NAGASHIMA

Japan Legal Update

December, 2025 No.51

This issue covers the following topics:

GLOBAL INVESTIGATIONS / CRISIS MANAGEMENT / COMPLIANCE

I. Summary of the 2025 Amendments to the Whistleblower Protection Act

Tsubasa Watanabe

INTERNATIONAL TRADE AND COMMERCE, AND ECONOMIC SANCTIONS

II. Legal Risks Arising from Inaccurate Price and Country of Origin Information on Invoices: Ensuring the Accuracy of Export Documentation

Oki Osawa

GLOBAL INVESTIGATIONS / CRISIS MANAGEMENT / COMPLIANCE

I. Summary of the 2025 Amendments to the Whistleblower Protection Act

Introduction

On June 4, 2025, Japan amended the Whistleblower Protection Act, further enhancing protections for whistleblowers while strengthening sanctions for violations and expanding administrative enforcement powers. This is the first amendment in five years since the 2020 revision. Notably, the amendment introduces a clause providing that any dismissal or disciplinary action taken within one year following a whistleblowing report shall be presumed to have been taken in response to that report. This change is likely to create significant tension for corporate responses to whistleblowing in Japan and is expected to materially increase the burden on companies in handling such reports.

The effective date will be set by Cabinet Order within 18 months from the date of amendment; while this date is not yet fixed, the amendments will take effect no later than sometime in 2026. Compliance and whistleblowing teams in each company should familiarize themselves with the amendments and assess, before the effective date, whether their internal frameworks and practices conform to the revised requirements.

This article provides a brief overview of the amendments and practical notes considering them.

Summary of the 2025 amendments[1]

(i) Enhanced protections for whistleblowers

(a) Expansion of the scope of whistleblowers protected by law

The scope of "whistleblowers" is expanded to include freelancers in an active contract with an enterprise , as well as those whose contract has terminated less than one year prior to making a report. Termination of a services contract and other unfavorable treatment on the grounds of whistleblowing are prohibited (Article 2, paragraph 1, item 3).

(b) Prohibition of acts that hinder whistleblowing

Enterprises are prohibited, without just cause, from engaging in acts that hinder or obstruct whistleblowing, including requesting workers and others to agree not to make whistleblowing reports. Any legal act in violation of this prohibition is void (Article 11-2).

In addition, enterprises are prohibited, without just cause, from engaging in acts intended to identify a whistleblower (Article 11-3).

(c) Stronger relief against unfavorable treatment due to whistleblowing

Any dismissal or disciplinary action taken within one year after a report shall be presumed to be made due to whistleblowing (Article 3, paragraph 3). In other words, the burden of proof in civil litigation is shifted from whistleblowers to companies: where a dismissal or disciplinary action occurs within one year of a report, the employer bears the burden to prove that the action was not taken for reasons related to the whistleblowing.[2]

(d) Express obligation to inform of internal systems

The obligation to "take necessary measures," such as establishing internal systems, to "protect whistleblowers and to promote compliance with the provisions of the laws and regulations" includes that enterprises must inform workers and others of their whistleblowing response framework (Article 11, paragraph 2). The obligation to "take necessary measures" already existed under prior law. What this amendment clarifies, however, is that the preexisting obligation encompasses a duty to inform employees about the internal whistleblowing response system.

(ii) Strengthened sanctions and administrative investigation powers

The amendment introduces a number of measures addressed at companies that fail to designate personnel engaged in whistleblowing response operations (i.e., those failing to establish a whistleblowing response framework):

(1) In addition to current powers to provide administrative guidance, advice, and recommendations, the relevant authority has the power to issue administrative orders and make public announcements where recommendations are not followed (Article 15-2).

(2) In addition to the current power to require reports, the relevant authority has the power to conduct on-site inspections (Article 16, paragraph 1).

(3) Criminal penalties for violating an order under (1), and for failure to report, false reporting, or

[1] This summary focuses on provisions relevant to corporate activities and does not include provisions that apply only to administrative agencies. While the Consumer Affairs Agency, which is in charge of this legislation in Japan, groups the amendments into four categories in its official summary, this article organizes the principal changes into two categories for clarity: (i) enhanced protections for whistleblowers, and (ii) strengthened sanctions and administrative investigation powers.

