Economy, Trade and Industry are enacted, amended, or repealed pursuant to the provisions of this Act, the required transitional measures (including transitional measures concerning penal provisions) may be specified by that Cabinet Order or Ministerial Order, to the extent considered reasonably necessary for the enactment, amendment or repeal.

## **Chapter V Penal Provisions**

(Penal Provisions)

Article 21 (1) If any of the following items applies, the person that has committed the act of violation is subject to imprisonment for not more than 10 years, a fine of not more than 20 million yen, or both:

- (i) if a person acquires trade secrets through an act of fraud, etc. (meaning acts of deceiving, assaulting, or intimidating a person; the same applies in the following item), or through an act that infringes on operational management (meaning acts of stealing assets, breaking into a facility, making unauthorized access (as prescribed in Article 2, paragraph (4) of the Unauthorized Computer Access Act (Act No. 128 of 1999)), or any other act prejudicing the management maintained by the trade secret holder; the same applies in the following item), for the purpose of wrongful gain or causing damage to the trade secret holder;
- (ii) if a person uses or discloses trade secrets acquired through an act of fraud, etc., or through infringing on management, for the purpose of wrongful gain or causing damage to the trade secret holder;
- (iii) if a person, for the purpose of wrongful gain or causing damage to the trade secret holder, uses or discloses trade secrets acquired by a disclosure that constitutes an offence prescribed in the preceding item or items (ii) through (iv) of the following paragraph, paragraph (4), item (ii) (limited to the part regarding a disclosure that constitutes an offence prescribed in the preceding three items) or paragraph (5), item (ii);

- (iv) if a person, for the purpose of wrongful gain or causing damage to the trade secret holder, uses or discloses trade secrets acquired, knowing that there has been a disclosure that constitutes an offence prescribed in the preceding two items or items (ii) through (iv) of the following paragraph, a crime as referred to in paragraph (4), item (ii) (limited to the part regarding a disclosure that constitutes an offence prescribed in the preceding two items); or
  - (v) if a person, for the purpose of wrongful gain or causing damage to the trade secret holder, assigns, delivers, displays for the purpose of transfer or delivery, exports, imports, or provides through telecommunications lines things created by an act conducted by the same person or another person that constitutes an offence prescribed in item (ii) through the preceding item or paragraph (4), item (iii) (limited to the act of using a technical secret; referred to as "act of illegal use" in this item below) (excluding a person that has received the things by transfer without knowing that the things were created by an act of illegal use, and has transferred, delivered, displayed for the purpose of transfer or delivery, exported, imported, or provided through telecommunications lines those things).
- (2) A person that falls under any of the following items is subject to imprisonment for not more than 10 years, a fine of not more than 20 million yen, or both:
- (i) a person to whom the trade secret holder has disclosed their trade secrets, and who, for the purpose of wrongful gain or causing damage to the trade secret holder, obtains the trade secrets by any of the following means, in breach of duties related to the management of the trade secrets;
    - (a) misappropriating a recording medium containing trade secrets, etc. (meaning a document, a drawing, or a recording medium on which trade secrets are described or recorded; the same applies in this item below) or an object that represents trade secrets;
    - (b) reproducing a description or a record from a recording medium containing trade secrets, etc., or an object that represents trade secrets;
    - (c) not deleting a description or a record that should be deleted from a recording medium containing trade secrets, etc., and disguising this act as if the description or record in the recording medium containing the trade secrets, etc. had been deleted;
  - (ii) a person to whom the trade secret holder has disclosed trade secrets, and who, for the purpose of wrongful gain or causing damage to the trade secret holder, uses or discloses trade secrets obtained through the means stated in (a) through (c) of the preceding item, in breach of the duty related to the management of the trade secrets;
  - (iii) a person that is an 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 trade secret holder; to whom the trade secret holder has disclosed trade secrets; and who, for the purpose of wrongful gain or causing damage to the trade secret holder, uses or discloses the trade secrets in breach of the duty related to the management of the trade secrets (excluding the person stated in the preceding item);
- (iv) a person that was an officer or employee of the trade secret holder, to whom the trade secret holder had disclosed trade secrets, and who, for the purpose of wrongful gain or causing damage to the trade secret holder, offered to disclose the trade secrets, or received a request to use or disclose the trade secrets, while holding that position, in breach of the legal duty related to the management of the trade secrets, and uses or discloses them after leaving that position (excluding the person stated in item (ii)); or
  - (v) a person that, for the purpose of wrongful gain or causing damage to the trade secret holder, assigns, delivers, displays for the purpose of transfer or delivery, exports, imports, or provides through a telecommunications lines things created by an act, committed by the person or another person, that constitutes an offense referred to in item (ii) through the preceding item or paragraph (5), item (iii) (limited to an act of using a technical secret; referred to as "act of illegal use by an employee, etc." in this item below) (except for a person that has accepted those things by transfer without knowing that they were created by an act of illegal use by an employee, etc., and has transferred, delivered, displayed for the purpose of transfer or delivery, exported, imported, or provided through a telecommunications lines those things).
- (3) If any of the following items applies, the person that has committed the act of violation is subject to imprisonment for not more than five years, a fine of not more than 5 million yen, or both:
- (i) if a person, for a wrongful purpose, commits any act of unfair competition stated in Article 2, paragraph (1), item (i) or (xx);
  - (ii) if a person, for the purpose of 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 that reputation or fame, commits any act of unfair competition stated in Article 2, paragraph (1), item (ii);
  - (iii) if a person, for the purpose of wrongful gain, commits any act of unfair competition stated in Article 2, paragraph (1), item (iii);
  - (iv) if a person, for the purpose of wrongful gain, or for the purpose of causing damage to another person that is using technological restriction measures for their business purposes, commits any act of unfair competition stated in Article 2, paragraph (1), item (xvii) or (xviii);



