

ANNOTATED SELECT BIBLIOGRAPHY OF JAPANESE BUSINESS AND TRADE LAW IN WESTERN LANGUAGES

Harald Baum * & *Luke Nottage* **

This annotated bibliography updates Baum's earlier bibliography in German. It comprises an annotated guide to general source material dating from around 1970, and a select bibliography of other works dating from around 1993. It includes a guide to useful sites on the Internet. As well as introducing and identifying publications in English, this bibliography aims to make more accessible some of the material increasingly available in other Western languages. It also includes the growing volume of writing on Japanese law emanating from Commonwealth countries.

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* Senior Researcher (Japan), Max-Planck-Institute for Foreign and International Private Law, Hamburg.

** Lecturer in Law, Victoria University of Wellington; Associate, JHJ Crawford Law Office.

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A INTRODUCTION

In 1993, a New Zealand comparative lawyer who first developed an interest in Japanese law in the 1960s translated into English an article on "Problems of the Translation of Law in Japan" originally written in French by a Japanese law professor, and wrote in the Foreword:¹

From the translation point of view the product in English is itself interesting because it has had to pass through two cultural dimensions to reach the present audience. Future generations of New Zealand lawyers will, it is to be hoped, be able to communicate directly with their Japanese colleagues.

Certainly, a complete grasp of Japanese law is almost unobtainable without access to primary sources.² Nonetheless, the rapid growth in publications in Western languages over the last few decades can provide a very good overview and, in some areas, allow more detailed analyses.³ The recent growth in high-quality German publications has been particularly noticeable. However, those publications have not yet been fully introduced to English speakers interested in Japanese law, who may well speak more German than Japanese or who may be interested in collaborating with German or Japanese colleagues familiar with materials in German. There has also been a steady increase in writing from Commonwealth countries, sometimes offering rather fresh perspectives.⁴ This bibliography aims to make some of this writing more accessible, and to provide a useful starting point for a practitioner, law student or teacher, law librarian or even a businessperson with an interest in Japanese law and business.

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- 1 ANGELO, Foreword, in KITAMURA (Angelo, trans & ed) *Problems of the Translation of Law in Japan* (Wellington, VUWLR monograph No 7, 1993).
 - 2 This work does not discuss how to conduct research into Japanese law using Japanese language sources. A classic explanation in English is SMITH, *Legal Research*, in: TANAKA (ed), *The Japanese Legal System* (Tokyo, 1976) 833-872. A more recent explanation in German is SAKURADA / BÖLICHE, *Wie finde ich Primärquellen zum japanischen Recht?* (2 Volumes, Marburg, 1995). The latter is reviewed by BAUM in *ZJapanR* 1 (1996) 119-120, and can be ordered directly from Japan Zentrum, Phillips-Universität Marburg, Biegenstrasse 9, D-35032 Marburg, Germany.
 - 3 Cf BAUM, *Der Zugang zum japanischen Recht: Mitt d DJJV* 1 (1988) 13-19.
 - 4 See NOTTAGE "Contract Law and Practice in Japan: An Antipodean Perspective" in BAUM (ed) *Japan: Economic Success and Legal System* (Berlin, 1997) 197-223; and MARFORDING "The Fallacy of the Classification of Legal Systems - Japan Examined" in TAYLOR (ed) *Asian Law Through Australian Eyes* (Sydney, LBC, forthcoming 1997).

It translates parts of, updates, and somewhat expands, a bibliography published in German in 1994.⁵ The style is largely that of the original bibliography.⁶ Part B outlines important general sources. Some obsolete references have been deleted, and new references added. With some exceptions, it refers only to publications appearing after 1970. It includes completely new sections on finding information on Japan in English through the Internet (especially in Part B IX and some footnotes in Part B VI). Part C, with translated subject area headings and footnotes, then lists important specific works on Japanese law. With some exceptions, these date from June 1993 to December 1996 only; Part C should be read in conjunction with Baum's original bibliography. It divides references into fourteen general areas and numerous sub-areas, a categorisation which readers may also find helpful for filing further works on Japanese law. The works selected are largely related to business law, but in its broader context. Hence the first area is covered in Part C is legal theory and legal history (C I), followed by public and international law (C II), particularly as they relate to business topics. A later section (C V) also contains background works on the Japanese economy, business, and and trade.

Like the original, the present bibliography is deliberately selective. Complete comprehensiveness is now virtually unobtainable, and may sometimes be counter-productive for a busy researcher. Instead, the annotated Part B and references selected for Part C aim to provide an efficient means of accessing basic information in Western languages on a broad range of issues in Japanese business law.⁷

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- 5 BAUM, *Annotierte bibliographische Angaben*, in: BAUM / DROBNIG (eds) *Japanisches Handels- und Wirtschaftsrecht* (Berlin, 1994) 691-757.
 - 6 Citation style generally follows that adopted in the latter, with some minimal changes to closer approximate usual VUWLR style. The Appendix lists abbreviations adopted for some periodicals, which are not included in a standard Guide and which may be unfamiliar to readers.
 - 7 Updating of both Parts B and C was completed in January 1997. Many have helped identify material cited herein, and the authors thank them all. The process of updating is also an ongoing one, and the authors welcome comments from readers. Please direct these either to Dr *Baum*, c/o Max-Planck-Institute for Foreign and Private International Law, Mittelweg 187, 20148 Hamburg, Germany; or to *Nottage*, c/o Victoria University Law Faculty, PO Box 600, Wellington, New Zealand, or (from April 1997) c/o Kyushu University Law Faculty, 6-19-1 Hakozaki, Higashi-ku, Fukuoka 812, Japan.

B GENERAL SOURCES: AN ANNOTATED GUIDE

I Bibliographies⁸

The most recent bibliography contains useful introductions to seventeen recently published texts and mentions a number of others in passing:

HOHMANN, HARALD, *Modern Japanese Law: Legal History and Concept of Law, Public Law, and Economic Law of Japan. A Review Essay of the 16 Most Important of the More Recent Books: 1996*, *Am J Comp Law* 151-173.

Written by a German author, this also summarises some of the recent German writing, which is helpful for English readers.

A more compendious and still very valuable bibliography is:

SCHEER, MATTHIAS, *Japanisches Recht in westlichen Sprachen 1974-1989. Eine Bibliographie / Japanese Law in Western Languages 1974-1989. A Bibliography. Volume 1 of the Publications of the German-Japanese Lawyers Association (Mitt d DJJV: Hamburg, 1992) 880 pp.*⁹

This work, in both English and German, lists more than 8000 publications (including cross-references). These encompass the full breadth of publications since the mid-1970s in German, English, French, Spanish and Italian. All areas of Japanese law are covered. It aims for as comprehensive a listing as possible, without attempting to appraise the value of each publication. This approach complements that of the present bibliography. The editor divides his bibliography into 21 subject areas, with up to 20 sub-areas. Entries are ranked in reverse chronological order within each sub-area. This provides a quick grasp of the general contours and pressing issues of a particular area of law. There are also two alphabetical indexes facilitating a specific search: one by author, and another particularly comprehensive one by subject (over 145 pages long).

The following annotated bibliography aims to provide information on Japanese law which has a trade or commercial law connection. It mainly identifies translations of Japanese statutes and regulations, and introduces edited works. Articles are not dealt with, although monographs and bibliographies touching on business law are listed. It contains publications through to 1988.

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- 8 Beginning with the most recent. This Part does not discuss in detail standard indexes which appear regularly and contain sections under headings such as Japan or Japanese Law, eg the *Index to Legal Periodicals* and the *Index to Foreign Legal Periodicals* (published in the United States) or the *Karlsruher Juristische Bibliographie* (KJB, published in Germany).
- 9 Reviewed eg by RESZAT: *WuW* 1993, 504. This bibliography can be ordered directly from the General Secretary of the German-Japanese Lawyers' Association, Dr Scheer, Bleichenbrücke 1, 20354 Hamburg, Germany.

BRITT, ROBERT, *The Japanese Legal System and International Trade. Up-to-Date Sources of Information in English*: L Lib J 1990, 313-330.

The following bibliography concentrates on publications from the 1980s with connections to the sociological, political or historical aspects of Japanese law. Publications are briefly introduced under the following headings: Japanese conceptions of law, constitutional law, anti-monopoly law, administrative law, and contract law.

FELDMAN, ERIC, *Annotated Bibliography. Japanese Law and Society*: L in Japan 1988, 219-257.

The following compilation, not annotated, is mainly limited to monographs and articles related to commercial law, from before 1984. The focus is on publications in English from the 1960s and 1970s. The division into subject areas is helpful.

KITAGAWA, ZENTARO (gen ed), *Doing Business in Japan* (New York 1980 ff, Looseleaf), Volume 1, B-1 to B-42.

The following overview of the various main areas in Japanese law gives, at the end of each, a short summary of the most important writings in the relevant area, both in Western languages and in Japanese.

