

国際刑事裁判所に対する協力等に関する法律 Act on Cooperation with the International Criminal Court

(平成十九年五月十一日法律第三十七号)
(Act No. 37 of May 11, 2007)

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第一章 総則
Chapter I General Provisions

(目的)
(Purpose)

第一条 この法律は、国際刑事裁判所に関するローマ規程（以下「規程」という。）が定める集団殺害犯罪その他の国際社会全体の関心事である最も重大な犯罪について、国際刑事裁判所の捜査、裁判及び刑の執行等についての必要な協力に関する手続を定めるとともに、国際刑事裁判所の運営を害する行為についての罰則を定めること等により、規程の的確な実施を確保することを目的とする。

Article 1 The purpose of this Act is to ensure proper implementation of the Rome Statute of the International Criminal Court (hereinafter referred as the "Statute") by providing for procedures concerning the cooperation necessary for investigations, trials, enforcement, etc. by the International Criminal Court (hereinafter referred as the "ICC") with regard to the crime of genocide and to the other most serious crimes of concern to the international community as a whole that are specified in the Statute, and by providing penal provisions for acts that obstruct the administration of the ICC.

(定義)
(Definitions)

第二条 この法律において、次の各号に掲げる用語の意義は、それぞれ当該各号に定めるところによる。

Article 2 In this Act, the meanings of the terms listed in the following items are as prescribed respectively in those items:

一 国際刑事裁判所 規程第一条に規定する国際刑事裁判所をいう。

(i) The term "ICC" means the International Criminal Court prescribed in article 1 of the Statute;

二 管轄刑事事件 規程第五条 1 及び第七十条 1 の規定により国際刑事裁判所が管轄権を有する犯罪について国際刑事裁判所がその管轄権を行使する事件をいう。

(ii) The term "criminal case before the ICC" means a case in which the ICC exercises its jurisdiction with respect to a crime over which it has jurisdiction pursuant to the provisions of article 5, paragraph 1 and article 70, paragraph 1 of the Statute;

三 重大犯罪 規程第五条 1 の規定により国際刑事裁判所が管轄権を有する国際社会全体の関心事である最も重大な犯罪として規程に定める犯罪をいう。

(iii) The term "serious crime" means any of the crimes specified in the Statute as the most serious crimes of concern to the international community as a whole over which the ICC has jurisdiction pursuant to the provisions of article 5, paragraph 1 of the Statute;

四 証拠の提供 規程第九十三条 1 の規定による国際刑事裁判所の請求により、国際刑事裁判所の捜査又は裁判に係る手続（以下「国際刑事裁判所の手続」という。）に必要な証拠を国際刑事裁判所に提供することをいう。

(iv) The term "provision of evidence" means providing the ICC with evidence that is necessary for proceedings in connection with an ICC investigation or trial (hereinafter referred to as "ICC proceedings"), based on an ICC request under the provisions of article 93, paragraph 1 of the Statute;

五 裁判上の証拠調べ 規程第九十三条 1 の規定による国際刑事裁判所の請求により、規程第三十九条 2 に規定する上訴裁判部又は第一審裁判部が行う証拠調べについての援助として日本国の裁判所が行う証拠調べをいう。

(v) The term "judicial examination of evidence" means an examination of evidence that is carried out by a Japanese court based on an ICC request under the provisions of article 93, paragraph 1 of the Statute, as assistance for the examination of evidence carried out by the Appeals Chamber or Trial Chamber prescribed in article 39, paragraph 2 of the Statute;

六 書類の送達 規程第九十三条 1 の規定による国際刑事裁判所の請求により、規程第三十九条 2 に規定する上訴裁判部、第一審裁判部又は予審裁判部が行う書類の送達についての援助として日本国の裁判所が行う書類の送達をいう。

(vi) The term "service of documents" means service of documents that is carried out by a Japanese court based on an ICC request under the provisions of article 93, paragraph 1 of the Statute, as assistance for the service of documents carried out by the Appeals Chamber, Trial Chamber, or Pre-Trial Chamber prescribed in article 39, paragraph 2 of the Statute;

七 受刑者証人等移送 規程第九十三条 1 及び 7 の規定による国際刑事裁判所の請求により、証人その他の国際刑事裁判所の手続における関係人（国際刑事裁判所の捜査又は裁判の対象とされる者を除く。）として出頭させることを可能とするため、国内受刑者（日本国において懲役刑若しくは禁錮刑又は国際受刑者移送法（平成十四年法律第六十六号）第二条第二号に定める共助刑の執行として拘禁されている者をいう。以下同じ。）を移送することをいう。

(vii) The term "transfer of a sentenced inmate for testimony, etc." means transferring a domestically sentenced inmate (meaning a person being confined in Japan for the execution of a sentence of imprisonment with work, imprisonment without work, or for the execution of assistance punishment as specified in Article 2, item (ii) of the Act on the Transnational Transfer of Sentenced Persons (Act No. 66 of 2002); the same shall apply hereinafter),

based on an ICC request under the provisions of article 93, paragraphs 1 and 7 of the Statute, in order to enable him/her to appear as a witness or other person relevant to ICC proceedings (excluding a person subject to an ICC investigation or trial);

八 引渡犯罪人の引渡し 規程第八十九条 1 又は第百十一条の規定による国際刑事裁判所の引渡しの請求により、その引渡しの対象とされた者（以下「引渡犯罪人」という。）の引渡しをすることをいう。

(viii) The term "surrender of an offender sought for surrender" means surrendering, based on an ICC request for surrender under the provisions of article 89, paragraph 1 or article 111 of the Statute, the person whose surrender the ICC seeks in its request (hereinafter referred to as the "offender sought for surrender");

九 仮拘禁 規程第九十二条 1 の規定による国際刑事裁判所の仮逮捕の請求により、その仮逮捕の対象とされた者（以下「仮拘禁犯罪人」という。）を仮に拘禁することをいう。

(ix) The term "provisional detention" means provisionally detaining, based on an ICC request for provisional arrest under the provisions of article 92, paragraph 1 of the Statute, the person whose provisional arrest the ICC seeks in its request (hereinafter referred to as an "offender sought for provisional detention");

十 執行協力 規程第七十五条 5 若しくは第百九条 1 の規定により罰金刑（国際刑事裁判所が規程第七十条 3 又は第七十七条 2（a）の規定により命ずる罰金をいう。以下同じ。）、没収刑（国際刑事裁判所が規程第七十七条 2（b）の規定により命ずる没収をいう。以下同じ。）若しくは被害回復命令（国際刑事裁判所が規程第七十五条 2 の規定により発する命令をいう。以下同じ。）の確定裁判の執行をすること又は規程第七十五条 4 若しくは第九十三条 1 の規定により没収刑若しくは被害回復命令のための保全をすることをいう。

(x) The term "cooperation with enforcement" means enforcing a final judgment for a sentence to a fine (meaning a fine ordered by the ICC pursuant to the provisions of article 70, paragraph 3 or article 77, paragraph 2 (a) of the Statute; the same shall apply hereinafter), a sentence of forfeiture (meaning a forfeiture ordered by the ICC pursuant to the provisions of article 77, paragraph 2 (b) of the Statute; the same shall apply hereinafter), or a reparations order (meaning an order issued by the ICC pursuant to the provisions of article 75, paragraph 2 of the Statute; the same shall apply hereinafter) pursuant to the provisions of article 75, paragraph 5 or article 109, paragraph 1 of the Statute, or carrying out preservation for a forfeiture or a reparations order pursuant to the provisions of article 75, paragraph 4 or article 93, paragraph 1 of the Statute;

十一 協力 証拠の提供、裁判上の証拠調べ、書類の送達、受刑者証人等移送、引渡犯罪人の引渡し、仮拘禁及び執行協力をいう。

(xi) The term "cooperation" means provision of evidence, judicial examination of evidence, service of documents, transfer of a sentenced inmate for testimony, etc., surrender of an offender sought for surrender, provisional detention, and cooperation with enforcement;

十二 請求犯罪 協力（引渡犯罪人の引渡し及び仮拘禁を除く。）の請求において犯されたとされている犯罪をいう。

(xii) The term "offense underlying a cooperation request" means the crime that is alleged to have been committed in a request for cooperation (excluding surrender of an offender sought for surrender and provisional detention); and

十三 引渡犯罪 引渡犯罪人の引渡し又は仮拘禁に係る協力の請求において当該引渡犯罪人又は仮拘禁犯罪人が犯したとされている犯罪をいう。

(xiii) The term "offense underlying the surrender request" means the crime that is alleged to have been committed by the offender sought for surrender or the offender sought for provisional detention under a request for cooperation through the surrender of an offender sought for surrender or provisional detention.

第二章 国際刑事裁判所に対する協力

Chapter II Cooperation with the ICC

第一節 通則

Section 1 General Rules

（協力の請求の受理等）

(Acceptance of Requests for Cooperation, etc.)