- (v) if a person makes a false indication on goods, services, in an advertisement of goods or services, or in trade documents or communications, that is likely to mislead as to the place of origin, quality, contents, manufacturing process, purpose, or quantity of the goods, or as to the quality, contents, purpose, or quantity of the services (excluding a case stated in item (i));
  - (vi) if a person violates a protective order; or
  - (vii) if a person violates the provisions of Article 16 or Article 17.
- (4) If any of the following items apply, the person that has committed the violation is subject to imprisonment for not more than 10 years, a fine of not more than 30 million yen, or both:
- (i) if a person commits offences prescribed in paragraph (1), item (i) for the purpose of use outside Japan;
  - (ii) if a person makes a disclosure that constitutes offences prescribed in paragraph (1), item (ii) through (iv), knowing that the receiving party has the purpose of their use outside Japan that constitutes the offences;
  - (iii) if a person outside Japan uses the trade secrets of a trade secret holder conducting business within Japan in a manner that constitutes the offences prescribed in paragraph (1), items (ii) through (iv); or
  - (iv) if a person violates the provisions of Article 18, paragraph (1).
- (5) A person that falls under any of the following items is subject to imprisonment for not more than 10 years, a fine of not more than 30 million yen, or both:
- (i) a person that commits offences prescribed in paragraph (2), item (i) for the purpose of use outside Japan;
  - (ii) a person that makes a disclosure that constitutes offences prescribed in paragraph (2), item (ii) through (iv), knowing that the receiving party has the purpose of their use outside Japan that constitutes the offences; or
  - (iii) a person outside Japan uses the trade secrets of a trade secret holder conducting business within Japan in a manner that constitutes the offences prescribed in paragraph (2), items (ii) through (iv).
- (6) An attempt of offences prescribed in paragraph (1), paragraph (2) (excluding item (i)), paragraph (4) (excluding item (iv)) and the preceding paragraph (excluding item (i)) is subject to punishment.
- (7) The offence prescribed in paragraph (3), item (vi) may not be prosecuted without a criminal complaint.
- (8) The offences prescribed in each item of paragraph (1) (excluding item (v)), the items of paragraph (2) (excluding item (v)), paragraph (4), item (i) or (ii), paragraph (5), item (i) or (ii), or paragraph (6) (excluding the part regarding paragraph (1), item (v) or paragraph (2), item (v)) also apply to a person that commits the offences outside Japan in connection with the trade secrets of a trade secret holder conducting business within Japan.