EUBEL, PAUL, et al, *Das japanische Rechtssystem* (Frankfurt, 1979) 757 pp.

The further "general" bibliography at the end of the book (pp 642-679, annotated) is particularly useful, giving primary and secondary sources as well as dictionaries and general advice on how to conduct research using sources in Japanese.

The following is probably the most comprehensive compilation of older materials, published over the course of more than a century. Careful divisions allow the researcher to quickly get oriented, despite the profusion of materials — all aspects of Japanese law are considered. This bibliography is of particular importance for legal historians.

COLEMAN, REX / HALEY, JOHN O, *An Index to Japanese Law. A Bibliography of Western Language Materials 1867-1973*: L in Japan, Special Issue (Tokyo, 1975) 167 pp.

Regular updates until 1978 are contained in:

SCHERER, MATTHIAS, *Recent Publications, Index to Japanese Law, Supplements Nos 2-5*: L in Japan 1975, 212 ff; 1976, 162 ff; 1977, 167 ff; 1978, 125 ff;¹⁰

An update through to 1983 is provided by:

LEE, T SUSANNE, *Recent Publications - Index to Japanese Law, Supplement No 6, Containing materials published through 1983*: L in Japan 1990, 130-231.

¹⁰ These updates have been incorporated in the bibliography of *Scherer* mentioned in the text above.

The latter also includes some non-English, particularly German publications. Unfortunately, categorisation is often dubious,¹¹ and titles as well as authors have suffered some infelicities in the course of compilation.

Finally, the following is effective in its careful division of topics into subject areas, although it is now somewhat dated. It deals mainly with publications from 1955 to 1975, including a series of German as well as as French publications.

WANG, DOMINIQUE, *Les sources du droit japonais* (Geneva, 1978) 200-288.

II *Periodicals and Series*

This section covers only periodicals and series which contain publications on Japanese law on a quite regular basis.

- 1 Perhaps the most significant regular publication exclusively on Japanese law topics in a Western language — and certainly in English — is *LAW IN JAPAN: AN ANNUAL*. This has been published since 1966 in Tokyo and Seattle by the *Japanese American Society for Legal Studies*.¹² The journal is distinguished first by its unusually careful and expert editing, mainly carried out by the *Asian Law Center* at the *University of Washington* in Seattle.¹³ Secondly, it is one of the few Western publications which aims also to direct attention towards the reality of law in Japan, so important — at least for the Western observer — to a sound understanding Japanese law and its somewhat flexible and pragmatic character. About half the publications are by Western (mainly American) authors; the others are careful English translations of Japanese articles. Issues dedicated to specific themes are frequent, such as that on administrative law (1986) and on the partial opening of legal practice to foreign lawyers (1988). As well as longer articles, there are reports on ongoing law reform projects and proposals, and comprehensive commentaries on selected court cases.
- 2 The *ZEITSCHRIFT FÜR JAPANISCHES RECHT*, launched in 1996, aims to provide similar high-quality coverage. It is published biannually by the *Deutsch-Japanische Juristenvereinigung* (*German-Japanese Lawyers Association*).¹⁴ Both issues so far contain carefully researched articles, often with a similar focus on the "law in action", albeit generally somewhat shorter than those in *LAW IN JAPAN*. The *ZEITSCHRIFT* also

11 For instance, the rather sparse entries under the subject heading "Civil Law" are exclusively to works dealing with procedural law, arbitration, or comparative law.

12 The latest volume, number 25, was published in 1995. Volume 24 was published in 1991.

13 Exceptionally, the present editor is Professor *Kamiya* (Gakushuin University Law Faculty, Tokyo).

14 Enquiries can be directed to the General Editor, Dr *Baum*, c/o Max-Planck-Institute for Foreign and Private International Law, above n 7.

contains casenotes and shorter articles on topical areas of Japanese law, a summary of legislative activity, and book reviews. In addition, there are reproductions of lectures or speeches, and of important material published elsewhere (sometimes in updated form), together with reports on conferences or seminars and on other topics related to Japanese law.¹⁵ A final section is a record of the German-Japanese Lawyers Association, as the *ZEITSCHRIFT* has now replaced the *MITTEILUNGEN DER DEUTSCH-JAPANISCHEN JURISTENVEREINIGUNG* (Issue 1 of the former doubling as Volume 17 of the latter). The *MITTEILUNGEN*, edited twice or three times a year since the end of 1988, had a similar coverage and interest in business law topics in a broader sense.

- 3 More "black-letter" is *RECHT IN JAPAN*, which has been produced somewhat irregularly since 1975 in Freiburg by *Müller-Freienfels / Frank / Schlechtriem / Stoll* (10 volumes to date: originally published in Frankfurt, but in Baden-Baden from 1991). A major focus is on publications addressing questions of Japanese civil law, although other areas of law are also covered.
- 4 The series *JAPANISCHES RECHT*, edited by *Baumgärtel / Hanau / Klingmüller / Meissner / Oehler / Pritting* and published in Cologne since 1976, deserves particular mention. A total of 30 volumes — edited works, conference proceedings, translations of legislation, and monographs — have appeared in loose succession, on virtually all major areas of Japanese law. However, the focus is on private law and civil procedure. Another series appearing regularly (5 volumes since 1993) is the *VERÖFFTLICHUNGEN DER DEUTSCH-JAPANISCHEN JURISTENVEREINIGUNG*, published by the *German-Japanese Lawyers Association*. The focus so far has been on conference proceedings of the Association, but some monographs have been published or are currently being prepared for publication in 1997.¹⁶
- 5 Some recent information on Japanese business law is also to be found in *THE JAPAN LAW JOURNAL*, published bi-monthly by *Survey Japan* in Tokyo. Mostly, this consists of short and very general explanations of new legislative and administrative developments, with some haphazard mention of newer caselaw developments. The journal is hardly of academic standard, and of doubtful value even for practitioners now that so much high-quality information on Japanese law is becoming available. More authoritative updates on capital markets are contained in the *CAMRI REVIEW* (published bimonthly from 1988 to 1995, and as a newsletter since 1996, by the *Capital Markets Research Institute* in

15 An example is the report of one of the graduates from the one-year International and Economic Business Law LLM programme taught (in English) at Kyushu University since 1994. This remains the only one of its kind at a Japanese law school.

16 Enquiries can be directed to the general editor, Dr *Scheer*, at the address above (n 9).

- Tokyo); and, on competition law, in *FTC/JAPAN VIEWS* (published bimonthly by the Japan Fair Trade Commission).
- 6 The *JAPANESE ANNUAL OF INTERNATIONAL LAW*, published by the *International Law Association of Japan* in Tokyo since 1957, remains perhaps the most important source for decisions and materials on international law in particular and, to an extent, on private international law. The numerous translations of Japanese judgments dealing with questions of trans-border trade are also helpful. So is the chronology of treaties concluded by Japan, with occasional English translations. The more recent *PACIFIC RIM LAW & POLICY JOURNAL* is carefully edited by select students at the *University of Washington*. This quarterly law journal was first published in 1992, and almost always contains Japan-related writing: translations of Japanese works and annotated commentaries to new laws, as well as articles. A number of other journals in the Asia Pacific region often contain writing on Japan, but less regularly.¹⁷
 - 7 In addition, some (mainly yearly) journals are produced by Japanese universities, with essays in English and occasionally in German on a wide range of topics. Articles on Japanese law are roughly balanced by articles on foreign law. Many are doctrinal or focus on legal history, but some relate to business law. In rather tentative order of usefulness, these journals include: the *WASEDA BULLETIN OF COMPARATIVE LAW*, published by the *Institute of Comparative Law* at Waseda University, Tokyo; *NIHON UNIVERSITY COMPARATIVE LAW*, published by the *Comparative Law Institute* of Nihon University, Tokyo; the *KOBE UNIVERSITY LAW REVIEW (INTERNATIONAL EDITION)*; the *OSAKA UNIVERSITY LAW REVIEW*; the *HITOTSUBASHI JOURNAL OF LAW & POLITICS*; and the *RITSUMEIKAN LAW REVIEW*.

III *Translations of Statutes and Regulations*

The following guide introduces translations of important Japanese legislation (first in English, then in German) largely in the order of the general topic areas set out in Part C.

The most comprehensive source of English translations of Japanese statutes, and sometimes their attendant regulations, is the ten-volume looseleaf series:

EIBUN HOREI SHA (ed), *EHS Law Bulletin Series* (Tokyo, 1955 ff).

¹⁷ Eg *ASIA LAW & PRACTICE* (produced by the City University of Hong Kong since 1992) and the *UCLA PACIFIC BASIN LAW JOURNAL* (produced by the University of California since 1982). Three Australian institutions have recently combined to publish a new, refereed journal entitled *ASIAN LAW*. Enquiries, and expressions of interest for the first issue due out in 1997, should be directed to the Asian Law Centre at the University of Melbourne, Parkville Vic, Australia 3052.