第三条 国際刑事裁判所に対する協力に関する次に掲げる事務は、外務大臣が行う。

Article 3 The following administrative affairs concerning cooperation with the ICC shall be carried out by the Minister of Foreign Affairs:

一 国際刑事裁判所からの協力の請求の受理

(i) acceptance of requests for cooperation from the ICC;

二 国際刑事裁判所との協議及び国際刑事裁判所に対して行うべき通報

(ii) consultation with the ICC and reports that should be made thereto; and

三 国際刑事裁判所に対する証拠の送付及び罰金刑、没収刑又は被害回復命令の確定裁判の執行に係る財産の引渡し並びに書類の送達についての結果の通知

(iii) sending of evidence to the ICC, and delivery of property and notification of the results of the service of documents in connection with the enforcement of a final judgment for a fine, forfeiture, or reparations order, to the ICC.

（外務大臣の措置）

(Measures to Be Taken by the Minister of Foreign Affairs)

第四条 外務大臣は、国際刑事裁判所から協力の請求を受理したときは、請求の方式が規程に適合しないと認める場合を除き、国際刑事裁判所が発する協力請求書又は外務

大臣の作成した協力の請求があったことを証明する書面に関係書類を添付し、意見を付して、これを法務大臣に送付するものとする。

Article 4 Upon accepting a request for cooperation from the ICC, the Minister of Foreign Affairs shall, except where he/she finds that the form of the relevant request does not comply with the Statute, send the written request for cooperation issued by the ICC or documents prepared by the Minister of Foreign Affairs that certify that a request for cooperation has been made to the Minister of Justice, together with any relevant documents and with his/her opinion attached thereto.

(国際刑事裁判所との協議)

(Consultation with the ICC)

第五条 外務大臣は、国際刑事裁判所に対する協力に関し、必要に応じ、国際刑事裁判所と協議するものとする。

Article 5 (1) The Minister of Foreign Affairs shall consult with the ICC, as necessary, with regard to cooperation with the ICC.

2 法務大臣は、国際刑事裁判所に対する協力に関し、国際刑事裁判所との協議が必要であると認めるときは、外務大臣に対し、前項の規定による協議をすることを求めるものとする。

(2) When the Minister of Justice finds it necessary to consult with the ICC with regard to cooperation with the ICC, he/she shall request the Minister of Foreign Affairs to seek consultation under the provisions of the preceding paragraph.

第二節 証拠の提供等

Section 2 Provision of Evidence, etc.

第一款 証拠の提供

Subsection 1 Provision of Evidence

(法務大臣の措置)

(Measures by the Minister of Justice)

第六条 法務大臣は、外務大臣から第四条の規定により証拠の提供に係る協力の請求に関する書面の送付を受けた場合において、次の各号のいずれにも該当しないときは、次項又は第三項に規定する措置をとるものとする。

Article 6 (1) Where the Minister of Justice has received documents sent by the Minister of Foreign Affairs pursuant to the provisions of Article 4 concerning a request for cooperation through provision of evidence, when the case does not fall under any of the following items, the Minister of Justice shall take the measures prescribed in the following paragraph or paragraph (3):

一 当該協力の請求が国際捜査共助等に関する法律（昭和五十五年法律第六十九号）第一条第一号に規定する共助（以下この号及び第三十九条第一項第二号において

「捜査共助」という。)の要請と競合し、かつ、規程の定めるところによりその要請を優先させることができる場合において、当該捜査共助をすることが相当であると認めるとき。

(i) when the request for cooperation competes with a request for assistance as prescribed in Article 1, item (i) of the Act on International Assistance in Investigations and Other Related Matters (Act No. 69 of 1980) (hereinafter referred to as "Investigation Assistance" in this item and Article 39, paragraph (1), item (ii)) and, where it is possible to give priority to such request for assistance pursuant to the provisions of the Statute, when the Minister of Justice finds it reasonable to provide said Investigation Assistance;

二 当該協力の請求に応ずることにより、規程第九十八条 1 に規定する国際法に基づく義務に反することとなるとき。

(ii) when complying with the request for cooperation would result in a breach of any of the obligations under international law prescribed in article 98, paragraph 1 of the Statute;

三 当該協力の請求に応ずることにより、日本国の安全が害されるおそれがあるとき。

(iii) when complying with the request for cooperation would prejudice Japan's national security;

四 請求犯罪が規程第七十条 1 に規定する犯罪である場合において、当該請求犯罪に係る行為が日本国内において行われたとした場合にその行為が日本国の法令によれば罪に当たるものでないとき。

(iv) where the offense underlying the cooperation request is an offense prescribed in article 70, paragraph 1 of the Statute, when the act constituting the offense for which assistance is requested would not constitute a crime under the laws and regulations of Japan were it to have been carried out in Japan;

五 当該協力の請求に応ずることにより、請求犯罪以外の罪に係る事件で日本国の検察官、検察事務官若しくは司法警察職員によって捜査され又は日本国の裁判所に係属しているものについて、その捜査又は裁判を妨げるおそれがあり、直ちに当該請求に応ずることが相当でないと認めるとき。

(v) when complying with the request for cooperation would risk obstructing an investigation or trial in a case that is connected with a crime other than the offense underlying the cooperation request, and that is being investigated by a Japanese public prosecutor, public prosecutor's assistant officer, or judicial police official or is pending before a Japanese court, and the Minister of Justice finds it unreasonable to immediately comply with said request; or

六 その他直ちに当該協力の請求に応じないことに正当な理由があるとき。

(vi) when there are other justifiable grounds for not immediately complying with the request for cooperation.

2 前項の規定により法務大臣がとる措置は、次項に規定する場合を除き、次の各号の

いずれかとする。

- (2) The measures by the Minister of Justice pursuant to the provisions of the preceding paragraph shall be the measures under any of the following items, except in the case prescribed in the following paragraph:
- 一 相当と認める地方検察庁の検事正に対し、関係書類を送付して、証拠の提供に係る協力に必要な証拠の収集を命ずること。
 - (i) sending the relevant documents to the Chief Prosecutor of the appropriate District Public Prosecutor's Office and ordering the collection of evidence that is necessary for cooperation through provision of evidence;
 - 二 国家公安委員会に証拠の提供に係る協力の請求に関する書面を送付すること。
 - (ii) sending documents concerning a request for cooperation through provision of evidence to the National Public Safety Commission; or
 - 三 海上保安庁長官その他の刑事訴訟法（昭和二十三年法律第百三十一号）第百九十条に規定する司法警察職員として職務を行うべき者の置かれている国の機関の長に証拠の提供に係る協力の請求に関する書面を送付すること。
 - (iii) sending documents concerning a request for cooperation through provision of evidence to the Commandant of the Japan Coast Guard or to the head of any other national agency to which persons prescribed in Article 190 of the Code of Criminal Procedure (Act No. 131 of 1948) who are to exercise the functions of judicial police officials belong.
- 3 第一項に規定する協力の請求が裁判所、検察官又は司法警察員の保管する訴訟に関する書類の提供に係るものであるときは、法務大臣は、その書類の保管者に協力の請求に関する書面を送付するものとする。
- (3) When the request for cooperation prescribed in paragraph (1) pertains to the provision of documents that are connected with a legal action and that are being retained by a court, a public prosecutor, or a judicial police officer, the Minister of Justice shall send the custodian of such documents the documents concerning the request for cooperation.
- 4 法務大臣は、前二項に規定する措置その他の証拠の提供に係る協力に関する措置をとるため必要があると認めるときは、関係人の所在その他必要な事項について調査を行うことができる。
- (4) When the Minister of Justice finds it necessary in order to take the measures prescribed in the preceding two paragraphs or in order to take other measures concerning cooperation through provision of evidence, he/she may conduct an inquiry into the whereabouts of the person concerned and other necessary matters.

（国家公安委員会の措置）

(Measures by the National Public Safety Commission)

第七条 国家公安委員会は、前条第二項第二号の書面の送付を受けたときは、相当と認める都道府県警察に対し、関係書類を送付して、証拠の提供に係る協力に必要な証拠

の収集を指示するものとする。

Article 7 Upon receiving documents sent under paragraph (2), item (ii) of the preceding Article, the National Public Safety Commission shall send the relevant documents to the appropriate prefectural police headquarters, and shall instruct that headquarters to collect the evidence necessary for cooperation through provision of evidence.