- (9) The offence prescribed in paragraph (3), item (vi) also applies to a person that commits the crime referred to in that item outside Japan.
- (10) The offence prescribed in paragraph (4), item (iv) is governed by Article 3 of the Penal Code (Act No. 45 of 1907).
- (11) The offence prescribed in paragraph (4), item (iv) also applies to any non-Japanese national who is a representative, agent, employee, or other worker of a corporation having its principal office in Japan and who has committed the offence prescribed in the same item outside Japan with regard to the business of the corporation.
- (12) The provisions of paragraphs (1) through (6) do not preclude the application of penal provisions under the Penal Code or any other legislation.
- (13) The following assets may be confiscated:
  - (i) assets resulting from, gained by means of, or gained as reward for the criminal acts which constitute the offences prescribed in paragraphs (1), (2), (4) (excluding item (iv)), (5), and (6); and
  - (ii) assets gained as profits from the assets stated in the preceding item, assets gained in exchange for the assets stated in the same item, assets gained in exchange for either of these types of assets, or other assets gained through holding or disposing of the assets stated in that item.
- (14) 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; referred to as "Organized Crime Punishment Act" below) apply mutatis mutandis to the confiscation under the preceding paragraph. In this case, the phrase "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 to be replaced with "each item of Article 21, paragraph (13) of the Unfair Competition Prevention Act".
- (15) When the assets stated in each item of paragraph (13) cannot be confiscated, or when it is deemed inappropriate to confiscate them due to their nature, their condition of use, the existence or non-existence of rights held by any person other than the offender, or other circumstances, the equivalent value of the assets may be collected from the offender.

Article 22 (1) If the representative of a corporation, or the agent, employee, or other worker of a corporation or of any person has committed a violation stated in any of the provisions of the following items with regard to the business of the corporation or the person, the corporation is to be subject to the fine prescribed in the relevant items, and the person is to be subject to the fine prescribed in the relevant Article in addition to the offender being subject to punishment:

- (i) paragraph (4) or paragraph (6) of the preceding Article (limited to the part regarding paragraph (4) of the same Article): a fine of not more than 1 billion

- yen;
- (ii) paragraph (1) or paragraph (6) of the preceding Article (limited to the part regarding paragraph (1) of the same Article): a fine of not more than 500 million yen; or
  - (iii) paragraph (3) of the preceding Article: a fine of not more than 300 million yen.
- (2) In a case referred to in the preceding paragraph, a criminal complaint filed against the offender for an offence prescribed in paragraph (3), item (vi) of the same Article, as prescribed in paragraph (7) of the preceding Article, is also to have effect with respect to the corporation or person mentioned in the preceding paragraph. Similarly, a criminal complaint filed against that corporation or person is to have effect with respect to the offender.
- (3) The period of prescription for the punishment by fine to which the corporation or person in question is subject pursuant to the provisions of paragraph (1) for a violation under paragraph (1), (3), (4), or (6) (limited to the part regarding paragraph (1) or (4) of the same Article) is to be the same as that for the offence referred to in those provisions.

## **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), (2), (4) (excluding item (iv)), (5), or (6) or a crime prescribed in paragraph (1) of the preceding Article (excluding item (iii)), and the victim, the victim's legal representative, or the attorney entrusted by either of these persons files a petition to prevent the disclosure in open court of a matter that would identify all or part of the information constituting trade secrets related to the case, and the court finds it appropriate, after hearing the opinions of the accused or defense counsel, the court may rule that the matter will not be disclosed in open court and set the scope for this protection.
- (2) The petition referred to in the preceding paragraph must be submitted to the public prosecutor in advance. In this case, the public prosecutor is to notify the court of this, along with the prosecutor's opinion.
- (3) If the court is handling a case prescribed in paragraph (1), and the public prosecutor, the accused, or defense counsel files a petition to prevent the disclosure in open court of a matter that would identify all or part of the information constituting trade secrets held by the accused or others, and, after hearing the opposing party's views, the court finds that the matter is indispensable as proof of the offence or for the defense of the accused, but that disclosing it in open court would significantly hinder the accused's or others' business activities based on trade secrets, and finds it appropriate, the court

may rule that the matter will not be disclosed in open court and set the scope of this protection.