It has recently been supplemented by a quite extensive index, a long-overdue aid:

BRITT, ROBERT / STROUSE, MARY (eds), *Japanese Laws in English: An Index to the EHS Law Bulletin Series* (University of Washington, Seattle, 1995) 157 pp.

The series is brought up to date regularly, if in somewhat large instalments. Although a very valuable tool, it is not an official translation and its quality has occasionally been questioned.

Generally, a more authoritative compendium of English translations of Japanese statutes is:¹⁸

KITAGAWA, ZENTARO (gen ed), *Doing Business in Japan* (New York, 1980 ff, Looseleaf), Statutory Material, Volumes 1 and 2.

Statutes, cabinet and ministerial ordinances (including relevant Schedules) covering foreign trade and exchange appear yearly, with a certain delay, in English translation as:¹⁹

CHUO SHUPPAN KIKAKU CO (ed), *Japan - Laws, Ordinances and Other Regulations Concerning Foreign Exchange and Foreign Trade* (Tokyo, 1996), 565 pp.

Major legislation relating to customs duties and procedures, including the anti-dumping law, is also available in official English translation:

JAPAN TARIFF ASSOCIATION (ed), *Japan Laws and Regulations Concerning Customs Duties and Procedures* (Tokyo, 2nd ed 1990) 370 pp.

The following work, prepared under the supervision of the Ministry of Construction, also includes booklets translating four pieces of legislation related to the main law relating to construction:

THE BUILDING CENTER OF JAPAN (ed, Sansei International Inc trans), *The Building Standard Law of Japan* (Tokyo, 3rd ed 1994) 438 + 41 pp.

It also contains useful appendices (a list of Ministry notices, a glossary of technical terms, and a good index including links to relevant provisions).

The following collection of official English translations of all important laws relating to labour law begins in fact with a translation of the Constitution:²⁰

MINISTRY OF LABOUR OF JAPAN, *Labour Laws of Japan 1995* (Tokyo, 1996) 811 pp.

18 It includes translations of the Constitution, intellectual property laws, foreign exchange and trade law, the Civil Code, the Code of Civil Procedure, the Civil Execution Act, the Commercial Code, Bills and Cheques Acts, the Antimonopoly Law, the law regulating foreign lawyers, and so on. Nonetheless, care must be taken as the updating is not always complete.

19 This is the most recent edition.

20 It continues with translations of laws relating to labour relations, labour standards, industrial safety, women and part-time workers, child care, employment security, accident compensation and employment insurance, and labour welfare.

The Practising Attorneys Law, and legislation relating specifically to foreign legal practice in Japan (prior however to amendments in 1994), are translated in:

WOHL, RICHARD / CHEMTOF, STEWARD / FUKUSHIMA, GLEN, *Practice by Foreign Lawyers in Japan* (Chicago and Washington DC, 1989) 113-134 and 87-112 respectively.

Important legislation relating to capital markets is translated in:

CAPITAL MARKETS RESEARCH INSTITUTE (ed), *Securities and Exchange Law* (Tokyo, new ed 1994, suppl 1995) 301 + 89 pp; *Law For Regulating Securities Investment Advisory Business* (Tokyo, 1988) 103 pp.

The Copyright Law and some associated legislation is translated in:

OYAMA, YUKIFURA et al (Copyright Research and Information Center), *Copyright Law of Japan* (Tokyo, 1996) 192 pp.

Statutes, regulations, guidelines and official notices relating to competition law are brought together with a short explanation in a Japanese government publication:

NAKAGAWA, MASANAO, *Antimonopoly Legislation of Japan* (Tokyo 1984) 361 pp.

A more recent English translation of the Anti-Monopoly Law is in:

IYORI, JOSEPH / UESUGI, AKINORI, *Antimonopoly Laws and Policies of Japan* (New York, 3rd ed 1994) 570 pp.

A series of important tax law statutes and regulations appears in English translation as:

HUSTON, JOHN / MIYATAKE, TOSHIO, *Japanese International Taxation* (New York, 1983 ff, Looseleaf).

The following includes both the original Japanese and an English translation of the main corporation tax law, including Chapter III of the Special Taxes Measures Law:

GOMI, YUJI, *Japan Corporation Tax Law as of April 1, 1996* (Tokyo, 1996) 943 pp.

Although not in a separate book,²¹ the following are English translations of important recent laws together with some commentary:

LEVIN, MARK, *Administrative Procedure Act: L in Japan 1995*, 141-159; and

MADDEN, THOMAS, *An Explanation of Japan's Product Liability Law: Pac Rim L & Pol'y J* 1996, 299-329.

²¹ In addition, YANAGIDA / FOOTE / JOHNSON / RAMSEYER / SCROGIN, *Law and Investment in Japan: Cases and Materials* (Cambridge Mass, 1994) contains a handy Appendix (589-722) with quite recent translations into English of much of the legislation mentioned in the text above. Although some are translations only of excerpts and much is reprinted from other sources, the Appendix includes updates where necessary (as of 1992) and some translations of laws which are original or difficult to obtain: eg that relating to auditing of corporations, the limited liability company, lawyers, patent and know-how licensing (the 1989 guidelines), and patents (the 1959 Act). See also the commentary on this work below (at B VIII).

German translations are, respectively:

SAKURADA, YOSHIKI / BÖLICHE, THORALF, Deutsche Übersetzung des neuen japanischen Gesetzes über das Verwaltungsrecht: Mitt d DJJV 15 (1995), 118-131; and

KLEISOW, OLAF, Das neue Produkthaftungsgesetz in Japan: Einführung, Übersetzung und Anmerkung: Mitt d DJJV 13/14 (1994/1995), 33-36.

The following translated book on Japanese constitutional law contains a German translation of the Constitution:

MIYAZAWA, TOSHIYOSHI (Trans and ed by HEUSER, ROBERT, and YAMASAKI, KAZUAKI), Verfassungsrecht (Cologne et al, 1986) 297-312.

Japanisches Recht, the series mentioned above (II 3), includes three separate volumes combining German translations of important commercial law legislation:

ISHIKAWA, AKIRA / LEETSCH, INGO, Das japanische Handelsrecht in deutscher Übersetzung (Cologne et al, 1988) 306 pp.

These include the provisions on (public) companies, limited liability (closely-held) companies,²² the law on registration of companies, as well as the regulations on balance sheets and profit and loss statements, and annual reports and attachments required of limited liability company. The translation is based on the law of 1981; unfortunately, it is now dated in parts, as a result of various amendments especially those in 1990 regarding shareholding. A new edition is currently being prepared.

Obsolescence has been less of a problem with the following two texts, on the Civil Code and Code of Civil Procedure respectively, because amendments subsequent to publication have not been so major:

ISHIKAWA, AKIRA / LEETSCH, INGO, Das japanische BGB in deutscher Sprache (Cologne et al, 1985) 189 pp; and

NAKAMURA, HIDEO / HUBER, BARBARA, Die japanische ZPO in deutscher Sprache (Cologne et al, 1978) 135 pp.²³

However, large scale amendments to the Code of Civil Procedure were enacted in 1996 (Law No 109), and will come into force on 1 January 1998.

22 IWAHARA / ROTH, Das japanische GmbH-Gesetz (Innsbruck, 1986) is another version, with a short introductory section.

23 This text also has a very good short introduction on the Code of Civil Procedure (1-39). KITAGAWA (gen ed), Doing Business in Japan (New York, 1980 ff, Looseleaf), Statutory Material Volume I, Appendix 4E, contains a translation of Civil Execution Act, enacted in 1979. For German translations of the separate legislation on temporary injunctions etc, see TAKESHITA, Teilübersetzung des japanischen Gesetzes über Zivilsicherungsmaßnahmen, in: BLANKENBERG / LEIPPOLD / WOLLSCHLÄGER (eds), Neue Methoden im Zivilverfahren (Bonn, Bundesanzeiger 1991 Beilage Nr 155a) 231 ff.

The Basic Law on the Environment is translated in a short monograph.²⁴

PHILIPP, HEIDE, *Das japanische Umweltrahmengesetz: Marburger Hefte zur japanischen Umwelt No 1* (Pauer, Erich, ed) (Marburg 1996) 42 pp.

A final important translation into German is that of the Antimonopoly Law, in:

IYORI, JOSEPH / UESUGI, AKINORI / HEATH, CHRISTOPHER, *Das japanische Kartellrecht* (2nd ed, Cologne 1994) 225-260.

Unfortunately, there is still no German compendium of translations comparable to the two in English mentioned at the start of this section.

IV *Glossaries and Dictionaries*

A comprehensive and carefully edited English-Japanese/Japanese-English dictionary, edited by a group of Japanese and American experts (including lawyers), contains many legal — especially business law — terms:

GLOBARU MANEJIMENTO GURUPO (ed), *Shin bijinesu eigo daijiten / Advanced Business English Dictionary* (Tokyo, 1987) 2128 pp.