(協力の実施)

(Implementation of Cooperation)

第八条 国際捜査共助等に関する法律第七条、第八条、第十条、第十二条及び第十三条の規定は、第六条第一項の請求による証拠の提供に係る協力について準用する。この場合において、同法第七条第一項中「第五条第一項第一号」とあるのは「国際刑事裁判所に対する協力等に関する法律（平成十九年法律第三十七号）第六条第二項第一号」と、同条第二項中「前条」とあるのは「国際刑事裁判所に対する協力等に関する法律第七条」と、同条第三項中「第五条第一項第三号」とあるのは「国際刑事裁判所に対する協力等に関する法律第六条第二項第三号」と、同法第十三条中「この法律に特別の定めがある」とあるのは「国際刑事裁判所に対する協力等に関する法律第八条において準用する第八条、第十条及び前条に規定する」と読み替えるものとする。

Article 8 The provisions of Articles 7, 8, 10, 12, and 13 of the Act on International Assistance in Investigations and Other Related Matters shall apply mutatis mutandis to cooperation through provision of evidence based on a request set forth in Article 6, paragraph (1). In this case, the term "Article 5, paragraph (1), item (i)" in Article 7, paragraph (1) of said Act shall be deemed to be replaced with "Article 6, paragraph (2), item (i) of the Act on Cooperation with the International Criminal Court (Act No. 37 of 2007)," the term "the preceding Article" in paragraph (2) of said Article shall be deemed to be replaced with "Article 7 of the Act on Cooperation with the International Criminal Court," the term "Article 5, paragraph (1), item (iii)" in paragraph (3) of said Article shall be deemed to be replaced with "Article 6, paragraph (2), item (iii) of the Act on Cooperation with the International Criminal Court," and the phrase "specifically provided for in this Act" in Article 13 of said Act shall be deemed to be replaced with "provided for in Articles 8, 10, and 12 as applied mutatis mutandis pursuant to Article 8 of the Act on Cooperation with the International Criminal Court."

(虚偽の証明書の提出に対する罰則)

(Penal Provisions on the Submission of False Certificates)

第九条 前条において準用する国際捜査共助等に関する法律第八条第三項の規定による証明書の提出を求められた者が、虚偽の証明書を提出したときは、一年以下の懲役又は五十万円以下の罰金に処する。

Article 9 (1) When a person who has been requested to submit a certificate under

the provisions of Article 8, paragraph (3) of the Act on International Assistance in Investigations and Other Related Matters as applied mutatis mutandis pursuant to the preceding Article has submitted a false certificate, he/she shall be punished by imprisonment with work for up to one year or a fine of up to 500,000 yen.

2 前項の規定は、刑法（明治四十年法律第四十五号）又は第四章の罪に触れるときは、これを適用しない。

(2) The provisions of the preceding paragraph shall not apply if the act constitutes a crime under the Penal Code (Act No. 45 of 1907) or under Chapter IV.

（処分を終えた場合等の措置）

(Measures Upon Completion of a Disposition, etc.)

第十条 検事正は、証拠の提供に係る協力に必要な証拠の収集を終えたときは、速やかに、意見を付して、法務大臣に対し、収集した証拠を送付しなければならない。第六条第二項第三号の国の機関の長が協力に必要な証拠の収集を終えたときも、同様とする。

Article 10 (1) When the Chief Prosecutor has completed the collection of evidence that is necessary for cooperation through provision of evidence, he/she shall promptly send the collected evidence to the Minister of Justice, with his/her opinion attached thereto. The same shall apply when the head of a national agency provided for in Article 6, paragraph (2), item (iii) has completed the collection of evidence that is necessary for cooperation.

2 都道府県公安委員会は、都道府県警察の警視總監又は道府県警察本部長が協力に必要な証拠の収集を終えたときは、速やかに、意見を付して、国家公安委員会に対し、収集した証拠を送付しなければならない。

(2) When the Superintendent General of the Metropolitan Police Department or the chief of the Prefectural Police Headquarters has completed the collection of evidence that is necessary for cooperation, the Prefectural Public Safety Commission shall promptly send the collected evidence to the National Public Safety Commission, with its opinion attached thereto.

3 国家公安委員会は、前項の証拠の送付を受けたときは、速やかに、意見を付して、法務大臣に対し、これを送付するものとする。

(3) When the National Public Safety Commission has received the evidence sent thereto under the preceding paragraph, it shall promptly send the same to the Minister of Justice, with its opinion attached thereto.

4 第六条第三項の規定により証拠の提供に係る協力の請求に関する書面の送付を受けた訴訟に関する書類の保管者は、速やかに、意見を付して、法務大臣に対し、当該書類又はその謄本を送付しなければならない。ただし、直ちにこれを送付することに支障があると認めるときは、速やかに、法務大臣に対し、その旨を通知しなければならない。

(4) A custodian of documents that are connected with a legal action who has received documents concerning a request for cooperation through provision of evidence sent thereto pursuant to the provisions of Article 6, paragraph (3), shall promptly send the relevant documents in his/her custody or certified copies thereof to the Minister of Justice, with his/her opinion attached thereto; provided, however, that when he/she finds it difficult to immediately send the same, he/she shall promptly notify the Minister of Justice to that effect.

(証拠の提供の条件)

(Conditions for the Provision of Evidence)

第十一条 法務大臣は、前条第一項、第三項又は第四項の規定により送付を受けた証拠を国際刑事裁判所に提供する場合において、必要があると認めるときは、当該証拠の使用又は返還に関する条件を定めるものとする。

Article 11 Where the Minister of Justice will provide the ICC with evidence that has been sent thereto pursuant to the provisions of paragraph (1), (3) or (4) of the preceding Article, when he/she finds it necessary, he/she shall set conditions concerning the use or return of said evidence.

(協力をしない場合の通知)

(Notification of Non-cooperation)

第十二条 法務大臣は、第六条第二項第二号若しくは第三号又は第三項の規定による措置をとった後において、同条第一項第一号から第四号までのいずれかに該当すると認めて、証拠の提供に係る協力をしないこととするときは、遅滞なく、その旨を証拠の提供に係る協力の請求に関する書面の送付を受けた者に通知するものとする。

Article 12 After taking measures under the provisions of Article 6, paragraph (2), item (ii) or (iii) or paragraph (3) of said Article, when the Minister of Justice finds that the case falls under any of the provisions of paragraph (1), items (i) through (iv) of said Article and decides not to cooperate through provision of evidence, he/she shall notify the person who received the documents that were sent concerning the request for cooperation through provision of evidence to that effect without delay.

(外務大臣等との協議)

(Consultation with the Minister of Foreign Affairs, etc.)

第十三条 法務大臣は、次の各号のいずれかに該当する場合には、あらかじめ、外務大臣と協議するものとする。

Article 13 (1) The Minister of Justice shall consult with the Minister of Foreign Affairs in advance in a case that falls under any of the following items:

一 第六条第一項第一号から第三号までのいずれかに該当することを理由として、証拠の提供に係る協力をしないこととするとき。

(i) when deciding not to cooperate through provision of evidence, on the basis

that the case falls under any of the provisions of Article 6, paragraph (1), items (i) through (iii);

二 第六条第一項第五号又は第六号のいずれかに該当することを理由として、証拠の提供に係る協力をすることを留保するとき。

(ii) when postponing cooperation through provision of evidence, on the basis that the case falls under either of the provisions of Article 6, paragraph (1), item (v) or (vi); or

三 第十一条の条件を定めるとき。

(iii) when setting the conditions set forth in Article 11.

2 国際捜査共助等に関する法律第十六条第二項の規定は、証拠の提供に係る協力の請求に関し法務大臣が第六条第二項各号の措置をとることとする場合について準用する。

(2) The provisions of Article 16, paragraph (2) of the Act on International Assistance in Investigations and Other Related Matters shall apply mutatis mutandis to where the Minister of Justice decides to take the measures set forth in any of the items of Article 6, paragraph (2) with regard to a request for cooperation through provision of evidence.

第二款 裁判上の証拠調べ及び書類の送達

Subsection 2 Judicial Examination of Evidence and Service of Documents

(法務大臣の措置)

(Measures by the Minister of Justice)

第十四条 法務大臣は、外務大臣から第四条の規定により裁判上の証拠調べ又は書類の送達に係る協力の請求に関する書面の送付を受けた場合において、第六条第一項各号のいずれにも該当しないときは、相当と認める地方裁判所に対し、当該協力の請求に関する書面を送付するものとする。

Article 14 Where the Minister of Justice has received documents sent by the Minister of Foreign Affairs pursuant to the provisions of Article 4 concerning a request for cooperation through a judicial examination of evidence or the service of documents, when the case does not fall under any of the items of Article 6, paragraph (1), the Minister of Justice shall send the documents concerning said request for cooperation to the appropriate district court.

(裁判所の措置等)

(Measures by the Court, etc.)

第十五条 外国裁判所ノ囑託ニ因ル共助法(明治三十八年法律第六十三号)第一条第二項、第一条ノ二第一項(第一号、第五号及び第六号を除く。)、第二条及び第三条の規定は、裁判上の証拠調べ又は書類の送達に係る協力について準用する。

Article 15 (1) The provisions of Article 1, paragraph (2), Article 1-2, paragraph (1) (excluding items (i), (v), and (vi)), and Articles 2 and 3 of the Act on

Assistance Based on Commission by Foreign Courts (Act No. 63 of 1905) shall apply mutatis mutandis to cooperation through a judicial examination of evidence or the service of documents.