- (4) When the court has made a ruling as prescribed in paragraph (1) or the preceding paragraph (referred to as "protective ruling" below), and finds it necessary, after hearing the opinions of the public prosecutor and the accused or defense counsel, the court may, in a ruling, decide on a substitute name or other expression to be used in lieu of the name or other expression that identifies the matter allowing trade secrets to be identified ("matter allowing trade secrets to be identified" means any matter that identifies all or part of the information constituting trade secrets, which the court has decided not to disclose in open court pursuant to a protective ruling; the same applies below).
- (5) If the court has issued a protective ruling but later determines that it is inappropriate for the matter allowing trade secrets to be identified to remain undisclosed in open court, or if the case no longer falls under the provisions of paragraph (1) due to the withdrawal or alteration of applicable penal statutes pursuant to Article 312 of the Code of Criminal Procedure (Act No. 131 of 1948), the court must, in a ruling, rescind all or part of the protective ruling and the all or part of the ruling prescribed in the preceding paragraph regarding that protective ruling (referred to as "ruling on a naming, etc." below).

(Special Provisions on the Manner of Reading Out Charging Sheets)

- Article 24 (1) If a protective ruling has been issued, the charging sheet must be read out, pursuant to Article 291, paragraph (1) of the Code of Criminal Procedure, in a manner that does not disclose any matter allowing trade secrets to be identified. In this case, the public prosecutor must show the charging sheet to the accused.
- (2) With regard to the application of the provisions of the second sentence of the preceding paragraph in cases where measures have been taken pursuant to the provisions of Article 271-2, paragraph (4), Code of Criminal Procedure (excluding cases where a decision by Article 271-5, paragraph (1) of the same Code has been rendered with regard to all of the matters specified as individuals (meaning matters specified as individuals as prescribed in Article 201-1, paragraph (1) of the same Code; the same applies in this paragraph below)), the term "charging sheet" in the second sentence of the same paragraph is to be replaced with "charging sheet extract, etc. (meaning a charging sheet extract, etc. as prescribed in Article 271-2, paragraph (2) of the same Code) and documents as prescribed in Article 271-5, paragraph (4) of the same Code" in cases where a decision by Article 271-5, paragraph (1) of the same Code has been rendered with regard to some of the matters specified as individuals relating to the measures, and with "charging sheet extract, etc. (meaning a charging sheet extract, etc. as prescribed in Article 271-2,

paragraph (2) of the same Code)" in other cases.

(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 allowing trade secrets to be identified, unless limiting the examinations or statements could materially interfere with proving the offence or could be substantially detrimental to the defense of the accused, the presiding judge may limit the questions or statements. The same applies to questions for the accused by persons concerned in the case.

(2) The provisions of Article 295, paragraphs (5) and (6) of the Code of Criminal Procedure apply *mutatis mutandis* if the public prosecutor or attorney acting as defense counsel has disobeyed an order under the provisions of the preceding paragraph.

(Examination of Witnesses on Days Other Than Trial Dates)

Article 26 (1) When the court has issued a protective ruling, if the court examines a witness, expert, interpreter, or translator, or if the accused makes a voluntary statement; and if, upon hearing the opinions of the public prosecutor and the accused or defense counsel, the court finds that there is a risk that matters allowing trade secrets to be identified will be included in the examinations or statements of the witness, expert, interpreter, or translator, in questions for the accused, or in statements of the accused, and that disclosing such matters in open court would significantly hinder the business activities of the victim, the accused, or others based on trade secrets, and if the court finds it unavoidable to do so in order to prevent this, the court may conduct the examination or questioning of the accused, as prescribed 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 for a 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 to be replaced with "defense counsel, the co-defendants, or their defense counsel"; the phrase "the accused and defense counsel" in Article 158, paragraph (2) of the same Code is to be replaced with "defense counsel, the co-defendants, and their defense counsel"; the phrase "the trial date" in Article 273, paragraph (2) of the same Code is to be replaced with "the date of the proceedings for asking statements

of the accused under the provisions of Article 26, paragraph (1) of the Unfair Competition Prevention Act"; the phrase "the trial date" in Article 274 of the same Code is to be replaced with "the date, time, and location of the proceedings for asking statements of the accused under the provisions of Article 26, paragraph (1) of the Unfair Competition Prevention Act"; the phrase "documents which contain the results of the examination of witnesses or other persons, inspections, seizure or search, and objects seized" in Article 303 of the same Code is to be replaced with "documents which contain the results of the proceedings for asking statements of the accused under the provisions of Article 26, paragraph (1) of the Unfair Competition Prevention Act"; and the phrase "documentary or material evidence" in the same Article is to be replaced with "documentary evidence".