The English-Japanese part only gives the English and the Japanese characters, without the romanised reading of the latter which is so handy for non-native speakers of Japanese who cannot necessarily remember how the Japanese characters are pronounced. However, the Japanese-English part lists the terms first in romanised alphabetical order, followed by the Japanese characters and the English translation.

Even less convenient, for the non-Japanese speaker, is:

TANAKA, HIDEO (gen ed), *Eibei ho jiten / Dictionary of Anglo-American Law* (Tokyo, 1991) 1025 pp.

It consists mainly of an English-Japanese part, without a romanised reading of the Japanese characters. However, for each English term, concise but excellent explanations (with cross-references) are given in Japanese along with the translation. The corresponding Japanese-English glossary lists Japanese terms only in the Japanese order, without any romanised version, and is very brief (993-1025). However, the dictionary is particularly authoritative, produced by a team of 52 writers including the influential (late) general editor. It has rapidly become a new standard for serious comparative law scholarship in Japan.

The following is more convenient in that it does give both the Japanese characters and the romanised reading in the English-Japanese part. A Japanese-English part (not adverted to in the title) also gives romanisation, Chinese characters, and then the English.

²⁴ It can be ordered directly from Förderverein "Marburger Japan-Reihe", Japan Zentrum, Phillips-Universität Marburg (above n 2).

JARMAN, SAMUEL, *Cassell English-Japanese Legal Dictionary and Handbook* (London, 1995) 320 pp.

In addition, some translated Japanese terms are explained briefly in the second half of the book. However, the selection and explanations are sometimes idiosyncratic, and the translations are not as reliable as those in the previously cited works or the following glossaries.²⁵

Short Japanese-English glossaries, with entries generally in romanised alphabetical order, include:

HENDERSON, DAN, *A Japanese-English Legal Glossary* (University of Washington, Seattle, 1985) 108 pp (with Japanese characters);²⁶ and

HATTORI, TAKAAKI / HENDERSON, DAN, *Civil Procedure in Japan* (New York, 1983 ff, Looseleaf) G-1 to G-53 (without Japanese characters).

Conversely, the following will list Australian legal terms and Japanese counterparts, in Japanese characters with *furigana* (to assist in reading them). It focuses on criminal, family and administrative law terms.

TAYLOR, VERONICA, *A Legal Glossary* (Melbourne, Victorian Interpreting and Translating Service, forthcoming).

More comprehensive (but without Japanese characters) is a trilingual glossary, English-Japanese-German and Japanese-English-German, focusing on business law terms:

KITAGAWA, ZENTARO (gen ed), *Doing Business in Japan* (New York, 1980 ff, Looseleaf), Volume 1, 220 pp.

The most important German-Japanese legal dictionary, well suited to the German user and including even the most technical terms, is:

GÖTZE, BERND, *Deutsch-Japanisches Rechtswörterbuch* (Tokyo and Munich, 1993) 379 pp.

The translation of German terms is rendered in Japanese characters as well as in romanisation (*romaji*). The latter feature is lacking in the following dictionaries aimed more at Japanese readers:

YAMADA, AKIRA, *Deutsch-Japanisches Rechtswörterbuch* (Tokyo, 1985) 537 pp. (sometimes with dated or infrequent terms); and

25 The selection of terms and the translations are even less convincing in KEIRSTEAD, *Tuttle's Dictionary of Legal and Business Terms* (Tokyo, 1994) 600 pp. In addition, the last third of the latter consists primarily of English and Japanese translations of the Japanese and US constitutions and of a short introduction to legal education in both countries, which seem of little relevance to what professes to be a dictionary.

26 The glossary may be ordered from the Director of the Asian Law Program, University of Washington, Condon Hall, 11 NE Campus Parkway, Seattle, Washington 98105-6617, USA

YOSHIDA, RYOKICHI, *Dogakushas Elementarer Wortschatz Rechtswissenschaft* (Tokyo, 1985) 469 pp (supplemented by brief English translations).

Finally, the following subject dictionary briefly explains some Japanese legal as well as economic terms in German:

INSTITUT FÜR JAPANOLOGIE DER UNIVERSITÄT WIEN, *Das japanische Unternehmen, Leitfaden für Wissenschaft und Praxis* (Vienna, 1987) 484 pp.²⁷

V *Introductions and General Works on Japanese Law*

Among the series of writings on Japanese law in Western languages, varying widely in form and detail, some can be singled out as introductory or general works:

- BAUM, HARALD (ed), *Japan: Economic Success and Legal System* (Berlin, 1997) 401 pp.
- BAUM, HARALD / STIEGE, TATJANA (eds), *Japan, Kultur und Recht - Eine Einführung: Veröffentlichungen der Deutsch-Japanischen Juristenvereinigung, Vol 2* (Hamburg, 1993) 194 pp.
- DAVIS, JOSEPH, *Dispute Resolution in Japan* (The Hague et al, 1996) 568 pp.
- EUBEL, PAUL (ed), *Das japanische Rechtssystem* (Frankfurt, 1979) 757 pp.
- FUJIKURA, KOICHIRO (ed), *Japanese Law and Legal Theory* (Aldershot, 1996) 647 pp.
- IGARASHI, KIYOSHI, *Einführung in das japanische Recht* (Darmstadt, 1990) 192 pp.
- HALEY, JOHN O, *Authority Without Power. Law and the Japanese Paradox* (Oxford et al, 1991) 258 pp.
- HENDERSON, DAN / HALEY, JOHN O, *Law and the Legal Process in Japan* (University of Washington, Seattle, 2nd ed 1988) 2 Volumes, total of 1282 pp.
- VON MEHREN, ARTHUR (ed), *Law in Japan. The Legal Order in a Changing Society* (Cambridge Mass, 1963) 706 pp.
- MARFORDING, ANNETTE (ed), *Japanese Law* (UNSW, Sydney, 1996).
- MENKHAUS, HEINRICH (ed), *Das Japanische im Japanischen Recht, Monographien aus dem Deutschen Institut für Japanstudien der Philipp-Franz-von-Siebold Stiftung, Vol 5* (Munich, 1994) 574 pp.
- MURAKAMI, JUNICHI, *Einführung in die Grundlagen des japanischen Rechts* (Darmstadt, 1974) 135 pp.

27 Helpful translations of economic technical terms, but not of legal terms per se, are also to be found in SIMONS-LIEUTENANT, *Terminologie de l'économie / Terminology in Economics / Keizai Yogo* (Brussels, 1989) 280 pp.

- NODA, YOSIYUKI, Introduction au droit japonais (Paris, 1966) 285 pp; translated into English as: Introduction to Japanese Law (Tokyo, 7th ed 1987) 253 pp.
- NODA, YOSIYUKI, Japan: Int Enc Comp L, Vol I, National Reports, J-4 to J-25 (1971); Updated by OKI, MASAO: Supplement J (1993).
- ODA, HIROSHI, Japanese Law (London et al, 1992) 444 pp.
- RAHN, GUNTRAM, Rechtsdenken und Rechtsauffassung in Japan (Munich, 1990) 470 pp.
- TANAKA, HIDEO (ed), The Japanese Legal System (Tokyo, 1976) 954 pp.
- WANG, DOMINIQUE, Les sources du droit japonais (Geneva, 1978) 307 pp.

- 1 In his country report for the *International Encyclopedia of Comparative Law*, Noda provides a brief but incisive introduction to the structure and evolution of Japanese law. Individual areas of law are outlined, as well as the constitutional background and sources of law. This overview is completed by a select bibliography. A supplement by Oki updates this introduction to 1987. More comprehensive is the older introduction in monograph form by Noda, who describes in detail the development and administrative structure of legal thought. Particular attention is paid to the attitude of the Japanese towards law and the role of customary law as a source of law.²⁸ The introduction to the foundations of Japanese law by Murakami concentrates on the process of modernising civil and criminal law, as well as introducing the main legal institutions in Japan.

The practically oriented general work edited by Eubel, bringing together many German and Japanese scholars, takes the presentation of Japanese law considerably further. With the detail of a reference text, it should not be overlooked by anyone seeking both an overview of major areas of Japanese law and a sound guide to further important references and materials.²⁹

Oda's presentation of almost all major areas of Japanese law is similarly detailed. The author achieves a particularly high standard by constantly attempting careful and comprehensive references to caselaw — without being afraid to treat cases critically (various constitutional law cases, for instance). The first 100 pages add an overview of the development and institutions of the Japanese legal system. There is no bibliographical information; but, exceptionally, there is a detailed table of cases. As a

28 See also NODA, The Far Eastern Conception of Law, in: Int Enc Comp L, Vol II ch 1, 120-137 (1975).

29 See also the commentary on this work above (at B I).

new edition of *Eubel's* work is not expected, this introduction by *Oda* over a decade later will no doubt take on particular importance.