2 前条の地方裁判所は、裁判上の証拠調べ又は書類の送達を終えたときは、速やかに、法務大臣に対し、当該裁判上の証拠調べにより得られた証拠を送付し、又は書類の送達の結果を通知しなければならない。

(2) When the district court provided for in the preceding Article has completed the judicial examination of evidence or the service of documents, it shall promptly send the evidence obtained through the judicial examination of evidence to the Minister of Justice or notify him/her of the results of the service of documents.

(準用)

(Mutatis Mutandis Application)

第十六条 第十二条及び第十三条第一項(第三号を除く。)の規定は、法務大臣が第十四条の規定による裁判上の証拠調べ又は書類の送達に係る協力に係る措置をとった場合について準用する。この場合において、第十二条中「同条第一項第一号」とあるのは、「第六条第一項第一号」と読み替えるものとする。

Article 16 The provisions of Article 12 and Article 13, paragraph (1) (excluding item (iii)) shall apply mutatis mutandis to where the Minister of Justice has taken measures related to cooperation through a judicial examination of evidence or the service of documents under the provisions of Article 14. In this case, the term "paragraph (1), item (i) of said Article" in Article 12 shall be deemed to be replaced with "Article 6, paragraph (1), item (i)."

第三款 受刑者証人等移送

Subsection 3 Transfer of a Sentenced Inmate for Testimony, etc.

(受刑者証人等移送の決定等)

(Decision, etc. on the Transfer of a Sentenced Inmate for Testimony, etc.)

第十七条 法務大臣は、外務大臣から第四条の規定により受刑者証人等移送に係る協力の請求に関する書面の送付を受けた場合において、第六条第一項第四号及び次の各号のいずれにも該当せず、かつ、当該請求に応ずることが相当であると認めるときは、三十日を超えない範囲内で国内受刑者を移送する期間を定めて、当該受刑者証人等移送の決定をするものとする。

Article 17 (1) Where the Minister of Justice has received documents sent by the Minister of Foreign Affairs pursuant to the provisions of Article 4 concerning a request for cooperation through the transfer of a sentenced inmate for testimony, etc., when the case neither falls under Article 6, paragraph (1), item (iv) nor falls under any of the following items, and when the Minister of Justice finds it reasonable to comply with the request, he/she shall make an

affirmative decision to transfer the sentenced inmate for testimony, etc., setting a period not to exceed thirty days during which the transfer of the domestic sentenced inmate will be in effect:

一 国内受刑者の書面による同意がないとき。

(i) when the domestic sentenced inmate does not consent in writing;

二 国内受刑者が二十歳に満たないとき。

(ii) when the domestic sentenced inmate is under the age of 20; or

三 国内受刑者の犯した罪に係る事件が日本国の裁判所に係属するとき。

(iii) when a case connected with the crime committed by the domestic sentenced inmate is pending before a Japanese court.

2 法務大臣は、前項の決定をする場合において、必要があると認めるときは、受刑者証人等移送に関する条件を定めるものとする。

(2) Where the Minister of Justice makes the affirmative decision set forth in the preceding paragraph, when he/she finds it necessary, he/she shall set conditions concerning the transfer of the sentenced inmate for testimony, etc.

3 法務大臣は、第一項の請求に応ずることが相当でないと認めて受刑者証人等移送をしないこととするとき及び前項の条件を定めるときは、あらかじめ、外務大臣と協議するものとする。

(3) When the Minister of Justice decides not to effect the transfer of a sentenced inmate for testimony, etc. on finding that it is unreasonable to comply with the request set forth in paragraph (1), or when he/she sets the conditions set forth in the preceding paragraph, the Minister of Justice shall consult with the Minister of Foreign Affairs in advance.

4 国際捜査共助等に関する法律第十九条第三項の規定は、第一項の決定をした場合について準用する。

(4) The provisions of Article 19, paragraph (3) of the Act on International Assistance in Investigations and Other Related Matters shall apply mutatis mutandis to a case in which the decision set forth in paragraph (1) has been made.

(国内受刑者の引渡しに関する措置等)

(Measures Concerning the Surrender of a Domestically Sentenced Inmate, etc.)

第十八条 法務大臣は、前条第四項において準用する国際捜査共助等に関する法律第十九条第三項の規定による命令をしたときは、外務大臣に受領許可証を送付しなければならない。

Article 18 (1) When the Minister of Justice has issued an order under the provisions of Article 19, paragraph (3) of the Act on International Assistance in Investigations and Other Related Matters as applied mutatis mutandis pursuant to paragraph (4) of the preceding Article, he/she shall send a written permit of custody to the Minister of Foreign Affairs.

2 外務大臣は、前項の規定による受領許可証の送付を受けたときは、直ちに、これを

国際刑事裁判所に送付しなければならない。

(2) When the Minister of Foreign Affairs has been sent a permit of custody under the provisions of the preceding paragraph, he/she shall immediately send the same to the ICC.

3 第一項に規定する命令を受けた刑事施設の長又はその指名する刑事施設の職員は、速やかに、国内受刑者を国際刑事裁判所の指定する場所に護送し、国際刑事裁判所の指定する者であって受領許可証を有するものに対し、当該国内受刑者を引き渡さなければならない。

(3) The warden of a penal institution who has been issued the order prescribed in paragraph (1) or an official of the penal institution who has been nominated by that warden shall promptly escort the domestic sentenced inmate to the place designated by the ICC, and shall surrender said domestic sentenced inmate to the person designated by the ICC who is in possession of the permit of custody.

4 国際捜査共助等に関する法律第二十一条及び第二十二条の規定は、前項の規定による国際刑事裁判所の指定する者に対する引渡しに係る国内受刑者について準用する。この場合において、同法第二十一条中「受刑者証人移送」とあるのは、「国際刑事裁判所に対する協力等に関する法律第二条第七号に規定する受刑者証人等移送」と読み替えるものとする。

(4) The provisions of Articles 21 and 22 of the Act on International Assistance in Investigations and Other Related Matters shall apply mutatis mutandis to a domestic sentenced inmate with regard to his/her surrender, pursuant to the provisions of the preceding paragraph, to the person designated by the ICC. In this case, the "transfer of a sentenced inmate for testimony" in Article 21 of said Act shall be deemed to be replaced with "transfer of a sentenced inmate for testimony, etc. as prescribed in Article 2, item (vii) of the Act on Cooperation with the International Criminal Court."

第三節 引渡犯罪人の引渡し等

Section 3 Surrender of an Offender Sought for Surrender, etc.

第一款 引渡犯罪人の引渡し

Subsection 1 Surrender of an Offender Sought for Surrender

(引渡犯罪人の引渡しの要件)

(Requirements for the Surrender of an Offender Sought for Surrender)

第十九条 引渡犯罪人の引渡しは、引渡犯罪が重大犯罪である場合には、次の各号のいずれかに該当する場合を除き、これを行うことができる。

Article 19 (1) Where the offense underlying the surrender request constitutes a serious crime, the surrender of an offender sought for surrender may be carried out, except in a case that falls under any of the following items:

一 引渡犯罪に係る事件が日本国の裁判所に係属するとき。ただし、当該事件について、国際刑事裁判所において、規程第十七条 1 の規定により事件を受理する旨の決

定をし、又は公判手続を開始しているときは、この限りでない。

(i) when the case connected with the offense underlying the surrender request is pending before a Japanese court; provided, however, that this shall not apply where the ICC has determined that the case is admissible pursuant to the provisions of article 17, paragraph 1 of the Statute or has commenced proceedings in the case;

二 引渡犯罪に係る事件について日本国の裁判所において確定判決を経たとき。ただし、当該事件について、国際刑事裁判所において、規程第十七条 1 の規定により事件を受理する旨の決定をし、又は有罪の判決の言渡しをしているときは、この限りでない。

(ii) when a final and binding judgment has been issued in the case connected with the offense underlying the surrender request by a Japanese court; provided, however, that this shall not apply where the ICC has determined that the case is admissible pursuant to the provisions of article 17, paragraph 1 of the Statute, or has rendered a judgment of conviction in the case; or

三 引渡犯罪について国際刑事裁判所において有罪の判決の言渡しがある場合を除き、引渡犯罪人が引渡犯罪を行っていないことが明らかに認められるとき。

(iii) when the offender sought for surrender is clearly found to have not committed the offense underlying the surrender request, except where the ICC has rendered a judgment of conviction with regard to the offense underlying the surrender request.