[2] Dismissals or disciplinary actions taken on the grounds of whistleblowing are invalid (Article 3, paragraph 2).

refusal of inspection under (2): a fine of up to JPY 300,000 (Article 21, paragraph 2; Article 23, paragraph 1, item 2).

The amendment also creates criminal penalties for those who dismiss or impose disciplinary action on the grounds of whistleblowing: imprisonment for up to six months or a fine of up to JPY 300,000; for corporations, a fine of up to JPY 30,000,000 (Article 21, paragraph 1; Article 23, paragraph 1, item 1).

Practical notes

As outlined above, once the amendments take effect, protections for whistleblowers will be expanded and sanctions and administrative enforcement powers will be strengthened. Companies should therefore confirm that their frameworks and practices do not give rise to violations of the Act.

The presumption regarding dismissals or disciplinary actions within one year of a report is particularly consequential. Even when an employer seeks to dismiss or discipline a person for reasons unrelated to whistleblowing, if that person brings a claim alleging that the action was taken due to whistleblowing, the company will bear the burden of proving that the action was not retaliatory in civil litigation. If the company cannot meet that burden in court, the dismissal or disciplinary action may be invalidated, and the company may be ordered to pay unpaid wages with interest, compensate for mental distress, and reinstate the individual. Further, if the individual files a criminal complaint for violation of the Act, the company could face the burden of criminal investigation and exposure to criminal sanctions. Accordingly, after the amendments take effect, companies should conduct careful risk assessments before dismissing or disciplining any person who has made a report within the previous year. In practice, dismissals and disciplinary actions are often handled by HR departments, while information relating to whistleblowing reports may be administered by compliance or legal departments and not routinely shared with HR. After the amendments take effect, HR should be made aware of the need to conduct risk assessments whenever considering dismissal or disciplinary action. Where such actions are contemplated, companies should ensure appropriate coordination with the compliance and legal departments, establish procedures to assess risks, and maintain internal records sufficient to demonstrate that the action is not taken due to whistleblowing. Particularly for foreign-affiliated companies operating in Japan, which may be more likely than traditional Japanese companies to effect dismissals based on performance evaluation, the amendments may have a significant impact on HR practices.

Before the effective date, it is expected that the statutory guidelines and commentary setting out practical implementation standards will also be revised. In-house practitioners should monitor revisions to these guidelines and commentary and endeavor to align their systems and practices during 2026.

[Author]

Tsubasa Watanabe, Partner
tsubasa.watanabe@nagashima.com

Tsubasa Watanabe focuses on white-collar criminal defense, regulatory compliance, and internal investigations involving allegations of fraud, accounting irregularities, misrepresentation, bribery and corruption, and violations of labor and competition laws. He has significant experience in addressing product quality issues, such as data falsification and improper testing, for numerous manufacturing companies. He leads investigations, designs comprehensive remedial measures, and advises on responses to regulatory authorities. He also assists companies in successfully adapting to rapidly evolving global regulations on cybersecurity, AI, and data privacy.

II. Legal Risks Arising from Inaccurate Price and Country of Origin Information on Invoices: Ensuring the Accuracy of Export Documentation

Introduction

Nagashima provides a wide range of legal services concerning trade transactions, including security export control, economic sanctions compliance, and related matters for Japan, the United States, China, Europe, and other jurisdictions. In addition to inquiries in relation to the Foreign Exchange and Foreign Trade Act (the "**FEFTA**"), the United States Export Administration Regulations, economic sanctions lists in Japan, the United States, Europe, and the United Kingdom, as well as China's Export Control Law, and Anti-Foreign Sanctions Law, we have recently seen a marked increase in inquiries regarding customs matters, including import and export clearance procedures, the treatment of price changes after export authorizations, the Authorized Economic Operator ("**AEO**") program, and in particular, errors in cases involving misstatements on invoices. In the past, Japanese companies typically addressed these matters through direct consultation with customs authorities and rarely sought advice from law firms. However, more recently, enforcement actions and regulatory scrutiny have intensified not only under the FEFTA, but also under other import- and export-related laws, including the Customs Act and the Export and Import Transactions Act. Accordingly, particularly for cases involving errors, an increasing number of Japanese companies wish to avoid enforcement measures that may be disproportionately severe relative to the nature and circumstances of the case. Therefore, we are seeing more companies seek ongoing advice from law firms serving as their advisors to safeguard their interests and to handle these matters more cautiously than in the past.