By contrast, the introduction in German by *Igarashi* is very much shorter. Most areas of law are briefly introduced; but the focus is on civil law, which takes up about half the book. There is bibliographical information for some sections. Another introductory text of similar length, edited by *Baum* and *Stiege*, is based on twelve conference papers designed to give concise overviews of major areas of Japanese law.³⁰ An older introduction compiled in French by *Wang* introduces individual areas of law, bringing together (with a brief explanation) provisions from the various Codes relevant to particular issues.³¹

- 2 Rather than "black-letter" presentations of particular areas or topics in Japanese law, another set of works is more analytical, focusing on the evolution of a modern legal system since 1868 and on "legal process". Common to these is a vigorous attempt to work through the historical and socio-cultural backdrop to Japanese law. This is of particular importance for understanding Japanese law, for a sound grasp of the way in which the law operates in practice as well as "in the books".³²

The following two texts are perhaps the most important general analyses of Japanese law in Western languages in recent times. The monograph by *Rahn* analyses Japanese understandings of law, and consequent parameters for the acculturation of "received" Western law in Japan, with meticulous attention to civil law methodology and its effect on legal writing and caselaw. This complements the equally impressive but more wide-ranging analysis by *Haley*, who focuses on the functions of Japanese law and its transformation in practice in historical context. The portions on the extent of bureaucratic power are still relevant for understanding the reality of the law in Japan, a reality which foreign firms testing the Japanese market — and their legal advisors — will continuously need to evaluate.³³

30 Reviewed by LIEBRECHT: Mitt d DJJV 11/12, 1994, 120-121.

31 Even shorter overviews of the Japanese legal systems are to be found under the heading *Rechtswesen* in HAMMITZSCH (ed), *Japan-Handbuch* (Wiesbaden, 2nd ed 1984) pp 1397-1514 (various authors); and in BAUM, *Aspekte des japanischen Rechts - Ein Überblick*, in: FAZ/*Informationsdienste* (ed) *Japan Perspektiven* (Frankfurt/M, 1990) 112-158.

32 The following work also promises to fall within this category: RAMSEYER / NAKAZOTO *Japanese Law: An Analytical Introduction* (Boston, Little Brown & Co, forthcoming 1998). It will contain chapters on the legal profession, property, contracts, civil procedure, criminal law & procedure, torts, corporations, administrative law, and tax.

33 See the extensive book review of the works of *Rahn*, *Haley* and (to a lesser extent) *Oda* in BAUM, *Rechtsdenken, Rechtssystem und Rechtswirklichkeit in Japan - Rechtsvergleichung mit Japan*: *RabelsZ* 1995, 258-292.

The pioneering work in this vein, edited by *von Mehren*, is now somewhat dated. However, it bears mention for its still thought-provoking analyses by leading Japanese legal scholars of the 1960s. These fall into three key areas: the development of the modern legal system: the role of the individual therein; and the structure of, and issues in, Japanese business law. It is now complemented by a recently published book on *Japan: Economic Success and Legal System*, edited by *Baum*.³⁴ Although a set of conference proceedings, this is introduced in this section (rather than below at B VIII) because the writings coalesce convincingly along four ambitious axes: "Lawyers, Mediators and Legal Culture", "Law and Contract in Japanese Business", "Aspects of the Japanese Enterprise", and "The Bureaucracy in Japanese Economic and Legal Affairs". Internal coherence is enhanced by cross-references between contributors, a report of the discussions at each session, and the introductory and concluding chapters. The earlier conference proceedings edited by *Menkhaus* also provides a thought-provoking insights on Japanese law as a whole. Thirty-six German and Japanese contributors attempt to identify features in their respective fields that are characteristic of the present day legal system in Japan.³⁵

The most recent publication in this genre is the book by *Davis*, including contributions by *Oda* and *Takaishi*. Its primary primary purpose is practical: to describe to Westerners, lawyers and businessmen, what they can expect to happen if involved in civil litigation in Japan. Hence a major part of the book consists of the law and practice of civil procedure, including reforms (now enacted) to the Code of Civil Procedure. However, the book begins with considerable background to the historical development of the legal system, sources of law, the legal profession, and attitudes towards and forms of dispute resolution. The practical focus gives an interesting overall view on Japanese law.

- 3 A distinct set of introductory works are course materials or collections of reprinted publications on Japanese law. A recent example of the latter is that edited by *Fujikura*, which contains publications under five broad themes: legal consciousness and contracts; the courts, administrative guidance, and criminal justice; the role and use of law; dispute settlement; and legal and social rules.³⁶

34 Reviewed by ANGELO: (1997) 27 VUWLR 175.

35 Reviewed by KLIESOW: Mitt d DJV 15 (1995) 132-135; and MARFORDING: Asian Studies Review, forthcoming 1997.

36 Although the present authors have not yet sighted the following two very recent publications, they also appear to be course materials: MERYL, DEAN *Japanese Legal System: Text & Materials* (London, Cavendish Publishing Co, ISBN 1-85941-192-4, 1996) 500 pp; PORT, KENNETH *Comparative Law: Law and the Legal Process in Japan* (Durham, Carolina Academic Press, ISBN 0-8908860X, 1996) 860 pp.

An example of the former is the extensive two-volume work compiled by *Henderson* and *Haley*, for courses at the *University of Washington*. This includes extracts from important writings and — still a rarity in works on Japanese law — numerous English translations of leading cases. The materials cover the development of early and modern Japanese law, sources of law and legal institutions, but also include a series of questions on the various forms of procedure. Particular attention is paid to the embedding of the new, Western-oriented legal order in an initially alien legal culture.³⁷ The earlier work edited by *Tanaka*, assisted by *Smith*, adopts a similar approach. This has helped it from becoming too dated. It too contains extracts from writing in Japanese and Japanese court decisions, as well as considerable editorial commentary. The sections on the way Japanese judges apply the law, and the Japanese approach to law and legal process, are particularly illuminating.³⁸ More recent materials with an Australian perspective are the four volumes edited by *Marfording*. Designed for a course at LLM level, they too deal mostly with broader issues, such as historical foundations and questions of public law. The materials include some translations from Japanese, but also bring together in convenient form a range of references.³⁹ In German, *Einführung in das japanischen Zivil Recht*, published by the *Fernuniversität - Gesamthochschule - in Hagen* is a set of extensive course materials introducing Japanese Civil Law. These include material written by various Japanese authors under the direction of *Marutschke*. Contrary to the impression given by the title, the materials extend beyond civil law and into a range of business and trade law topics (eg company law, labour law, and competition law).⁴⁰

37 These materials are currently out of print. However, as for other course materials on company law (compiled by *Tatsuta* and *Kummert*, most recently in 1996), anti-trust law (compiled by *Haley*), and criminal justice and labour law (compiled by *Footte*), enquiries as to current or forthcoming availability to the general public should be directed to the Director of the Asian Law Program (above n 26).

38 Works in this category are now supplemented by YANAGIDA et al, mentioned above (n 21) and further discussed below (B VIII).

39 Enquiries as to their current availability to the general public should be directed to *Marfording*, Faculty of Law, University of New South Wales, Sydney 2052, Australia. "Research and Readings in Japanese Law" (reprinted in 1993, 285pp), prepared by *Taylor* for the Asian Law Centre at the University of Melbourne, are designed instead for students beginning study of Japanese law in the vernacular. The Director, *Smith*, has also produced materials for graduate students on Japanese law (1993, 600 pp) and on legal aspects of finance in Asia (1994, 450pp). Enquiries should be directed to him c/o the Law Faculty, University of Melbourne, above n 17. An increasing number of other institutions, such as the Asian Law Center at the University of British Columbia, regularly compile further useful reference materials.

40 Enquiries as to their current availability to the general public should be addressed to Dr *Marutschke*, Fachbereich Rechtswissenschaft, FernUniversität - Gesamthochschule - in Hagen, PO Box 940, D-58084, Germany.

VI Introduction to Japanese Business⁴¹

From an academic viewpoint, the following publications are of varying standards. However, most are of considerable relevance to the businessman and indirectly to the practitioner, touching on matters relating to Japanese business law.