2 引渡犯罪人の引渡しは、引渡犯罪が規程第七十条 1 に規定する犯罪である場合には、次の各号のいずれかに該当する場合を除き、これを行うことができる。

(2) Where the offense underlying the surrender request is any of the crimes prescribed in article 70, paragraph 1 of the Statute, the surrender of an offender sought for surrender may be carried out, except in a case that falls under any of the following items:

一 引渡犯罪に係る行為が日本国内において行われたとした場合において、当該行為が日本国の法令により死刑又は無期若しくは長期三年以上の懲役若しくは禁錮に処すべき罪に当たるものでないとき。

(i) when, if the act constituting the offense underlying the surrender request were to be committed within Japan, said act would not constitute a crime punishable by the death penalty, life imprisonment, or imprisonment with or without work for no fewer than three years under Japanese laws and regulations;

二 引渡犯罪に係る行為が日本国内において行われ、又は引渡犯罪に係る裁判が日本国の裁判所において行われたとした場合において、日本国の法令により引渡犯罪人に刑罰を科し、又はこれを執行することができないと認められるとき。

(ii) when, if the act constituting the offense underlying the surrender request were to be committed within Japan or if the trial for the offense underlying

the surrender request were to be carried out by a Japanese court, it would be found impossible to impose a punishment on the offender sought for surrender or to execute such a punishment under Japanese laws and regulations;

三 引渡犯罪について国際刑事裁判所において有罪の判決の言渡しがある場合を除き、引渡犯罪人がその引渡犯罪に係る行為を行ったことを疑うに足りる相当な理由がないとき。

(iii) when there are no reasonable grounds to suspect that the offender sought for surrender has committed the act constituting the offense underlying the surrender request, except where the ICC has rendered a judgment of conviction with regard to the offense underlying the surrender request;

四 引渡犯罪に係る事件が日本国の裁判所に係属するとき、又はその事件について日本国の裁判所において確定判決を経たとき。

(iv) when the case connected with the offense underlying the surrender request is pending before a Japanese court, or when a final and binding judgment has been issued thereon by a Japanese court;

五 引渡犯罪人の犯した引渡犯罪以外の罪に係る事件が日本国の裁判所に係属するとき、又はその事件について引渡犯罪人が日本国の裁判所において刑に処せられ、その執行を終わらず、若しくは執行を受けないこととなっていないとき。

(v) when a case connected with a crime other than the offense underlying the surrender request that has been committed by the offender sought for surrender is pending before a Japanese court, or when the offender sought for surrender has been sentenced to punishment by a Japanese court with regard to such a case and he/she has neither served out the sentence nor come to no longer be subject to the execution thereof; or

六 引渡犯罪人が日本国民であるとき。

(vi) when the offender sought for surrender is a Japanese national.

(法務大臣の措置)

(Measures by the Minister of Justice)

第二十条 法務大臣は、外務大臣から第四条の規定により引渡犯罪人の引渡しに係る協力の請求に関する書面の送付を受けたときは、次の各号のいずれかに該当する場合を除き、東京高等検察庁検事長に対し、関係書類を送付して、引渡犯罪人を引き渡すことができる場合に該当するかどうかについて東京高等裁判所に審査の請求をすべき旨を命ずるものとする。

Article 20 (1) When the Minister of Justice has received documents sent by the Minister of Foreign Affairs pursuant to the provisions of Article 4 concerning a request for cooperation through the surrender of an offender sought for surrender, he/she shall, except where any of the following items applies, send the relevant documents to the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and order an application to be made to the Tokyo

High Court for examination as to whether the case is one in which the offender sought for surrender may be surrendered:

一 明らかに前条第一項各号又は第二項各号のいずれかに該当すると認めるとき。

(i) when the case is found to clearly fall under any of the items of paragraph (1) of the preceding Article or any of the items of paragraph (2) of said Article;

二 当該協力の請求が逃亡犯罪人引渡法（昭和二十八年法律第六十八号）第三条に規定する逃亡犯罪人の引渡しの請求又は同法第二十三条第一項に規定する犯罪人を仮に拘禁することの請求と競合し、かつ、規程の定めるところによりこれらの請求を優先させることができる場合において、当該逃亡犯罪人の引渡し又は犯罪人を仮に拘禁することが相当であると認めるとき。

(ii) when the request for cooperation competes with a request for the extradition of a fugitive as prescribed in Article 3 of the Act of Extradition (Act No. 68 of 1953) or with a request for the provisional detention of an offender as prescribed in Article 23, paragraph (1) of said Act and, where it is possible to give priority to the relevant request for extradition or provisional detention pursuant to the provisions of the Statute, when it is found appropriate to extradite the fugitive or to provisionally detain the offender;

三 当該協力の請求に応ずることにより、規程第九十八条に規定する国際法に基づく義務又は国際約束に基づく義務に反することとなるとき。

(iii) when complying with the request for cooperation would result in a breach of any of the obligations under international law or obligations under international agreements prescribed in article 98 of the Statute;

四 当該協力の請求に応ずることにより、引渡犯罪以外の罪に係る事件で日本国の検察官、検察事務官若しくは司法警察職員によって捜査されているもの又は引渡犯罪以外の罪に係る事件（引渡犯罪人以外の者が犯したものに限る。）で日本国の裁判所に係属しているものについて、その捜査又は裁判を妨げるおそれがあり、直ちに当該請求に応ずることが相当でないと認めるとき。

(iv) when complying with the request for cooperation would risk obstructing the investigation or trial in a case connected with a crime other than the offense underlying the cooperation request, that is being investigated by a Japanese public prosecutor, public prosecutor's assistant officer, or judicial police official, or a case connected with a crime other than the offense underlying the cooperation request (limited to a crime committed by a person other than the offender sought for surrender), that is pending before a Japanese court, and it is found inappropriate to immediately comply with said request; or

五 その他直ちに当該協力の請求に応じないことに正当な理由があるとき。

(v) when there are any other justifiable grounds for not immediately complying with the request for cooperation.

2 法務大臣は、前項の規定による命令その他引渡犯罪人の引渡しに関する措置をとるため必要があると認めるときは、引渡犯罪人の所在その他必要な事項について調査を

行うことができる。

- (2) The Minister of Justice may conduct an inquiry into the whereabouts of the offender sought for surrender and other necessary matters, when he/she finds it necessary to do so in order to issue an order under the provisions of the preceding paragraph or to take any other measures concerning the surrender of an offender sought for surrender.

(引渡犯罪人の拘禁)

(Detention of an Offender Sought for Surrender)

第二十一条 東京高等検察庁検事長は、前条第一項の規定による命令を受けたときは、引渡犯罪人が仮拘禁許可状により拘禁され、又は仮拘禁許可状による拘禁を停止されている場合を除き、東京高等検察庁の検察官をして、東京高等裁判所の裁判官があらかじめ発する拘禁許可状により、引渡犯罪人を拘禁させなければならない。

Article 21 (1) Upon receiving an order under the provisions of paragraph (1) of the preceding Article, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, except when the offender sought for surrender is being detained under a provisional detention permit or when his/her detention under a provisional detention permit has been suspended, cause a public prosecutor of the Tokyo High Public Prosecutors Office to detain the offender sought for surrender under a detention permit that has been issued in advance by a judge of the Tokyo High Court.

2 逃亡犯罪人引渡法第五条第二項及び第三項、第六条並びに第七条の規定は、前項の拘禁許可状による引渡犯罪人の拘禁について準用する。この場合において、同法第五条第三項中「請求国の名称、有効期間」とあるのは、「有効期間」と読み替えるものとする。

- (2) The provisions of Article 5, paragraphs (2) and (3), and Articles 6 and 7 of the Act of Extradition shall apply mutatis mutandis to the detention of an offender sought for surrender under a detention permit set forth in the preceding paragraph. In this case, the phrase "the requesting country, the valid period of the permit" in Article 5, paragraph (3) of said Act shall be deemed to be replaced with "the valid period of the permit."

(審査の請求)

(Application for Examination)

第二十二条 東京高等検察庁の検察官は、第二十条第一項の規定による命令があったときは、引渡犯罪人の所在地が分からない場合を除き、速やかに、東京高等裁判所に対し、引渡犯罪人を引き渡すことができる場合に該当するかどうかについて審査の請求をしなければならない。

Article 22 (1) A public prosecutor of the Tokyo High Public Prosecutors Office shall, when the order provided for in Article 20, paragraph (1) has been issued, except when the whereabouts of the offender sought for surrender are unknown,

promptly apply to the Tokyo High Court for an examination of whether it is possible to surrender the offender sought for surrender.

2 逃亡犯罪人引渡法第八条第一項後段、第二項及び第三項の規定は、引渡犯罪人の引渡しに係る前項の審査の請求について準用する。

(2) The provisions of the second sentence of Article 8, paragraph (1), and paragraphs (2) and (3) of said Article of the Act of Extradition shall apply mutatis mutandis to the application for examination set forth in the preceding paragraph with regard to surrender of an offender sought for surrender.