(Order to Present Documents that Outline Matters for Examination)

Article 27 If the court finds it necessary to issue a ruling on a naming, etc., or to decide that the examination or the proceedings for asking statements from the accused will be conducted on a day other than the trial date, pursuant to the provisions of paragraph (1) of the preceding Article, the court may order the public prosecutor and the accused or defense counsel to present a document outlining the matters involved in the examination, the 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, paragraphs (1) or (2) of the Code of Criminal Procedure, in a manner that does not reveal the matter allowing trade secrets to be identified.

(Rulings in Pretrial Conference Procedures)

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

- (i) a protective ruling, a ruling on a naming, etc., or a ruling rescinding these rulings; and
- (ii) a decision that the examination or the proceedings for asking statements of the accused will be conducted on a day other than a trial date pursuant to the provisions of Article 26, paragraph (1).

(Requests for Protective Handling of Trade Secrets in the 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 disclosing a matter that would identify all or part of the information constituting trade secrets, as prescribed in Article 23, paragraph (1) or (3), would significantly hinder the business activities of the victim, the accused, or others based on those trade secrets, the public prosecutor or defense counsel may notify the opposing party of this risk and request that the opportunity be provided in such a way that the concerned parties (including the accused) do not learn of the matters, unless those matters are necessary for proving or investigating the offence, or for the defense of the accused; provided, however, that a request to provide the opportunity in such a way that the accused does not learn of the matters is limited solely to matters 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 the same Code).

(Delegation to Rules of the Supreme Court)

Article 31 Beyond what is prescribed in this Act, matters necessary for the enforcement of the provisions referred to in Article 23 through the preceding Article are specified by Rules of the Supreme Court.

## **Chapter VII Special Provisions on the Procedures for Confiscation**

(Procedures for the Confiscation of Assets of Third Parties)

- Article 32 (1) If a claim, etc. (meaning assets other than real property and movables; the same applies in Article 34) that falls under the assets stated in each item of Article 21, paragraph (13) belongs to a person other than the accused (referred to as "third party" in this Article below), and the third party is not permitted 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 assets encumbered by superficies, a mortgage, or any other rights of a third party are to be confiscated pursuant to the provisions of Article 21, paragraph (13) 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 cases where the assets encumbered by superficies, a mortgage, or any other rights of a third party are to be confiscated and the relevant rights should continue 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 (14).

- (4) Except as 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) are to apply mutatis mutandis to the procedures for the confiscation of assets prescribed in paragraphs (1) and (2).

(Disposition of Confiscated Claims, Etc.)

Article 33 The provisions of Article 19 of the Organized Crime Punishment Act apply mutatis mutandis to confiscation under Article 21, paragraph (13), and the provisions of Article 20 of the Organized Crime Punishment Act apply mutatis mutandis to cases where the registration of a transfer of rights is commissioned to the relevant organization based on a judicial decision to confiscate the assets for which registration is required in the case of a transfer of rights. In such cases, the phrase "Section 1 of the following Chapter" in the same Article is 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 enforcement of confiscation of claims, etc.

## **Chapter VIII Procedures for the Freezing of Assets**

(Order for the Direct Freezing of Assets)

Article 35 (1) In cases under public prosecution concerning the offences prescribed in Article 21, paragraphs (1), (2), (4) (excluding item (iv)), (5) and (6), if a court finds probable cause to believe that the relevant assets fall under those that may be confiscated pursuant to paragraph (13) of the same Article, and that confiscation is necessary, the court may issue an order for the direct freezing of assets to prohibit the disposition of the assets, either at the request of a public prosecutor or by its own authority.

- (2) If a court has issued or intends to issue an order for the direct freezing of assets with respect to assets encumbered by superficies, a mortgage, or any other rights, and if the court finds probable cause to believe that these rights will be extinguished through confiscation and that confiscation is necessary, or if the court finds probable cause to believe that the rights have been falsified, the court may issue an incidental freezing order separately to prohibit the disposition of the rights, either 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 judicial police officers that are police officers, limited to a person designated by the National Public Safety Commission or the Prefectural Public Safety Commission as those with the rank of police inspector or with a higher rank).
- (4) Beyond the provisions of the preceding three paragraphs, the disposition under these provisions is governed by the provisions regarding the prohibition of disposition under the order for the direct freezing of assets or the incidental freezing order, as prescribed in Chapter IV, Sections 1 and 3 of the Organized Crime Punishment Act.