- AMERICAN CHAMBER OF COMMERCE IN JAPAN (ed), A Guide to Doing Business in Japan (Tokyo, 1996) 220 pp.
- BAUM, HARALD, Marktzugang und Unternehmenserwerb in Japan. Recht und Realität am Beispiel des Erwerbs von Publikumsgesellschaften (Heidelberg, 1995) 253 pp.
- COMMISSION OF THE EUROPEAN COMMUNITIES (ed), Guide for European Investment in Japan (Tokyo and Brussels, 1990) 173 pp.
- DEUTSCHE INDUSTRIE UND HANDELSKAMMER IN JAPAN (ed), Investitionsfibel: Ratschläge für das Japangeschäft (Tokyo, 2nd ed 1987) 379 pp.
- EIDE, TORD, How to Establish Business in Japan (Deventer and Boston, 1991) 145 pp.
- ELI, MAX / BOTSKOR, IVÁN (eds), Leitfaden zur Erschließung des japanischen Marktes (Weissenhorn, 2nd ed 1991) 2 Volumes, total of 304 pp.
- HAGIWARA, SHINTARO (ed), Doing Business in Japan (Tokyo, 1990) 267 pp.
- HAHN, ELLIOTT, Japanese Business Law and the Legal System (Westport Conn, 1984) 168 pp.
- HEROLD, RENATE (ed), Das Industrieunternehmen in Japan (Berlin, 1986) 238 pp.
- HINKELMAN, EDWARD (ed), Japanese Business: The Portable Encyclopedia for Doing Business with Japan (San Rafael Ca, 1994) 374 pp.
- JAPAN EXTERNAL TRADE ORGANISATION (JETRO, ed), Q&A: Setting Up a Business in Japan. A Guide for Foreign Businessmen (Tokyo, 1996) 82 pp.
- JAPAN EXTERNAL TRADE ORGANISATION (JETRO, ed), Setting Up Enterprises in Japan (Tokyo, 1995) 635 pp.
- OTO — SECRETARIAT OF THE OFFICE OF THE TRADE AND INVESTMENT OMBUDSMAN (Coordination Bureau, Economic Planning Agency) (ed), Introduction to Standards, Certification and Other Regulations in Japan (Tokyo, 1994) 189 pp.

A plethora of introductory works on Japanese business and the economy has emerged in recent years. Of these, the one edited primarily by *Hinkelman* for the World Trade Press (which also publishes guides to a number of other countries) can be safely recommended to

41 Several of the references included in this section in Baum's original bibliography (above n 5) are no longer up to date or particularly useful, and references to them have been deleted accordingly. In principle, individual writings in the following publications are *not* introduced in the sub-areas in Part C of this Bibliography.

students, practitioners, and business clients first developing an interest in Japan. The first fourteen chapters give a general overview. Seven chapters follow on topics directly or indirectly related to business and trade law.⁴² The work nicely balances conciseness with comprehensive, generally reliable coverage. Equally valuable is the very recent publication of the *American Chamber of Commerce in Japan*, with similar coverage. It includes a business oriented Country Profile; background on Japan's economy; and practical advice on three important business law areas — direct investment and marketing, regulations and standards, and setting up an office in Japan. It concludes with a very up-to-date Appendix including contact addresses and important business events.⁴³

The *Office of the Trade and Investment Ombudsman* publishes a less comprehensive but very useful overview of the Japanese regulatory environment, with a focus on topics relevant to foreign businesses. The first part, in accessible Question and Answer format, is complemented by concise yet careful surveys of relevant legislation, much of which is only touched upon sporadically in other publications. The shorter *JETRO* guide gives an up-to-date and concise overview of issues relating to forming businesses, direct investment, taxation, the labour force, factory siting and financing. The appendix includes a directory of regional contact organisations, often neglected in other introductory works. The Question & Answer format, and the choice of issues covered, make this guide a rewarding starting point for businesspeople and lawyers alike.⁴⁴ It is supplemented by a much more

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- 42 Chapter 15 is on business entities and formation; chapter 16 on labour relations; chapter 17, on business law per se; chapter 18, on financial institutions; chapter 19, on currency and foreign exchange; chapter 20, on international payments; chapter 21, on corporate taxes; and chapter 22, on personal taxes. The final two chapters contain a short but useful business dictionary (albeit with few legal terms) and a directory of important addresses.
- 43 The publication can be ordered directly from the Chamber, Bridgestone Bldg 5F, 3-25-2 Toranomon, Minato-ku, Tokyo 105, Japan. Other publications listed at the Chamber's Internet site (<http://www.accj.or.jp/pub/pub.html#gdbj>) include an older guide to Setting Up an Office in Japan (1993: 197 pp); a Guide to Exporting to Japan (1995: 113 pp); a survey of Employment Practices of American Companies in Japan (1994: 40 pp); the 1995 US-Japan Trade White Paper (published annually); and Japan in (R)Evolution: An Assessment of Investment Performance by Foreign Firms in Japan (1995: 48 pp). The latter can be usefully compared with a survey of US firms undertaken by the same management consultants, AT Kearney International, and published by the Chamber in 1991 (summarised and discussed in Yanagida et al, above n 20, 1-12). The Chamber's site also contains a section on Doing Business in Japan (<http://www.accj.or.jp/dbj/dbj.html>), which includes useful cross-links to Japanese government and other sites with relevant business or trade related information.
- 44 A 1995 update of the 1992 edition is available on the Internet, under Setting Up Enterprises in Japan (<http://www.jetro.go.jp/fdi/sfe/frames/sef.html>) at the JETRO USA office site (<http://www.jetro.org/info.html>). The latter site also has useful sections on First Steps in Exporting to Japan (questions and answers on how to make initial contacts); a 1994 guide to Negotiating with the Japanese (including eg a balanced assessment of contemporary Japanese attitudes to contracts and to disputes); Japanese consumers, companies and distribution

comprehensive publication, not updated quite so regularly. This covers similar ground but in much greater detail, incorporating numerous sample forms and flowcharts. The appendix adds useful lists of the major Ministry of Justice Legal Affairs Bureaus throughout Japan, offices of major notaries, and statistical publications. Both *JETRO* publications have the added benefit of the information being provided in both English and Japanese versions.

An older counterpart published by the *Deutsche Industrie und Handelskammer in Japan* (*German Chamber of Commerce and Industry in Japan*), edited by *Neumann*, remains a useful German review of practical issues including tax, labour relations and social welfare, problems with intellectual property rights, and procuring business premises. Complicated points can be readily grasped through overviews presented in illustrated form. A 50-page directory brings together most addresses helpful for conducting business in Japan. However, some parts are now rather dated. More recent, and also of considerable practical relevance is the *Manual (Leitfaden)* produced primarily by *Eli*. It focuses on excellent analyses of the Japanese distribution system (for export, import and domestic markets), from the perspective of market access. Also helpful are the sections on negotiation strategies, typical problems for foreign firms in Japan, and the comprehensive directory of places to contact for assistance in accessing the Japanese market. There are few presentations of comparable conciseness undertaken with such competence. The guide produced by the *EC Commission* adopts a similar approach, but is more cursory. Of particular interest are the analyses of selected Japanese prefectures in terms of their attractiveness for foreign investment.⁴⁵ A more comprehensive and recent background work on market access and investment in Japan is by *Baum*. The first and fourth parts look primarily at legal issues in, respectively, foreign acquisitions of Japanese companies and takeovers generally. The second and third parts look at broader issues such as Japan's trade and investment balances, and corporate

networks; case studies (by product area) of US companies which have succeeded in the Japanese market; and a comprehensive list of *JETRO* publications and periodicals (mostly available free of charge). The *JETRO* head office homepage (<http://www.jetro.go.jp/index.html>) also contains more general information, such as Economic Information, Resources and Publications (combining some of the previously mentioned information with Japanese government White Papers and *JETRO* periodicals); and Facts & Figures on Japan's Trade and Economy.

45 In 1992 the European Commission and the Japanese government permanently established the EU-Centre for Industrial Cooperation. The Centre aims to provide European industry with a better knowledge of Japan's industrial structure and the Japanese market (<http://www.eu.japan.co.jp/CentreOutline/centre.html>). Its publications include *Intelligent Links to Japanese Information*, an extensive annotated listing of Internet sites containing useful information on Japan (<http://www.eu.japan.co.jp/jinformation.html>); and *Johogen V 3.1*, the Centre's Directory of Sources of Japanese Information on Trade and Technology (<http://www.eu.japan.co.jp/JohogenInteractive/Chapters/Overview.html>).

governance. It concludes with an analysis of advantages and difficulties in acquiring Japanese companies, as well as some case studies.⁴⁶

The publication by *Hahn* is now dated, but includes a broad-brush introduction to negotiating with the Japanese and the role of the bureaucracy in Japan.⁴⁷ The overview in *Eide* is also rather superficial, but it too provides a first impression of relevant issues. So too, with the short overviews of various distinct areas compiled more recently by *Hagiwara*.