(東京高等裁判所の審査)

(Examination by the Tokyo High Court)

第二十三条 東京高等裁判所は、審査の結果に基づいて、次の各号に掲げる区分に応じ、当該各号に定める決定をしなければならない。

Article 23 (1) The Tokyo High Court shall, on the basis of the results of its examination, render its decision as specified in the following items in accordance with the cases listed in each of those items:

一 前条第一項の審査の請求が不適法であるとき 却下する決定

(i) when the application for examination set forth in paragraph (1) of the preceding Article is unlawful: a decision for dismissal;

二 引渡犯罪人を引き渡すことができる場合に該当するとき その旨の決定

(ii) when the case is one in which the offender sought for surrender can be surrendered: a decision to that effect; and

三 引渡犯罪人を引き渡すことができる場合に該当しないとき その旨の決定

(iii) when the case is not one in which the offender sought for surrender can be surrendered: a decision to that effect.

2 逃亡犯罪人引渡法第九条の規定は前条第一項の審査の請求に係る東京高等裁判所の審査について、同法第十条第二項及び第三項の規定は前項の決定について、同法第十一条の規定は第二十条第一項の規定による命令の取消しについて、同法第十二条の規定は引渡犯罪人の釈放について、同法第十三条の規定は当該審査に係る裁判書の謄本について、それぞれ準用する。この場合において、同法第九条第三項ただし書中「次条第一項第一号又は第二号」とあるのは「国際刑事裁判所に対する協力等に関する法律（平成十九年法律第三十七号）第二十三条第一項第一号又は第三号」と、同法第十一条第一項中「第三条の」とあるのは「国際刑事裁判所に対する協力等に関する法律第四条の」と、「請求国」とあるのは「国際刑事裁判所」と、「受け、又は第三条第二号に該当するに至つた」とあるのは「受けた」と、同条第二項中「第四条第一項の」とあるのは「国際刑事裁判所に対する協力等に関する法律第二十条第一項の」と、「第四条第一項各号」とあるのは「同条第一項各号」と、「第八条第三項」とあるのは「同法第二十二条第二項において準用する第八条第三項」と、同法第十二条中「第十条第一項第一号若しくは第二号」とあるのは「国際刑事裁判所に対する協力等に関する法律第二十三条第一項第一号若しくは第三号」と読み替えるものとする。

(2) The provisions of Article 9 of the Act of Extradition shall apply mutatis

mutandis to the examination by the Tokyo High Court in connection with an application for examination as set forth in paragraph (1) of the preceding Article, the provisions of Article 10, paragraphs (2) and (3) of said Act shall apply mutatis mutandis to the orders set forth in the preceding paragraph, the provisions of Article 11 of said Act shall apply mutatis mutandis to rescission of an order under the provisions of Article 20, paragraph (1), the provisions of Article 12 of said Act shall apply mutatis mutandis to release of an offender sought for surrender, and the provisions of Article 13 of said Act shall apply mutatis mutandis to a certified transcript of the written decision in connection with the examination. In the case above, the phrase "paragraph (1), item (i) or (ii) of the following Article" in the proviso to Article 9, paragraph (3) of said Act shall be deemed to be replaced with "Article 23, paragraph (1), item (i) or (iii) of the Act on Cooperation with the International Criminal Court (Act No. 37 of 2007)," the phrases "of Article 3," and "receives notification from the requesting country that it will withdraw its extradition request, or when the case has fallen under item (ii) of Article 3" in Article 11, paragraph (1) of said Act shall be deemed to be replaced with "of Article 4 of the Act on Cooperation with the International Criminal Court" and "receives notification from the International Criminal Court that it will withdraw its surrender request," respectively, the phrases "of Article 4, paragraph (1)," "the items of Article 4, paragraph (1)," and "Article 8, paragraph (3)" in paragraph (2) of said Article shall be deemed to be replaced with "of Article 20, paragraph (1) of the Act on Cooperation with the International Criminal Court," "the items of paragraph (1) of said Article," and "Article 8, paragraph (3) as applied mutatis mutandis pursuant to Article 22, paragraph (2) of said Act," respectively, and the phrase "Article 10, paragraph (1), item (i) or (ii)" in Article 12 of said Act shall be deemed to be replaced with "Article 23, paragraph (1), item (i) or (iii) of the Act on Cooperation with the International Criminal Court."

(審査手続の停止)

(Stay of Examination Proceedings)

第二十四条 東京高等裁判所は、前条第二項において準用する逃亡犯罪人引渡法第九条の審査において、引渡犯罪人から、引渡犯罪に係る事件が外国の裁判所に係属すること又は当該事件について外国の裁判所において確定判決を経たことを理由として、当該引渡犯罪人の引渡しが認められない旨の申立てがされた場合には、国際刑事裁判所において当該事件につき規程第十七条 1 の規定により事件を受理するかどうか決定されるまでの間、決定をもって、審査の手続を停止することができる。

Article 24 (1) In the examination set forth in Article 9 of the Act of Extradition as applied mutatis mutandis pursuant to paragraph (2) of the preceding Article, where the offender sought for surrender files a motion to the effect that the surrender of the offender sought for surrender should not be granted, on the

basis that a case connected to the offense underlying the surrender request is pending before a court in a foreign country or that a final and binding judgment has been issued on said case by a court in a foreign country, the Tokyo High Court may stay the examination proceedings, by an order, until the ICC determines the admissibility of the case pursuant to the provisions of article 17, paragraph 1 of the Statute.

2 東京高等検察庁検事長は、前項の申立てがあったときは、速やかに、法務大臣に対し、その旨の報告をしなければならない。

(2) When the motion set forth in the preceding paragraph has been filed, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall promptly report to the Minister of Justice to that effect.

3 法務大臣は、前項の報告を受けたときは、外務大臣に対し、第一項の申立てがあった旨の通知をするものとする。

(3) Upon receiving the report set forth in the preceding paragraph, the Minister of Justice shall notify the Minister of Foreign Affairs to the effect that the motion set forth in paragraph (1) has been filed.

4 外務大臣は、前項の通知を受けたときは、国際刑事裁判所に対し、第一項の申立てがあった旨の通報をするとともに、引渡犯罪につき規程第十七条 1 の規定による事件を受理するかどうかの決定に関し、国際刑事裁判所と協議するものとする。

(4) Upon receiving the notice set forth in the preceding paragraph, the Minister of Foreign Affairs shall notify the ICC to the effect that the motion set forth in paragraph (1) has been filed, and shall consult with the ICC concerning the determination on the admissibility of a case under the provisions of article 17, paragraph 1 of the Statute with regard to the offense underlying the surrender request.

5 東京高等検察庁の検察官は、第一項の規定により審査の手續が停止された場合において、必要と認めるときは、引渡犯罪人の拘禁の停止をすることができる。この場合において、必要と認めるときは、当該引渡犯罪人を親族その他の者に委託し、又は当該引渡犯罪人の住居を制限するものとする。

(5) Where the examination proceedings have been stayed pursuant to the provisions of paragraph (1), when a public prosecutor of the Tokyo High Public Prosecutors Office finds it necessary, he/she may suspend the detention of the offender sought for surrender. In this case, when he/she finds it necessary, he/she may entrust the offender sought for surrender to a relative thereof or some other person, or restrict the residence of the offender sought for surrender.

6 東京高等検察庁の検察官は、前項の規定による拘禁の停止がされている場合において、国際刑事裁判所において引渡犯罪につき規程第十七条 1 の規定により事件を受理する旨の決定があったときは、その拘禁の停止を取り消さなければならない。

(6) Where detention has been suspended pursuant to the provisions of the preceding paragraph, when the ICC has then determined to admit the case

pursuant to the provisions of article 17, paragraph 1 of the Statute for the offense underlying the surrender request, a public prosecutor of the Tokyo High Public Prosecutors Office shall rescind the suspension of the detention.

7 逃亡犯罪人引渡法第二十二條第三項から第六項までの規定は、前項の規定により引渡犯罪人の拘禁の停止を取り消した場合について準用する。

(7) The provisions of Article 22, paragraphs (3) through (6) of the Act of Extradition shall apply *mutatis mutandis* to where the suspension of a detention has been rescinded pursuant to the provisions of the preceding paragraph for an offender sought for surrender.

8 第一項の規定により審査の手續が停止された場合における前条第二項において準用する逃亡犯罪人引渡法第九條第一項の規定の適用については、同項中「二箇月」とあるのは、「二箇月（国際刑事裁判所に対する協力等に関する法律第二十四條第一項の規定により審査の手續が停止された期間を除く。）」とする。

(8) With regard to the application of the provisions of Article 9, paragraph (1) of the Act of Extradition as applied *mutatis mutandis* pursuant to paragraph (2) of the preceding Article where examination proceedings have been stayed pursuant to the provisions of paragraph (1), the term "two months" in Article 9, paragraph (1) of said Act shall be deemed to be replaced with "two months (excluding the period during which the examination proceedings were stayed pursuant to the provisions of Article 24, paragraph (1) of the Act on Cooperation with the International Criminal Court)."

（引渡犯罪人の引渡しに関する法務大臣の命令等）

(Order of the Minister of Justice regarding the Surrender of an Offender Sought for Surrender, etc.)