(Order for the Value Freezing of Assets)

- Article 36 (1) In cases under public prosecution concerning the offences prescribed in Article 21, paragraphs (1), (2), (4) (excluding item (iv)), (5) and (6), if a court finds probable cause to believe that equivalent value should be collected pursuant to paragraph (15) of the same Article, and that enforcing a judicial decision on the collection of equivalent value will be impossible or extremely difficult, the court may prohibit the accused from disposing of the assets. This may be done by issuing an order to collect the equivalent value, either at the request of a public prosecutor or by the court's 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) Beyond the provisions of the preceding two paragraphs, the disposition under these provisions is governed by the provisions regarding the prohibition of disposition under the order for the collection of equivalent value, as prescribed in Chapter IV, Sections 2 and 3 of the Organized Crime Punishment Act.

## **Chapter IX Procedures for International Mutual Legal Assistance in the Enforcement of Judicial Decisions on the Confiscation of Assets and the Collection of Equivalent Value, and in the Freezing of Assets**

(Provision of Mutual Assistance)

- Article 37 (1) If a foreign state requests assistance in the enforcement of a final and binding decision on confiscation or the collection of equivalent value, or in the freezing of assets related to confiscation or the collection of equivalent value in connection with a criminal case in that foreign state (limited to cases

where the act constituting the alleged offence would also constitute an offence under Article 21, paragraph (1), (2), (4) (excluding item (iv)), (5), or (6), had it been committed in Japan), assistance may be provided unless the relevant case falls under any of the following items:

- (i) it would be considered impossible to impose a punishment under Japanese laws and regulations if the act constituting the offence for which assistance is requested (meaning an offence alleged to have been committed in the request for assistance; the same applies in this paragraph below) had been committed in Japan;
- (ii) when the offence for which assistance is requested is pending before a Japanese court, or when a final and binding judgment has been issued on the case by a Japanese court;
- (iii) in cases where assistance is required for the enforcement of a final and binding decision on confiscation, or for assistance in the freezing of assets related to confiscation, the assets subject to the request are not to be subjected to a judicial decision on confiscation in connection with the offence for which assistance is requested, nor are they to be eligible for the direct freezing of assets in connection with that offence under Japanese laws and regulations, had the act constituting the offence for which assistance is requested been committed in Japan;
- (iv) in cases where assistance is required for the enforcement of a final and binding decision on the collection of equivalent value, or for assistance in the freezing of assets related to the collection of equivalent value, if the act constituting the offence for which assistance is required is one for which a judicial decision on the collection of equivalent value could not be issued, or the collection of equivalent value could not be conducted, under Japanese laws and regulations, had the act been committed in Japan;
- (v) in cases where assistance is required for the enforcement of a final and binding decision on confiscation, a person that is believed to have assets related to the request, or that holds superficies, a mortgage, or any other rights on those assets, or in cases where assistance is required for the enforcement of a final and binding decision on the collection of equivalent value, a person subject to the judicial decision that was unable to claim their rights in the proceedings due to grounds not attributable to them; or
- (vi) in cases where assistance is required for the freezing of assets related to confiscation or the collection of equivalent value, except in requests based on a judicial decision on the freezing of assets related to confiscation or the collection of equivalent value rendered by a court or judge of a requesting country, or except in requests made after the final and binding decision on confiscation or the collection of equivalent value, there is no probable cause to suspect that the act constituting the offence for which assistance is

requested has been committed, or it is considered that there would be no grounds under Article 35, paragraph (1), or paragraph (1) of the preceding Article, had the act been committed in Japan.

- (2) In providing assistance for the enforcement of a final and binding decision on confiscation regarding assets encumbered by superficies, a mortgage, or any other rights, those rights must be affirmed as continuing to exist if Japanese laws and regulations require this when the assets are confiscated.

(Confiscation Considered to Be the Collection of Equivalent Value)

Article 38 (1) In cases where assistance is requested for the enforcement of a final and binding decision to confiscate assets held by a person subject to the judicial decision, which are of equivalent value to the assets stated in each item of Article 21, paragraph (13), in lieu of the assets stated in that item, that final and binding decision is deemed to be a final and binding decision to collect the value of the assets from the person, in providing assistance pursuant to this Act.

- (2) The provisions of the preceding paragraph apply mutatis mutandis to a request for assistance in the freezing of assets related to confiscation, where the value of the assets is equivalent to that of the assets stated in each item of Article 21, paragraph (13), in lieu of the assets stated in that item.

