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The Review and Revised Proposal for “Anti-Bribery of Foreign Public Officials” —Lessons from the Legislative Experience of Japan

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Abstract

Art. 11.3 of the Anti-Corruption Act is called the “Anti-Bribery of Foreign Public Officials.” It aims to prevent our people or corporations from bribing foreign public officials in the hope of getting advantage or benefit in international trades and to eradicate business bribery. However, it has been 14 years since its enactment in 2003 and there have been almost no lawsuits about it. It’s worth our further discussion on whether there are problems about the rules themselves or whether there are difficulties in enforcing them.

In 1997, Japan signed a pact of the Organization for Economic Co-operation and Development (OECD) to inhibit bribing foreign public officials in international trades. To fulfill related obligations, it added the article of “Prohibition to Provide

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Illicit Gain, etc. to Foreign Public Officers” to its Unfair Competition Prevention Act in 1998. Afterwards, Japan has made many modifications to the related rules of this crime in order to cooperate with the inspection of OECD. Thus, there should be something worth our consultation in Japan’s legislation, amendment, and the problems they encountered in the enforcement.

Therefore, this thesis makes an introduction of Japan’s law of “Prohibition to Provide Illicit Gain, etc. to Foreign Public Officers” and examines the problems in our law of “Anti-Bribery of Foreign Public Officials” in the hope of coming up with the solutions so that we can strike a balance between enhancing our trade competitiveness and fulfilling the obligations as a part of the world.

Keywords: Business Bribery, Anti-Corruption Act, Anti-Bribery of Foreign Public Officials, Unfair Competition Prevention Act (Japan), Prohibition to Provide Illicit Gain, etc. to Foreign Public Officers