第二十五條 法務大臣は、第二十三條第一項第二号の決定があつた場合において、第二十条第一項第二号から第五号までのいずれにも該当しないと認めるときは、東京高等検察庁検事長に対し引渡犯罪人の引渡しを命ずるとともに、引渡犯罪人にその旨を通知しなければならない。この場合において、当該引渡犯罪人が拘禁許可状により拘禁されているときは、その引渡しの命令は、当該決定があつた日から十日以内にしなければならない。

Article 25 (1) Where the decision set forth in Article 23, paragraph (1), item (ii) has been issued, when the Minister of Justice finds that the case does not fall under any of the provisions of Article 20, paragraph (1), items (ii) through (v), he/she shall order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to effect the surrender of an offender sought for surrender and notify the offender sought for surrender to that effect. In this case, when said offender sought for surrender is being detained under a detention permit, the order of surrender shall be issued within ten days from the day on which the order set forth in Article 23, paragraph (1), item (ii) was issued.

2 法務大臣は、前項に規定する決定があつた場合において、第二十条第一項第二号又

は第三号のいずれかに該当すると認めるときは、直ちに東京高等検察庁検事長及び引渡犯罪人にその旨を通知するとともに、東京高等検察庁検事長に対し拘禁許可状により拘禁されている引渡犯罪人の釈放を命じなければならない。

- (2) Where the decision prescribed in the preceding paragraph has been issued by the Tokyo High Court, when the Minister of Justice finds that the case falls under either of the provisions of Article 20, paragraph (1), item (ii) or (iii), he/she shall immediately notify the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and the offender sought for surrender to that effect, and shall order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to release the offender sought for surrender who is being detained under the detention permit.
- 3 東京高等検察庁の検察官は、前項の規定による命令があったときは、直ちに、拘禁許可状により拘禁されている引渡犯罪人を釈放しなければならない。
- (3) Where the order under the provisions of the preceding paragraph has been issued by the Minister of Justice, a public prosecutor of the Tokyo High Public Prosecutors Office shall immediately release the offender sought for surrender who is being detained under the detention permit.
- 4 法務大臣は、第一項に規定する決定があった場合において、第二十条第一項第四号又は第五号のいずれかに該当すると認めるときは、東京高等検察庁検事長に対し、その旨を通知するとともに、拘禁許可状により拘禁されている引渡犯罪人の拘禁の停止をするよう命じなければならない。
- (4) Where the decision prescribed in paragraph (1) has been issued by the Tokyo High Court, when the Minister of Justice finds that the case falls under either of the provisions of Article 20, paragraph (1), item (iv) or (v), he/she shall notify the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to that effect, and shall order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to suspend the detention of the offender sought for surrender who is being detained under the detention permit.
- 5 東京高等検察庁の検察官は、前項の規定による拘禁の停止の命令があったときは、直ちに、拘禁許可状により拘禁されている引渡犯罪人の拘禁の停止をしなければならない。この場合においては、前条第五項後段の規定を準用する。
- (5) Where an order to suspend detention under the provisions of the preceding paragraph has been issued by the Minister of Justice, a public prosecutor of the Tokyo High Public Prosecutors Office shall immediately suspend the detention of the offender sought for surrender who is being detained under the detention permit. In this case, the provisions of the second sentence of paragraph (5) of the preceding Article shall apply mutatis mutandis.
- 6 法務大臣は、第四項の規定による拘禁の停止の命令をした後において、第二十条第一項第四号及び第五号のいずれにも該当しないこととなったときは、第一項の規定による引渡しの命令をしなければならない。
- (6) After ordering the suspension of detention under the provisions of paragraph

(4), when the case has ceased to fall under either of the provisions of Article 20, paragraph (1), item (iv) or (v), the Minister of Justice shall issue an order of surrender under the provisions of paragraph (1).

7 東京高等検察庁の検察官は、前項の引渡しの命令があったときは、第五項の規定による拘禁の停止を取り消さなければならない。

(7) When the order of surrender set forth in the preceding paragraph has been issued, a public prosecutor of the Tokyo High Public Prosecutors Office shall rescind the suspension of the detention under the provisions of paragraph (5).

8 逃亡犯罪人引渡法第二十二条第三項から第六項までの規定は、前項の規定により引渡犯罪人の拘禁の停止を取り消した場合について準用する。

(8) The provisions of Article 22, paragraphs (3) through (6) of the Act of Extradition shall apply *mutatis mutandis* where the suspension of the detention of an offender sought for surrender has been rescinded pursuant to the provisions of the preceding paragraph.

(引渡犯罪人の引渡しの命令の延期)

(Postponement of an Order for the Surrender of an Offender Sought for Surrender)

第二十六条 法務大臣は、前条第一項に規定する場合（引渡犯罪が重大犯罪である場合に限る。）において、次の各号のいずれかに該当し、かつ、直ちに引渡犯罪人の引渡しをすることが相当でないと認めるときは、同項の規定にかかわらず、その引渡しの命令を延期することができる。

Article 26 (1) In the case prescribed in paragraph (1) of the preceding Article (limited to where the offense underlying the surrender request constitutes a serious crime), when the Minister of Justice finds that the case falls under either of the following items and that it is unreasonable to immediately effect the surrender of an offender sought for surrender, he/she may postpone the order for surrender notwithstanding the provisions of said paragraph:

一 引渡犯罪人の犯した引渡犯罪以外の罪に係る事件が日本国の裁判所に係属するとき。

(i) when a case connected with a crime other than the offense underlying the surrender request, that has been committed by the offender sought for surrender is pending before a Japanese court; or

二 前号に規定する事件について、引渡犯罪人が日本国の裁判所において刑に処せられ、その執行を終わらず、又は執行を受けないこととなっていないとき。

(ii) when the offender sought for surrender has been sentenced to punishment by a Japanese court with regard to a case prescribed in the preceding item, and he/she has neither served out the sentence nor come to no longer be subject to the execution thereof.

2 法務大臣は、前項の規定により引渡犯罪人の引渡しの命令を延期するときは、東京高等検察庁検事長に対し、その旨を通知するとともに、拘禁許可状により拘禁されて

いる引渡犯罪人の拘禁の停止をするよう命じなければならない。

- (2) When the Minister of Justice postpones an order for the surrender of an offender sought for surrender pursuant to the provisions of the preceding paragraph, he/she shall notify the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to that effect, and shall order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to suspend the detention of the offender sought for surrender who is being detained under the detention permit.
- 3 東京高等検察庁の検察官は、前項の規定による命令があったときは、直ちに、拘禁許可状により拘禁されている引渡犯罪人の拘禁の停止をしなければならない。この場合においては、第二十四条第五項後段の規定を準用する。
- (3) When an order under the provisions of the preceding paragraph has been issued, a public prosecutor of the Tokyo High Public Prosecutors Office shall immediately suspend the detention of the offender sought for surrender who is being detained under the detention permit. In this case, the provisions of the second sentence of Article 24, paragraph (5) shall apply *mutatis mutandis*.
- 4 法務大臣は、第二項の規定による拘禁の停止の命令をした後において、第一項各号のいずれにも該当しないこととなったとき、又は当該引渡犯罪人を引き渡すことが相当でないと認める事由がなくなったときは、東京高等検察庁検事長に対し、前条第一項の規定による引渡しの命令をしなければならない。
- (4) After ordering the suspension of a detention under the provisions of paragraph (2), when the case has ceased to fall under either of the provisions of the items of paragraph (1) or when the grounds for finding that it is unreasonable to surrender the offender sought for surrender have ceased to exist, the Minister of Justice shall issue an order for the surrender thereof pursuant to the provisions of paragraph (1) of the preceding Article to the Superintending Prosecutor of the Tokyo High Public Prosecutors Office.
- 5 東京高等検察庁の検察官は、前項の引渡しの命令があったときは、第三項の規定による拘禁の停止を取り消さなければならない。
- (5) Where the order of surrender set forth in the preceding paragraph has been issued, a public prosecutor of the Tokyo High Public Prosecutors Office shall rescind the suspension of the detention under the provisions of paragraph (3).
- 6 逃亡犯罪人引渡法第二十二条第三項から第六項までの規定は、前項の規定により引渡犯罪人の拘禁の停止を取り消した場合について準用する。
- (6) The provisions of Article 22, paragraphs (3) through (6) of the Act of Extradition shall apply *mutatis mutandis* to where the suspension of the detention of an offender sought for surrender has been rescinded pursuant to the provisions of the preceding paragraph.

(拘禁が困難な場合における拘禁の停止及びその取消し)

(Suspension of a Detention Where Detention Is Problematic, and the Rescission

Thereof)

第二十七条 東京高等検察庁の検察官は、拘禁許可状により拘禁されている引渡犯罪人の申立てにより又は職権で、拘禁によって著しく引渡犯罪人の健康を害するおそれがあるときその他拘禁を継続することが困難であると認めるときは、当該引渡犯罪人の拘禁の停止をすることができる。

Article 27 (1) A public prosecutor of the Tokyo High Public Prosecutors Office may, at the motion of an offender sought for surrender who is being detained under a detention permit or ex officio, suspend the detention of the offender sought for surrender when there is a risk that the health of the offender sought for surrender will be substantially damaged by the detention or when he/she otherwise finds that continuing to detain him/her would be problematic.