(Transfer of Assets in Providing Assistance to a Requesting State)

Article 39 If a foreign state that has made a request for assistance in the enforcement of a final and binding decision on confiscation or the collection of equivalent value prescribed in Article 37, paragraph (1), subsequently makes a request for the transfer of assets or their equivalent sum of money in relation to the provision of such assistance, all or part of the assets or money in question may be transferred.

(Treatment of Assistance Pursuant to the Organized Crime Punishment Act)

Article 40 Beyond what is prescribed in the preceding three Articles, assistance under Article 37 and transfer under the preceding Article is governed by the provisions for assistance and transfer under Chapter VI of the Organized Crime Punishment Act.

**Supplementary Provisions [Extract]**

(Effective Date)

Article 1 This Act comes into effect on the day specified by Cabinet Order, within a period not exceeding one year from the date of its promulgation.

(Transitional Measures)

Article 2 Except as otherwise provided, the provisions of the Unfair Competition Prevention Act after its amendment (referred to as "new Act" below) 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 Unfair Competition Prevention Act prior to its amendment (referred to as "former Act" below).

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

- (i) an act that falls under the provisions of Article 2, paragraph (1), item (ii) (excluding an act that falls under item (i) of the same paragraph); or
- (ii) among the acts stated in Article 2, paragraph (1), item (xx), the act of using an indication on services, in an advertisement for services, or in trade documents or communications related to services, in a way that is likely to mislead as to the quality, contents, purpose, or quantity of the services, or the act of providing services using the indication.

Article 4 The provisions of Articles 3 through 5, Article 14, and Article 15, paragraph (1) do not apply to acts of unfair competition prescribed in Article 2, paragraph (1), items (iv) through (vi), item (viii), and item (ix), in connection with an act of wrongful acquisition of trade secrets prescribed in item (iv) of the same paragraph, or an act of improper disclosure of trade secrets prescribed in item (viii) of the same paragraph, that occurred before June 15, 1991, if those acts of unfair competition were committed on or after that date (excluding acts falling under the following items). The provisions also do not apply to the continuation of the act of using trade secrets as prescribed in item (vii) of the same paragraph that began before that date:

- (i) the act of disclosing trade secrets as prescribed in Article 2, paragraph (1), items (iv) through (vi), item (viii), and item (ix); and
- (ii) the act of acquiring trade secrets as prescribed in Article 2, paragraph (1), item (v) and (viii), and the act of using trade secrets acquired through the act.

Article 5 The provisions of Article 7 of the new Act apply to litigation filed after this Act comes into effect, and prior laws continue to govern litigation filed before this Act comes into effect.

Article 6 The provisions of Article 14 do not apply to the continuation of an act that commenced before this Act comes into effect and falls under an act stated in Article 2, paragraph (1), item (ii) or (xx) (excluding an act that falls under

item (i) of the same paragraph).

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

Article 8 The provisions of Article 16 of the new Act do not apply to a person that 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 do not apply to the continuation of any act that falls under the act of using a mark similar to that of an international organization as prescribed in Article 17 of the new Act (excluding a mark identical or similar to the emblem, flag, or other insignia, abbreviation, or name of an intergovernmental organization designated by the competent minister as prescribed in Article 4-2 of the former Act; referred to as "mark similar to that of a private international organization" below) as a trademark; any act that falls under the act of transferring, delivering, displaying for the purpose of transfer or delivery, exporting, importing, providing through telecommunications lines goods using a mark similar to that of a private international organization as a trademark; or any act that falls under the act of providing services using a mark similar to that of a private international organization as a trademark, if the act in question commenced before this Act comes into effect.

Article 10 The provisions of Article 21 and Article 22 do not apply to the continuation of an act that falls under the act stated in Article 3, item (ii) of the Supplementary Provisions, if the act commenced before this Act comes into effect.

Article 11 Prior laws continue to govern 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.

(Transitional Measures for the Application of Penal Provisions)

Article 13 Prior laws continue to govern application of penal provisions to an act that was committed before this Act comes into effect.

(Delegation to Cabinet Order)

Article 14 Beyond what is prescribed in Articles 2 through 11 of the  
Supplementary Provisions and the preceding Article, the transitional measures  
necessary for the enforcement of this Act are specified by Cabinet Order.