In this newsletter, we will discuss typical customs-related errors cases in respect of which we are frequently consulted, with a particular focus on the legal risks to exporters when there are errors in the price or country of origin on invoices at the time of cargo export.

Status of Invoices under the Customs Act

Under the Customs Act, the document referred to as an "invoice" in import/export transactions is designated as a "purchase statement" (*shiire-sho*) (Article 68 of the Customs Act). It is defined as "a document prepared by the consignor in the country of export for the purpose of notifying the consignee in the country of destination of the shipment of goods, which generally includes information such as the name, type, quantity, price, method of payment, and the address or domicile and name or designation of the such consignor and such consignee" (Basic Notification under the Customs Act 68-1-1, 68-3-1).

The invoice is one of the most important documents in import and export transactions. When exporting goods from Japan, the exporter must submit an export declaration to the Director-General of Customs, declaring the name, quantity, price, and other required particulars of the cargo to be exported, and must obtain the Director-General's approval (Article 67 of the Customs Act; Article 58 of the Customs Act Enforcement Order). Unless submission is waived under a notification other than a Basic Notification under the Customs Act, the exporter is required to attach the invoice to the export declaration (Article 68 of Customs Act; Basic Notification under the Customs Act 67-1-5).

Errors in Price on Invoices

1. Legal Risks for Exporters Arising from Inaccurate Price

Invoices are submitted as attachments to export declarations under Article 67 of the Customs Act. Therefore, an exporter who submits an invoice containing an error in the stated price of cargo, obtains export approval, and proceeds to export such cargo may be subject to criminal penalties as a person who "exported goods…by submitting a falsified document" in the export declaration process. The applicable penalties include imprisonment for up to 5 years, a fine of up to 10 million yen, or both (however, where 5 times the value of the relevant cargo exceeds 10 million yen, the fine may be up to 5 times such value) (Customs Act Article 111, Paragraph 1, Item 2). Furthermore, exporters are required to declare the price of cargo to be exported in export declarations (Customs Act Article 67), and the prescribed export declaration form also requires the price of the goods to be stated. Accordingly, where the price stated on the export declaration form is based on an erroneous price stated on the invoice, the exporter may also be subject to the criminal penalties described above as a person who "made a false declaration…or exported cargo by submitting a falsified document." It should be noted that, where the Director-General of Customs forms the view that an offense has been committed, unless the circumstances call for imprisonment or the offender lacks the financial means to comply with the notification, the Director-General will issue an administrative disposition directing the offender to pay to Customs an amount equivalent to the applicable fine to the customs office (the so-called "notification disposition"; Article 146, Paragraphs 1 and 2 of the Customs Act). If the offender (exporter) complies with such notification, the offender will be exempt from prosecution and criminal liability will not be pursued (Article 146, Paragraph 5).

Generally, unlike importers, exporters are typically not the parties responsible for bearing customs duties, which are determined based on the price of the cargo. Therefore, it is generally not anticipated that exporters would have a direct economic interest in, or incentive to make, errors in prices stated on invoices or export declarations. Furthermore, as Japan does not collect customs duties on exported cargo, errors in price do not cause direct harm to Japan. For these reasons, errors in price at the time of export are generally considered less likely to be subject to strict enforcement measures compared to errors at the time of import. However, in recent years, enforcement actions and regulatory scrutiny relating to import and export-related laws and regulations have intensified. In fact, there have been cases in which fines under the Customs Act have been imposed on businesses that understated prices in export declarations when exporting used Japanese vehicles to Russia.[3] In light of such developments, exporters cannot afford to disregard the risks under the Customs Act described above. In particular, when inaccurate price on the invoice is not attributable to clerical errors, such as typographical errors, but instead involves intentional conduct, for example where the importer intends to file an import declaration at a price lower than the actual transaction price for the purpose of avoiding or reducing customs duties or simplifying import customs procedures, and based on such intent, requests the exporter to state a price on the invoice that differs from the actual transaction amount, and the exporter complies, if such misstatements are found to be intentional, they are highly likely to be subject to strict enforcement measures as violations of the Customs Act. Therefore, even if such a request is made by the importer, the exporter should not comply.