VII General Works on Business Law⁴⁸

- BARKER GOSLING / MATSUSHITA, MITSUO / BEYER, VICKI (eds), Japan Business Law Guide (CCH International: North Ryde, Australia, 1988 ff, Looseleaf) 2 Volumes.
- BAUM, HARALD / DROBNIG, ULRICH (eds), Japanisches Handels- und Wirtschaftsrecht (Berlin, 1994) 796 pp.
- JAPAN EXTERNAL TRADE ORGANISATION (JETRO, ed), Japanese Law Series. Illustrated Guides (Tokyo, 1993 et seq), 9 volumes (91~169 pp each).
- KITAGAWA, ZENTARO (ed), Doing Business in Japan (New York 1980 ff, Looseleaf), 7 volumes plus 2 volumes of translations of laws and 1 index volume.
- MATSUSHITA, MITSUO, International Trade and Competition Law in Japan (Oxford, 1993) 352 pp.
- MCALINN, GERALD (ed), The Business Guide to Japan (Singapore, 1996) 285 pp.
- OGHIGIAN, HAIG (ed), The Law of Commerce in Japan. A Collection of Introductory Essays (Singapore, 1993) 109 pp.
- YANAGIDA, YUKIO / FOOTE, DANIEL / JOHNSON, EDWARD (JR) / RAMSEYER, J MARK / SCROGIN, HUGH, Law and Investment in Japan: Cases and Materials (Cambridge Mass, 1994) 734 pp.

The periodically updated ten-volume looseleaf series *Doing Business in Japan*, edited by *Kitagawa* at the Kyoto Comparative Law Center with contributions by numerous Japanese and (mainly) American scholars and practitioners, can rightly claim to provide the reader with a solid grasp of practically relevant rules of Japanese business law. Aimed more at common lawyers — particularly, but not exclusively, American readers — it offers an

46 Reviewed by HEATH: ZHR 1996, 289-294; and by KLIESOW: Z JapanR 1 (1996) 118-119.

47 A much more convincing account is by an Australian management consultant: MARCH, *The Japanese Negotiator* (Tokyo, 1988). Of similar vintage to *Hahn's* introductory work, but somewhat more detailed, is MARKS, *Australian-Japanese Business Transactions - Legal Aspects* (CCH Australia, 1978). As a period piece, and for its treatment of various commercial treaties with Japan, it is still of interest particularly for Antipodean readers.

48 With a few exceptions, individual writings in the following publications are *not* introduced in the sub-areas in Part C of this Bibliography.

entree to almost all areas of trade and business law, and neighbouring areas, albeit with varying degrees of detail. Coverage ranges from a detailed exposition of Japanese contract law, through company law, to the law of commercial instruments and securities regulation (to mention just a few of the areas covered). International private law and civil procedure, particularly important for outsiders, is also outlined. The treatment deserves some prominence, as it constitutes one of the few more recent presentations of this material in a Western language. The Overviews in Volume 1 were comprehensively updated in 1996, almost making that volume a stand-alone text.⁴⁹

This series has subsequently met with competition from the two-volume looseleaf, *Japan Business Law Guide*, published by CCH International. This is also updated regularly, and aims to remain particularly current. It provides a sound introduction to most areas of business law: company and securities law, contract law issues, foreign trade law, intellectual property rights, civil procedure, and labour law. Compared to *Doing Business in Japan*, the *Guide* is more concise and exclusively directed to practical issues.⁵⁰ There are virtually no references to further sources. It also does without separate translation of Japanese legislation; only the relevant provisions of statutes and regulations are reproduced in the relevant context. The inclusion of numerous standard forms in a separate section is another useful feature.

The series recently initiated by JETRO consists of shorter guides to various areas of law, in both English and Japanese.⁵¹ These are written for the average business person, rather than the lawyer; but are very handy. Topics are dealt with both in the text, and by charts and illustrations which are usually clearly presented. Emphasis is placed on procedural matters.

The work by *Matsushita* provides an extensive, authoritative and astute analysis of three major business law areas of particular interest to foreigners: competition law, foreign trade and investment law, and industrial policy.⁵² The substantial introductory chapter also

49 As mentioned above (B III), the translations of numerous Japanese laws contained in two supplementary volumes are also extremely helpful to Western readers.

50 The section on Japan in *DOING BUSINESS IN ASIA* (M Smith gen ed, 1992 ff, Looseleaf, 2 volumes), another CCH International publication, is shorter again, and even more directed at providing an overview for practitioners.

51 So far, they cover company law; antimonopoly law; intellectual property laws; labor law; laws on bills, notes and cheques; import and investment promotion; and tax law. See the list at the JETRO USA site above (n 44).

52 A more concise but now somewhat superseded text in a similar vein is *MATSUSHITA, MITSUO / SCHOENBAUM, THOMAS, Japanese International Trade and Investment Law* (Tokyo, 1989) 238 pp.

provides many insights into government regulation of business in Japan, also important yet not always to be found in shorter works in this area.⁵³

It complements the text recently compiled by *Yanagida* and his US colleagues. A Japanese joint venture hypothetical, based on a case *Yanagida* advised on as a practising lawyer in Japan, provides a convincing unifying thread to a broad range of business law topics. These include a general overview of changing trends in foreign investment and of the business environment in Japan; administrative guidance and regulation of foreign investment; contract law issues (focusing on negotiating and drafting of the contracts needed to establish the joint venture); choosing a corporate vehicle and corporate law; intellectual property law and anti-monopoly law; dispute resolution; and broader corporate governance issues (shareholder rights, mergers and acquisitions). Developed for use in courses at *Harvard Law School*, the materials have been skillfully woven together into one volume. Discussion questions are thought-provoking, and each chapter concludes with a well thought out list of further readings and (as mentioned at B 1 above) an Appendix of Japanese legislation has also been added.⁵⁴

The work edited by *Baum* and *Drobnig* is the result of collaboration between Japanese and German contributors — again, a mixture of practitioners as well as academics. Covering all aspects of business activity in Japan — company law, contract law, and the law relating to investment in Japan — it is comprehensive enough to be included in this rather than the following section. It includes a comprehensive discussion of the Japanese tax system, the regulation of financial markets and procedural, together with two overview chapters on the Japanese legal system as a whole.⁵⁵ A more concise work in English edited by *McAlinn* begins with chapters on economic trends, Japan's trade statistics, and government; but the bulk of the book consists of chapters on preparing to do business in Japan (contract law and negotiations, corporate organisation, and direct investment) and day to day operations of foreign firms in Japan (intellectual property law, tax, competition law, employment, customs law and dispute resolution). Authors are mainly experienced American practitioners, who write authoritatively but with the needs of busy businesspeople and their legal advisors firmly in mind. This approach and the coverage makes for a compelling overview of both Japanese business and business law.⁵⁶ By

53 Reviewed by ROBERTSON: *Lloyds Mar & Com LQ* 1994, 582-584; and GERBER: *Am Jnl of Comp Law* 1996, 175-178.

54 Reviewed by NOTTAGE: *NZ Univ L Rev* 1996, 223-228; and by HALEY: *Michigan J Int'l Law* 733-746.

55 Reviewed by HEATH: *GRUR Int* 1995, 442-444; MARFORDING: *RabelsZ*, forthcoming 1997; MARUTSCHKE: *JZ* 1994, 1004-1006; RÖHL: *Mitt d DJJV* 13/14 (1994/1995) 121-125.

56 Reviewed by TAYLOR: *L in Japan* 1996, forthcoming.

comparison, the essays written mainly by Japanese lawyers and edited by *Ochigian* are very much shorter and more limited in coverage. This makes for a less convincing work, although those looking for very brief overview of certain areas may still find it useful.⁵⁷

VIII Edited Works⁵⁸

The following works, often based on papers presented at conferences,⁵⁹ defy ready categorisation into particular areas or sub-areas. Hence they and their individual contributions are generally *not* introduced in the sub-areas in Part C of this Bibliography, although some exceptions will be made.

- CENTRE DE DROIT COMPARÉ (ed), *Études de droit japonais* (Paris, 1989) 582 pp.
- COING, HELMUT / HIRANO, RYUICHI / KITAGAWA, ZENTARO / MURAKAMI, JUNICHI / NÖRR, KNUT WOLFGANG / OPPERMANN, THOMAS / SHIONO, HIROSHI (eds), *Die Japanisierung des westlichen Rechts, Japanisch-deutsches Symposium in Tübingen vom 26. bis 28. Juli 1988* (Tübingen, 1990) 452 pp.⁶⁰
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57 Cf the review by SALZBERG: *U Brit Col L Rev* 1993: 102-105.

58 See also the introduction to some of these works and their individual contributions in HOHMANN, above (B I).

59 See also the various edited or conference volumes on legal issues relating to atomic energy, pharmaceuticals, computers, and health and medicine, in *Japanisches Recht*, the series mentioned above (at B 2).

60 Reviewed by BAUM: *JZ* 1991, 85.

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61 This volume can be ordered directly from the Institute, Waseda University, 1-61 Nishiwaseda, Shinjuku-ku, Tokyo 169-50, Japan.

62 This volume, and others published by the Center mentioned in this section, may be ordered directly from the Center, Graduate School of Law and Politics, Tokyo University, 7-3-1 Hongo, Bunkyo-ku, Tokyo 113, Japan.

