

Cease and Desist Orders and Surcharge Payment Orders against  
Manufacturers of office furniture ordered by the Air Self-Defense Force  
(ASDF) of the Ministry of Defense (MOD)

(Tentative Translation)

March 30, 2010

The Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC), under the provisions of the Antimonopoly Act (AMA), has investigated manufacturers of office furniture ordered by the ASDF of the MOD and found that they were in violation of Article 3 (prohibition of unreasonable restraint of trade) of the AMA. Accordingly, the JFTC today issued cease and desist orders pursuant to Paragraph 2, Article 7 of the AMA and surcharge payment orders pursuant to Paragraph 1, Article 7-2 of the AMA as detailed below.

In addition, in relation to the above violations, the JFTC has found the involvement of the officials of the 1st Air Depot of the ASDF (hereinafter referred to as "1st Air Depot") in bid rigging. Hence, the JFTC today demanded that the Minister of Defense implement improvement measures in accordance with the Act on Elimination and Prevention of Involvement in Bid Rigging, etc. The JFTC also today requested that the MOD have thoroughly disseminated the purposes and contents of the AMA and the Act on Elimination and Prevention of Involvement in Bid Rigging, etc. to its officials engaged in the procurement service, and that the MOD, upon the recheck of the actual status of the bidding process, take required measures including making improvements as necessary, for prevention of recurrence.

**I The cease and desist orders and the surcharge payment orders**

1 Companies subject to the cease and desist orders and to the surcharge payment orders, and the amount of the surcharge

	Name of company	Location of principal office	Representative	Cease and Desist Order	Surcharge Payment Order
1	ITOKI	1-4-12, Imafuku-higashi,	Tadashi Matsui,	○	128,570,000yen

	CORPORATIO N	Joto-ku, Osaka	Representative Director		
2	UCHIDA YOKO CO., LTD	2-4-7, Shinkawa, Chuo-ku, Tokyo	Takashi Kashihara, C.E.O.	○	91,270,000yen
3	PLUS CORPORATIO N	4-1-28, Toranomom, Minato-ku, Tokyo	Koji Imaizumi, Representative Director	○	76,710,000yen
4	LION OFFICE PRODUCTS CORP.	3-5-44, Nagatanaka, Higashiosaka, Osaka	Yoshuhumi Kuwahara, Representative Director	○	64,940,000yen
5	OKAMURA CORPORATIO N	2-7-18, Kitasaiwai, Nishi-ku, Yokohama	Kazuyoshi Hisamatsu, Representative Director	○	13,710,000yen
6	KOKUYO FUR NITURE Co., L td	6-1-1, Oimazatominami , Higashinari-ku, Osaka	Hidekuni Kuroda, Representative Director	—	—
Total amount of surcharge					375,160,000yen

(Note 1) 「○」 in the table means that the company is a recipient of the cease and desist orders.

(Note 2) 「—」 in the table means that the company is not a recipient of the cease and desist orders nor the surcharge payment orders.

## 2 Outline of the violation

The Five Companies — ITOKI CORPORATION, UCHIDA YOKO CO., LTD, PLUS CORPORATION, LION OFFICE PRODUCTS CORP. and OKAMURA CORPORATION (these five companies shall be hereinafter referred to as the “Five Companies”)—and KOKUYO FURNITURE Co., Ltd (these six companies shall be hereinafter referred to as the “Six Companies”) jointly appointed the designated supplier of the certain office furniture ordered by the ASDF based on intention of the ordering party on or after November 30, 2005 at the latest, and managed to have the designated supplier successfully deliver the products by either receiving the order themselves or making dealers which handle their products receive the order.

Through the conduct mentioned above, the Six Companies substantially

restrained competition in the field of trade of the certain office furniture ordered by the ASDF contrary to the public interest.

### 3 Outline of the cease and desist orders

(1) The Five Companies shall respectively adopt a resolution at their Board of Directors confirming that

- they have terminated the action in item 2 above,
- they will not appoint the designated supplier for the office furniture ordered by the 1st Air Depot through mutual consultation nor with any other companies, and each of them will independently carry out its business in the future.

(2) The Five Companies shall respectively notify the measures taken in accordance with item (1) above to the other four companies, the dealers which handle their products and the 1st Air Depot, and shall have such measures thoroughly disseminated to their employees.

(3) The Five Companies respectively shall not appoint the designated supplier for the office furniture ordered by the 1st Air Depot through mutual consultation nor in collaboration with any other companies in the future.