Furthermore, depending on the laws, regulations, and administrative practices, and other requirements, of the importing country, the use of an invoice containing an erroneous price may cause potential disruptions in import customs clearance procedures in the importing country, creating a risk that the export transaction may not be completed as intended. In addition, depending on the cause of the inaccurate price, if the importer intended to evade or reduce customs duties by stating a price on the invoice different from the

[3] However, there have been media reports suggesting that, in the case referred to in the main text, the exporter may have understated the price in order to circumvent one of the sanctions imposed by the Japanese government against Russia, namely, the general prohibition on exporting luxury vehicles priced at more than 6 million yen to Russia. If this is correct, the case is distinguishable from typical cases of price understatement at the time of export in that, the exporter, by understating the price, obtains a direct benefit, making this case particularly unique.

actual transaction amount, the possibility cannot be ruled out, at least in theory, that the exporter may be considered to have aided and abetted customs duty evasion in the importing country by cooperating in the issuance of such invoice.

2. Response When Errors in Price Are Identified

Where it is found that an export declaration contains an erroneous price because it was prepared based on an erroneous price stated on the invoice, the exporter must submit a request for price correction to the customs clearance division (i.e., the division that issued the export permit), attaching, as necessary, the invoice or other documentation stating the correct price (Basic Notification under Customs Act 67-1-14). If the export declaration was filed through a customs broker, it is standard practice to submit the request for price correction through the same customs broker.

In this regard, the customs clearance division is authorized to process price corrections in relation to export permits "except where measures such as notification to the examination division are required."[4] Based on our experience, requests for minor price corrections are generally approved relatively quickly without extensive fact checking, and a revised export permit notification reflecting the corrected price is reissued. However, in some case, fact checking, among other procedures, may be conducted to determine whether the case falls within the category of cases "where measures such as notification to the examination division are required." Accordingly, particularly in cases where errors in price cannot be considered merely clerical or administrative errors, such as typographical errors, it is advisable to make careful preparations before submitting a request for price correction, specifically thoroughly investigating and identifying the cause and reason for the errors in price. This will enable exporters to provide accurate and timely explanations if the customs clearance division conducts fact-finding or requests information.

Furthermore, if an error in price on an invoice is attributable to a request from the importer, after ascertaining the facts regarding the importer's intentions and objectives, the exporter should carefully consider, from a compliance and reputational perspective, whether to continue transactions with such an importer, and whether there is any risk that future export transactions may not be completed as intended due to issues such as potential disruptions in import customs clearance procedures in the importing country.

Errors in Country of Origin on Invoices

1. Risks under the Customs Act Arising from Errors in Country of Origin

There are some countries where customs clearance procedures cannot be completed if the country of origin is not stated on the invoice, and therefore, many invoices issued by Japanese companies include the country of origin. However, a declaration of country of origin is not required for export declarations (see Article 58, Paragraph 1 of the Customs Act Enforcement Order), and the prescribed form for export declarations issued by Customs also does not require the country of origin to be stated. Accordingly, unlike with errors in price, it is generally not assumed that an error in the country of origin stated on the invoice will be reflected in the export declaration. Therefore, risks under the Customs Act due to so-called false declarations are not generally considered to arise in this regard.

Nevertheless, an exporter who submits an invoice containing an error in the country of origin of cargo as an attachment to the export declaration for the purpose of obtaining export approval, obtains approval, and proceeds to ship such cargo may be subject to criminal penalties as a person who "exported goods…by

[4] It should be noted that the correction of the price may be waived where: (i) the price stated on the export declaration is less than 200,000 yen and the price that should have been stated on the export declaration is also less than 200,000 yen; or (ii) the difference between the price to be corrected and the price stated on the export declaration for each classification in the Export Statistics Item List is less than 1,000 yen.

submitting a falsified document" in the export declaration process. The applicable penalties include imprisonment for up to 5 years, a fine of up to 10 million yen, or both (however, where 5 times the value of the relevant cargo exceeds 10 million yen, the fine may be up to 5 times such value) (Customs Act Article 111, Paragraph 1, Item 2).

2. Risks under the Export and Import Transaction Act Arising from Errors in Country of Origin

Certain countries, including the United States[5] and Australia,[6] require country-of-origin labeling on imported cargo. In practice, it is common for the country of origin stated on the invoice to be used as the basis for labeling the cargo to be exported. Under this practice, if the country of origin stated on the invoice is erroneous, the cargo itself will also bear an erroneous country of origin label. The export of such cargo is considered to constitute an "export transaction of goods carrying a false indication of the place of origin" (Article 2, Item 2 of the Export and Import Transaction Act), which is prohibited as an "unfair export transaction" under Article 2 of the Export and Import Transaction Act.

