to perform an act of piracy as prescribed in the preceding paragragh

⑥(**Remarkably approaching or stalking another ship for a certain purpose**)

Causing the other ship to operate, remarkably approaching or stalking another ship during the voyage or hindering the advance in order to perform an act of piracy prescribed in the preceding paragraph (from 1para. to 4para.)

⑦(**Causing the other ship to operate with weapons**)

Causing the other ship to operate, by preparing weapons in order to perform an act of piracy prescribed in the preceding paragragh (from 1para. to 4para.)

Editorial Notes:

This law has enabled Japan to punish persons performing an act of piracy in a public ocean.

There are several problems about procedural and substantive law.

Other nations are usually very reluctant to try pirates in their own courts although they make an act of piracy into crimes.

One procedural problem is it is very difficult to try the accused of piracy according to due process.

In Japan, the suspected has to be delivered to the prosecutor within 48 hours of the arrest. For example, it is almost impossible to send the flagrante delicto suspected off Somalia to Japan within 48 hours.

One substantive problem is whether another crime in the penal code can be accomplished when an act of piracy as crimes are performed.

Therefore Japan made legislation for piracy but its operation is not promising.

6. Commercial Law

The Commodity Futures Trading Act

Law No.74, July 10, 2009 (Gradually effective between October 8, 2009, July 10, 2010 and the day within one year and a half, reckoned from the day of promulgation)

Background:

On July 10, 2009, the act to revise the Commodity Exchange Act, the Act for Regulation of Business Concerning Commodities Investment and so on was enacted in the 171st Diet held on July 3, 2009 and promulgated on July 10, 2009. In consequence, the Commodity Exchange Act was renamed the Commodity Futures Trading Act.

The Commodity Exchange Act stipulated the organization of a commodity exchange and the administration of trading in the commodity market, and regulated the traders who were entrusted with commodity futures trading. With the borderless and diversified trading in recent years, the commodity futures or derivatives have been increasingly traded in the form of offshore exchanges or spot market trading (commodity derivative trading). The trading is considered to have a certain effect on the price formation in domestic exchanges.

The Commodity Exchange Act did not regulate recent trouble-ridden trading, such as "Loco London Trading", the offshore index futures which were not regulated by cabinet order and the offshore futures option trading. Thus, the Commodity Futures Trading Act integrally regulates them in order to establish a market "easy for traders to use", a "transparent" commodity market, and an "untroubled" commodity market. In addition, it sets the regulation for market entry.

In the past, the statute of commodity derivatives trading was divided into three categories; "the Commodity Exchange Act", which mainly regulated the trading in domestic exchanges, "the Act on the Consignment and Other Matters Relating to Futures Transaction in Foreign Commodity Markets", which regulated the trading in offshore exchanges, and "the Act on Specified Commercial Transactions", which regulated the trading in spot markets.

The Commodity Futures Trading Act integrally regulates these kinds of trading for the purpose of realizing the meticulous protection of consignors and enhancing the fairness and transparency of price formation.

Main Provisions:

(1) The trading regulated by the Commodity Futures Trading Act

The Commodity Futures Trading Act extends the scope of the commodity index and defines the commodity index as a numerical number which was calculated on the basis of the price of goods which consisted of more than one commodity (Art. 2 para.2 of the Commodity Futures Trading Act). For example, the crack spread is regulated by the provision.

The Commodity Futures Trading Act regulates not only ①futures trading for delivery (Art. 2 para. 3 no. 1 of the Commodity Futures Trading Act), ②futures trading for cash settlements (Art. 2 para. 2 no. 2 of the Commodity Futures Trading Act), ③commodity index futures trading (Art. 2 para. 2 no. 3 of the Commodity Futures Trading Act), ④option trading (Art. 2 para. 2 no. 4 of the Commodity Futures Trading Act), but also ⑤commodity swap trading (Art. 2 para. 2 no. 5 of the Commodity Futures Trading Act) ⑥commodity index swap trading (Art. 2 para. 2 no. 6 of the Commodity Futures Trading Act), and ⑦trading designated by the cabinet order (Art. 2 para. 2 no. 7 of the Commodity Futures Trading Act). Commodity swap option trading and commodity index option trading (Art. 2 para. 2 no. 4 ni, ho of the Commodity Futures Trading Act) are added to commodity futures option trading (for delivery or for cash settlements).

(2) The traders regulated by the Commodity Futures Trading Act

The traders regulated by the Commodity Futures Trading Act are classified into ①commodity futures traders, ②commodity futures intermediaries and ③specific over the counter commodity derivatives traders.

Commodity futures traders are those acting as a trustee of domestic exchange trading, offshore exchange trading or over the counter trading, or as an intermediary, broker or agent thereof (Art. 2 para. 22 of the Commodity Futures Trading Act).

Commodity futures intermediaries are those acting only as an intermediary of commodity futures traders (Art. 2 para.29 of the Commodity Futures Trading Act).