63 Reviewed by SCHEER: *Münchener Japanischer Anzeiger* 3, 1993, 85-98.

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IX *Finding Japanese Law on the Internet: A Sample Search*

As yet, there are few resources in Western languages on Japanese law which are freely available over the Internet (the "World Wide Web"). However, this is sure to improve along with the exponential growth of interest in the Internet worldwide, Japan included. Already, some useful information is becoming available at various Internet sites ("URLs" or "webpages"). This section introduces some of the most important sites, but also aims to demonstrate how one might set off to find such sites on one's own.

A search of the entire Internet can be carried out by keywords using various functions or programmes incorporated in the major "browsers", software allowing ready access to the Internet. A search under "Japan" and "Law" carried out in December 1996 using the Yahoo function in the Netscape browser, for instance, identified 38 possible sites or "hits". One difficulty with such searches is that sites cannot always be opened: they may be obsolete, or the connection may be poor. The site of the Japan-German Lawyers Association⁶⁴ seems to have been experiencing this sort of difficulty. Another difficulty with such searches is that the sites identified are not always particularly relevant. For instance, a number of hits were for law firms advertising their expertise in Japan-related services, which usually did not contain much information of substance. It is important to locate more compendious sites, with cross-links to other useful sources.⁶⁵ One such site revealed by this search was the *US House of Representatives - Internet Library - Japan*.⁶⁶ This contained various legal documents (translations of the Japanese constitution, some treaties and laws, and so on) as well as some abstracts and reviews related to Japanese law. However, neither the entries cross-referenced in this site nor the sites of the Yahoo search gave much indication of their contents or whether they are still up to date. Some sites do, which can save much time.

64 <http://www.hrz.uni-bielefeld.de/~djjv/docs/>

65 For other very useful sites for Japan related information in general, see above (n 43-45).

66 <http://law.house.gov/70.html>

One such site, well known to those seeking information on Japan generally, was therefore accessed: *Japan Related URLs*.⁶⁷ This site recommended another with one of the most comprehensive information and links relating to Japan in English, now known as the *X-Guide*.⁶⁸ The *X-Guide* now includes a key site for Japanese law resources, the *Japanese Law and Regulation Information Guide*.⁶⁹ This contains cross-references to a list of webpages on Japanese law in general, several of which are particularly helpful.

First worth exploring, as a brief introduction to parts of the Japanese legal system, is *A Guide to Japanese Law*.⁷⁰ This site was created by a group of Japanese practising attorneys. Some of them have written a series on Frequently Asked Questions regarding conflict of laws, copyright law, and contract law. These traverse a number of practical issues as well as giving some indication of the contours of these areas of Japanese law. Although brief, it seems likely they will gradually be added to. The *Guide* also contains cross-links to an English translation of the Japanese Constitution, and the webpage for the Tokyo Daini Bar Association. The latter gives a brief overview of the legal profession, and includes a section on Activities of the Association which gives some idea of what aspects of Japanese law are currently being debated.

Secondly, the webpage of *Kitahama Law Office* in Osaka has a section on Selected Writings on Japanese Law.⁷¹ At present, this contains a more extensive overview of the legal profession in Japan (undated, but clearly quite recent), and a very informative conference paper on International Commercial Litigation in Japan (March 1996).

Thirdly, the Japan-related webpage of the *Washburn University School of Law*⁷² has a section on Legal Documents, including cross-links to a translation of the Product Liability

67 <http://www.mnet.or.jp/~erikkass/MoreJapan.html>. Interestingly, this site was compiled by an American anthropologist who worked for CCH, particularly in its tax law publications, then went on the JET (Japan Exchange and Teaching) Program to a remote village in the middle of Kyushu, Japan's main southern island. He left in August 1996, and some of the webpages listed are now "dead ends", but others are still very useful. Moreover, several give information on how to view webpages in Japanese, which obviously enables much more information relating to Japanese law to be accessed through the Internet (see also *Japanese WWW Support: http://epd_hp9k.caenn.wisc.edu/~tomo/japan/japan1.html*).

68 <http://fuji.stanford.edu:80/XGUIDE/>. This site is created and updated by the US-Japan Technology Management Center Stanford University's (<http://fuji.stanford.edu:80/SERVICES/overview.html>). Stanford University has a further close relationship with Japan through the Stanford Japan Centre in Kyoto (<http://www.stanford-jc.or.jp/intro.html>).

69 http://fuji.stanford.edu:80/XGUIDE/japan_legal_info_text.html

70 <http://home.highway.or.jp/JAPANLAW/>

71 <http://ourworld.compuserve.com/homepages/Kitahama/Selwrij.htm>

72 <http://lawlib.wuacc.edu/forint/asia//japan.html>

Law (in force since July 1995) and to recent Japanese Patent Law Amendments (prepared by a US law firm). It also has a section on Government Information including cross-links to government departments, such as the Office of the Trade and Investment Ombudsman (complete with Complaint Form!) and the Ministry of Trade and Industry (which in turn has a very handy Guide to the Product Liability Law⁷³). The webpage also has a section on Law Firms. At present, this only has a cross-link to *Solberg International Law Office*, in Osaka. However, the latter contains an extensive list of Japan related webpages, including government departments, which does have a time-saving summary of what can be found at each.⁷⁴ This webpage seems likely to be updated quite regularly.

Fourthly, the *X-Guide* refers to a number of law-related articles included in issues of *Social Science Japan*. This turns out to be the newsletter of Tokyo University's Institute of Social Sciences.⁷⁵ It appears quarterly in both electronic and hard copy form.

The webpage for the International Center for Comparative Law and Politics has now taken shape.⁷⁶ In due course, it may also include some information relating specifically to Japanese law (such as a record of symposium presentations), and the homepage of the Kyoto Comparative Law Center may too.⁷⁷ Any such developments, updating the above summary of Internet sources on Japanese law, will be reported on the New Zealand Monbusho Scholarship Alumni Association webpage.⁷⁸

73 <http://www.jef.or.jp:80/news/guidepl.html>

74 <http://www.iac.co.jp/~solbergn/websites.html>

75 <http://www.iss.u-tokyo.ac.jp/center/SSJ/aboutSSJ.html>

76 <http://www.j.u-tokyo.ac.jp/~icclp>

77 <http://www.kclc.or.jp>

78 <http://www.wcc.govt.nz/~nzmsaa/>

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79 The works introduced in the preceding Part B are not dealt with again, either as a whole or individual contributions within, in the following Part. An exception is made for some edited works listed above under B IX, where some individual contributions have been included under the relevant sub-area. A number of journals referred to, especially more recent ones with a comparative law focus, are readily accessible on LEXIS or WESTLAW databases. Further, an increasing number of journals make their articles or abstracts available on the Internet (<http://www.law.cornell.edu/journals.html>).

80 In principle, this Part lists only works published between 1 June 1993 (the cut-off point for Part B of *Baum's* original bibliography: above n 5) and 31 December 1996. However, some earlier publications of particular importance have been added, together with some appearing in January 1997 (including those in this issue) and some forthcoming works.

81 In each sub-area, books and monographs are followed by articles and contributions to edited works.

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83 Reviewed by MARFORDING: Asian Studies Review 1996, 190-191.

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GUIDE TO ABBREVIATIONS

This bibliography uses abbreviations for law journals as set out in *Bieber's Dictionary of Legal Abbreviations*.⁹⁹ Although extensive, the *Dictionary* does not include abbreviations for some of the English journals referred to here, nor to those for German or French publications. A guide to the latter is as follows:

ADRJ	Australian Dispute Resolution Journal
AG	Die Aktiengesellschaft
Comp L Yb of Int'l Bus	Comparative Law Yearbook of International Business
FICCQ	Federation of Insurance & Corporate Counsel Quarterly
GRUR Int	Gewerblicher Rechtsschutz und Urheberrecht/Internationaler Teil
IIC	International Review of Industrial Property and Copyright Law
JZ	Juristenzeitung
Kobe U L Rev	Kobe University Law Review
Pac Rim L & Pol'y J	Pacific Rim Law and Policy Journal
Mitt d DJJV	Mitteilungen der Deutsch-Japanischen Juristenvereinigung
Osaka U L Rev	Osaka University Law Review
RabelsZ	Rabels Zeitschrift für ausländisches und internationales Privatrecht
RIDC	Revue Internationale de Droit Compare
WuW	Wirtschaft und Wettbewerb
ZGR	Zeitschrift für Unternehmens und Gesellschaftsrecht
ZHR	Zeitschrift für das gesamte Handelsrecht und Wirtschaftsrecht
ZJapanR	Zeitschrift für japanisches Recht
ZVerglRWiss	Zeitschrift für vergleichende Rechtswissenschaften
ZZPInt	Zeitschrift für Zivilprozeßrecht International

⁹⁹ KAVASS (ed) (Buffalo NY, 1994).