Exporters who engage in "unfair export transactions" prohibited by the Export and Import Transaction Act are not automatically subject to criminal penalties. However, they may be subject to a warning from the Minister of Economy, Trade and Industry (Article 4, Paragraph 1 of the Export and Import Transaction Act). In addition, if it is determined that such conduct has significantly impaired the international credibility of Japanese exporters, the exporters may be subject to an order suspending the export of cargo for a period of up to one year (Article 4, Paragraph 2 of the Export and Import Transaction Act; however, this does not apply where the exporter proves that the act was not committed intentionally or negligently). Furthermore, if a warning or an order suspending the export of cargo is issued, the details may be publicly announced (Article 4, Paragraph 3 of the Export and Import Transaction Act).

Moreover, recently, the Ministry of Economy, Trade and Industry (METI) has been conducting awareness-raising activities regarding the Export and Import Transaction Act, including publishing explanatory materials titled "Are you Familiar with the Export and Import Transactions Act?" and an "Overview Video on the Export and Import Transaction Act" in May 2025, while also intensifying its enforcement and oversight efforts. Where violations of the Export and Import Transaction Act are identified, the METI appears to follow an approach similar to that for violations of the FEFTA. This involves requesting the submission of a written explanation describing in detail the exported goods, the circumstances leading to the export, and the cause(s) of the violation, and conducting a post-incident investigation. Based on the nature and cause(s) of the violation, METI determines the appropriate corrective measures. Our firm has supported numerous Japanese companies that have voluntarily disclosed violations and have undergone such post-incident investigations. However, in practice, responding to such post-incident investigations often requires relatively detailed fact-checking and root cause analysis, which imposes a significant burden on the responsible personnel in most cases. Accordingly, it is important to be mindful from a compliance perspective, recognize that METI operates in such manner, and take proactive measures in day-to-day operations to prevent violations of the Import and Export Transactions Act.

3. Risks under the Laws of the Importing Country Arising from Errors in Country of Origin

Under the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, to which 36 countries, including Japan, Germany, and France, are parties, products bearing a false indication that a member country is the country of origin may be seized or prohibited from import. Furthermore, even in the United States, which is not a member of the Madrid Agreement, false indications of country of origin must be corrected to reflect the accurate indication. Failure to make such corrections may result in a 10%

[5] 19 U.S. Code § 1304 (Marking of imported articles and containers).
[6] Commerce (Imports) Regulations 1940.

additional duty imposed on the assessed value of the goods, or the goods may be required to be re-exported or destroyed.[7] Therefore, depending on the laws and administrative practices of the importing country, if an error in the country of origin stated on the invoice results in an erroneous country of origin being displayed on the cargo itself, there is a risk that the export transaction may not be completed as intended due to this issue.

Conclusion

In this newsletter, we have discussed, from the perspective of exporters, the legal risks under the Customs Act, the Export and Import Transaction Act, and other applicable laws that can arise from errors in price or country of origin on invoices. Given the increased enforcement and regulatory scrutiny in connection with import and export-related laws and regulations, including the FEFTA, as well as the Customs Act and the Export and Import Transaction Act, exporters should exercise caution to ensure that the information on invoices is accurate, particularly in relation to price and country of origin.

[Author]

Oki Osawa, Partner
oki.osawa@nagashima.com

Oki Osawa advises clients on a broad range of corporate legal matters, with a particular focus on mergers and acquisitions (M&A), corporate restructuring, general corporate matters, economic security, and IPs. He has extensive experience handling numerous M&A, reorganizations, joint ventures, capital and business alliances, and other transactions involving both listed and unlisted companies. Leveraging his secondment to the Ministry of Economy, Trade and Industry, where he was involved in drafting, reviewing, and enforcing laws and policies related to national security and economic security, including the Foreign Exchange and Foreign Trade Act, as well as initiatives to strengthen cooperation within the Japanese government and with foreign government authorities, Osawa provides clients with practical, hands-on advice on a broad wide range of economic security matters that extends well beyond the scope of traditional legal advice.

[7] 19 U.S. Code § 1304 (Marking of imported articles and containers), 19 CFR Part 134 (Country of Origin Marking).