Specific over the counter commodity derivatives traders are those who are not required to obtain a license as a commodity futures trader and those acting as a trader of commodities, listed commodity index or similar commodity index, when they are listed in the commodity exchange and publicly notified under the Commodity Futures Trading Act (Art. 349 para.1 of the Commodity Futures Trading Act).

(3) Classification of specific consignors, specific traders and general consignors

The Commodity Futures Trading Act classifies users of commodity futures market into professional (specific consignors and specific traders) and laymen (general consignors, customers).

Specific consignors are ①commodity futures traders, ②commodity investment advisers, ③those stipulated by the cabinet order who have special knowledge and experience of the commodity derivative trade, ④the state, ⑤the Bank of Japan, ⑥the members of commodity exchanges, ⑦the members of offshore facilities corresponding to commodity exchanges (Art. 2 para. 26 of the Commodity Futures Trading Act).

Specific traders are legal entities which are engaged in the sale of commodities in commodity derivatives trading and apply to the requirements stipulated by the ordinance.

(4) Prohibited unsolicited calls

The Commodity Futures Trading Act prohibits the unilateral solicitation without a request from the customers (Art. 214 no. 9 of the Commodity Futures Trading Act).

Editorial Note:

The Commodity Futures Trading Act comprehensively defines domestic exchange trading, offshore exchange trading, and over the counter trading as "commodity derivatives trading". The scope of commodity index underlying derivatives is extended under the Act. Furthermore, it stipulates that the types of trading can be additionally designated by the cabinet order in order to expeditiously regulate new types of trading when this is required to protect consignors.

The Commodity Exchange Act, the Act on the Consignment and Other Matters Relating to Futures Transaction in Foreign Commodity Markets, and the Act on Specified Commercial Transactions required only commodity traders under the Commodity Exchange Act to obtain a license as an entry regulation (license system). The Commodity Futures Trading Act introduces entry regulations for the offshore exchange trading and over the counter trading which were not required to have them. Thus, the traders regulated by the Commodity Futures Trading Act are ① commodity futures traders, ②commodity futures intermediaries and ③ specific over the counter commodity derivatives traders.

Commodity futures traders have to obtain a license from the state minister in charge (Art. 190 para.1 of the Commodity Futures Trading Act). In contrast, commodity futures intermediaries have to register with the state minister in charge (Art. 2 para. 29 of the Commodity Futures Trading Act), and specific over the counter commodity derivatives traders are required to notify the state minister in charge (Art. 349 para. 1 of the Commodity Futures Trading Act).

The Commodity Exchange Act imposed on commodity traders strict behavior regulations. The Commodity Futures Trading Act also continues to strictly protect general investors who lack special knowledge, in order to protect consignors, while it loosens the behavior regulations for specific consignors (Art. 2 para. 25 of the Commodity Futures Trading Act) and specific traders (Art. 2 para.26 of the Commodity Futures Trading Act) to enable professional investors to use smoothly commodity futures markets. The behavior regulations, such as prohibited unsolicited calls (Art. 214 no. 9 of the Commodity Futures Trading Act) or suitability rules (Art. 215 of the Commodity Futures Trading Act) are exempted in the trading between specific consignors and specific traders.

General investors should be strictly prevented from being unconsciously involved in trouble to enhance the sound development of the commodity futures market, because commodity futures trading may bring about losses that exceed the investment amount and have a high risk for general investors. Therefore, the Commodity Futures Trading Act prohibits unsolicited calls (Art. 214 no. 9 of the Commodity Futures Trading Act)

The provisions to ensure the fairness of trading under the Commodity Futures Trading Act, such as the stricter regulations for manipulation have already become effective on October 8, 2009. The provisions to regulate the mergers or capital alliance between the commodity exchanges and the financial instruments exchange will be effective on July 1, 2010. Furthermore, the provisions to strengthen the regulations for off exchange trading or offshore commodity futures trading will be effective from January, 2011.

The necessary cabinet orders and ordinances will be arranged, according to the gradual enforcement of the Commodity Futures Trading Act.

7. Labor Law

Partial amendment to the Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave
Act No. 76 of May 15, 1991 (Effective on June 30, 2010, with some exceptions)

Background and purpose of this revision

The decline in the birthrate continues to develop in Japan rapidly, which is producing concern about the negative effects on society and the economy, including the reduction in the workforce and the reduction of the vitaling of the community. However, the difficulty of continuing to work while taking care of children or other family members still remains, although more and more persons hope to balance work life and family life regardless of gender. As for women, the rate of women before childbirth with a job exceeds 70 percent, but the number of women after childbirth with a job accounts for only some 30 percent of that figure. Some 70 percent of female workers leave their job immediately after they give birth to the first child. As for men, still few male workers take care of children. For instance, the rate of male workers who took child care leave is only 1. 56 percent. It is urgently needed to eliminate the current situation under which a person is pressed to choose between the two - work or family for the purpose of achieving workers' right to work and gender equality and developing the society and companies in terms of securing human resources and improving the birthrate.

Therefore, it is important to promote policies for balancing work life and family life by reducing the long work hours of all workers, for instance, and particularly, also to strengthen support for workers pressed