(4) The Five Companies shall respectively take measures necessary to do the following:

- a. Revision or preparation of the guidelines of activities with regard to compliance with the AMA in relation to receiving orders by the government and other public agencies.
- b. Implement a regular training program for the staff engaged in sales of the office furniture ordered by the ASDF and regular audits by the legal department, with regard to compliance with the AMA in relation to receiving orders by the government and other public agencies.

### 4 Outline of the surcharge payment orders

(1) The Five Companies shall respectively pay the amount by July 1, 2010, described in the item 1 (375,160,000 yen in total).

## **II Demand to the Minister of Defense for Improvement Measures**

## 1 Outline of the Involvement in Bid Rigging

In the violation described in I-2, the director of the material planning division in the material planning department in the 1st Air Depot, between FY2005 and FY2008, regarding items which would be purchased by the surplus budget, set a target of procurement volume for each company (hereinafter referred to as the “procurement target”), with the understanding of the chief of the Depot, the deputy chief or the director of the department, in light of the past delivery record and the fact that former ASDF officials are employed by the companies and so force, and instructed deputy directors of the division to meet the procurement target. Between FY2005 and FY2008, the two sections in the division which are in charge of procurement of the office furniture (in one of them between FY2006 and FY 2008) indicated the company with which the 1st Air Depot wished to make contract and thereby had the Six Companies engage in bid rigging in order to meet their own procurement target.

## 2 Applicable Articles of the Act and Demand for Improvement Measure

The conduct described in 1 by the officials of the ASDF fall under the provision of Item 1, Paragraph 5, Article 2 of the Act on Elimination and Prevention of Involvement in Bid Rigging, etc. (Having companies engage in bid rigging) and Item 2, Paragraph 5, Article 2 of the Act (Indication or suggestion of wishes of the counter party of the contract). The conduct is found to be involvement in bid rigging, etc. as specified in the Act. After the Inspector General’s Office made an inspection regarding the bid for office furniture ordered by the 1st Air Depot, it was found that officials of the 1st Air Depot had informed the companies concerned of the result of the inspection and the fact that it would be notified to the JFTC, before the MOD notified the JFTC of the result of the inspection on May 28, 2009.

Therefore, the JFTC issued a demand to the Minister of Defense in accordance with the provision of Paragraph 2, Article 3 of the same Act, to promptly implement improvement measures necessary to assure the elimination of such involvement in bid rigging, etc. for the certain office furniture ordered by the ASDF so that any conduct similar to that described in 1 will not occur in the future. Further, the JFTC issued a demand to the Minister, in accordance with the provision under Paragraph 6 of the same

article, to publish the results of investigation made by the Minister in response to the above demand and contents of the improvement measures taken in accordance with the provision of Paragraph 4 under the same article, and notify them to the JFTC.

Further, the JFTC informed the Board of Audit that it had issued the demand to the MOD to implement improvement measures in order to doubly ensure that involvement in bid rigging, etc. will be prevented and eliminated.

### **III Request to the MOD**

The JFTC has repeatedly requested to the MOD to implement improvement measures for prevention of recurrence with pointing out the problems regarding the bidding process operated by the officials of the MOD. However, through the investigation of this case, it is found that in addition to the violations described in II-1, the officials of the ASDF set a procurement target for items other than the office furniture in light of the past delivery record and the fact that former ASDF officials are employed by the companies and so force. Such conduct may fall under the violation of the Act on Elimination and Prevention of Involvement in Bid Rigging, etc.

Based on these, the JFTC requested that the MOD have thoroughly disseminated the purposes and contents of the AMA and the Act on Elimination and Prevention of Involvement in Bid Rigging, etc. to its official engaged in the procurement service, and that the MOD, upon the recheck of the actual status of the bidding process, take required measures including making improvements as necessary, for prevention of recurrence.

## Dealers of the Six Companies

Six Companies	Dealers	
	Trade Name	Location of the head office
Itoki Corporation	Maesho corporation	2-9-5-803, Akabane, Kita-ku, Tokyo
Uchida Yoko Co., Ltd.	Hochi Enterprise corporation	1-12, Hinode-cho, 2F, Kobayashi Bldg., Yokosuka, Kanagawa
Plus Corporation	Shinko Shoji Corporation	3-13-1, Kotobashi, Sumida-ku, Tokyo
Lion Office Products Corp.	Sanwa Broad Business Co.,Ltd.	2-13-7, Kamiookanishi, Minato-ku, Yokohama
Okamura Corporation	Bunshodo Corporation	3-4-12, Ginza, Chuo-ku, Tokyo
Kokuyo Furniture Co.,Ltd.		