2 東京高等検察庁検事長は、前項の申立てがあつたとき又は東京高等検察庁の検察官が職権で拘禁の停止をしようとするときは、法務大臣に対し、その旨の報告をしなければならない。

(2) When the motion set forth in the preceding paragraph has been filed or when a public prosecutor of the Tokyo High Public Prosecutors Office intends to suspend a detention ex officio, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall report to the Minister of Justice to that effect.

3 法務大臣は、前項の報告を受けたときは、外務大臣に対し、その旨の通知をするものとする。

(3) When the Minister of Justice has received a report under the preceding paragraph, he/she shall notify the Minister of Foreign Affairs to that effect.

4 外務大臣は、前項の通知を受けたときは、国際刑事裁判所に対し、引渡犯罪人の拘禁の停止に関する意見を求めるものとする。

(4) When the Minister of Foreign Affairs has been notified under the preceding paragraph, he/she shall seek the opinion of the ICC with regard to the suspension of the detention of the offender sought for surrender.

5 東京高等検察庁の検察官は、第一項の規定により拘禁の停止をするかどうかの判断に当たっては、前項の意見を尊重するものとする。ただし、急速を要し、当該意見を聴くいとまがないときは、これを待たないで当該拘禁の停止をすることができる。

(5) In determining whether or not to suspend a detention pursuant to the provisions of paragraph (1), the public prosecutor of the Tokyo High Public Prosecutors Office shall respect the opinion set forth in the preceding paragraph; provided, however, that he/she may suspend the detention without that opinion when the situation is urgent and there is no time available to hear said opinion.

6 第二十四条第五項後段の規定は、第一項の規定により拘禁の停止をする場合について準用する。

(6) The provisions of the second sentence of Article 24, paragraph (5) shall apply mutatis mutandis to where a detention is suspended pursuant to the provisions

of paragraph (1).

7 東京高等検察庁の検察官は、必要と認めるときは、いつでも、第一項の規定による拘禁の停止を取り消すことができる。

(7) When a public prosecutor of the Tokyo High Public Prosecutors Office finds it necessary, he/she may rescind the suspension of a detention under the provisions of paragraph (1) at any time.

8 逃亡犯罪人引渡法第二十二条第三項から第六項までの規定は、前項の規定により引渡犯罪人の拘禁の停止を取り消した場合について準用する。

(8) The provisions of Article 22, paragraphs (3) through (6) of the Act of Extradition shall apply mutatis mutandis to where the suspension of the detention of an offender sought for surrender has been rescinded pursuant to the provisions of the preceding paragraph.

(拘禁の停止中の失効)

(Lapse of a Detention During the Suspension Thereof)

第二十八条 次の各号のいずれかに該当するときは、第二十四条第五項、第二十五条第五項、第二十六条第三項又は前条第一項の規定により停止されている拘禁は、その効力を失う。

Article 28 A detention that has been suspended pursuant to the provisions of Article 24, paragraph (5), Article 25, paragraph (5), Article 26, paragraph (3), or paragraph (1) of the preceding Article shall lose its effect in a case that falls under any of the following items:

一 引渡犯罪人に対し、第二十三条第一項第一号又は第三号の決定の裁判書の謄本が送達されたとき。

(i) when a certified transcript of the written judgment in the decision set forth in Article 23, paragraph (1), item (i) or (iii) has been served upon the offender sought for surrender;

二 引渡犯罪人に対し、第二十三条第二項において準用する逃亡犯罪人引渡法第十一条第二項の規定による通知があったとき。

(ii) when the offender sought for surrender has been notified pursuant to the provisions of Article 11, paragraph (2) of the Act of Extradition as applied mutatis mutandis pursuant to Article 23, paragraph (2); or

三 引渡犯罪人に対し、第二十五条第二項の規定により法務大臣から第二十条第一項第二号又は第三号のいずれかに該当する旨の通知があったとき。

(iii) when the offender sought for surrender has been notified by the Minister of Justice to the effect that the case falls under either Article 20, paragraph (1), item (ii) or (iii), pursuant to the provisions of Article 25, paragraph (2).

(引渡犯罪人の引渡しの期限)

(Time Limit for the Surrender of an Offender Sought for Surrender)

第二十九条 第二十五条第一項の規定による命令に基づく引渡犯罪人の引渡しは、当該

命令の日（拘禁の停止がされているときは、当該拘禁の停止の取消しにより引渡犯罪人が拘禁された日）から三十日以内にしなければならない。

Article 29 (1) The surrender of an offender sought for surrender under an order issued by the Minister of Justice pursuant to the provisions of Article 25, paragraph (1) shall be effected within thirty days from the date of said order (when a detention has been suspended, within thirty days from the date on which the offender sought for surrender was detained as a result of the rescission of the suspension of his/her detention).

2 第二十五条第一項の規定による命令があった後に第二十七条第一項の規定により拘禁の停止がされた場合における前項の規定の適用については、当該拘禁の停止がされていた期間は、同項の期間に算入しないものとする。

(2) With regard to the application of the provisions of the preceding paragraph to a case in which a detention was suspended pursuant to the provisions of Article 27, paragraph (1) after an order under the provisions of Article 25, paragraph (1) was issued by the Minister of Justice, the period during which the detention was suspended shall not be included in the period set forth in the preceding paragraph.

（外務大臣との協議）

(Consultation with the Minister of Foreign Affairs)

第三十条 法務大臣は、次の各号のいずれかに該当する場合には、あらかじめ、外務大臣と協議するものとする。

Article 30 The Minister of Justice shall consult with the Minister of Foreign Affairs in advance in a case that falls under any of the following items:

一 第二十条第一項第一号（第十九条第一項に係る部分に限る。）に該当することを理由として、第二十条第一項の規定による命令を留保するとき。

(i) when withholding an order under the provisions of Article 20, paragraph (1) on the basis that the case falls under Article 20, paragraph (1), item (i) (limited to the portion pertaining to Article 19, paragraph (1));

二 第二十条第一項第二号又は第三号のいずれかに該当することを理由として、引渡犯罪人の引渡しに係る協力をしないこととするとき。

(ii) when deciding not to cooperate through the surrender of an offender sought for surrender, on the basis that the case falls under any of the provisions of Article 20, paragraph (1), item (ii) or (iii);

三 第二十条第一項第四号又は第五号のいずれかに該当することを理由として、同項の規定による命令を留保し、又は第二十五条第四項の規定による措置をとるとき。

(iii) when withholding an order under the provisions of Article 20, paragraph (1) or when taking measures under the provisions of Article 25, paragraph (4), on the basis that the case falls under any of the provisions of Article 20, paragraph (1), item (iv) or (v); or

四 第二十六条第一項の規定により引渡犯罪人の引渡しの命令を延期するとき。

(iv) when postponing an order for the surrender of an offender sought for surrender pursuant to the provisions of Article 26, paragraph (1).

(引渡犯罪人の引渡しに関する措置)

(Measures Related to the Surrender of an Offender Sought for Surrender)

第三十一条 逃亡犯罪人引渡法第十六条第一項から第三項まで、第十七条第一項、第十八条及び第十九条の規定は、第二十五条第一項の規定による引渡しの命令に係る引渡犯罪人の引渡しについて準用する。この場合において、同法第十八条中「前条第五項又は第二十二条第六項の規定による報告」とあるのは「国際刑事裁判所に対する協力等に関する法律第二十五条第八項、第二十六条第六項又は第二十七条第八項において準用する第二十二条第六項の規定による報告（同法第二十七条第八項において準用する場合にあっては、同法第二十五条第一項の規定による引渡しの命令があった後に拘禁の停止の取消しがされた場合における報告に限る。）」と、同法第十九条中「請求国」とあるのは「国際刑事裁判所」と読み替えるものとする。

Article 31 (1) The provisions of Article 16, paragraphs (1) through (3), Article 17, paragraph (1), and Articles 18 and 19 of the Act of Extradition shall apply mutatis mutandis to the surrender of an offender sought for surrender in connection with an order of surrender issued by the Minister of Justice under the provisions of Article 25, paragraph (1). In this case, the phrase "the report from the Superintending Prosecutor of the Tokyo High Prosecutors Office provided for in paragraph (5) of the preceding Article or in Article 22, paragraph (6)" in Article 18 of said Act shall be deemed to be replaced with "the report prescribed under the provisions of Article 22, paragraph (6) as applied mutatis mutandis pursuant to Article 25, paragraph (8), Article 26, paragraph (6), or Article 27, paragraph (8) of the Act on Cooperation with the International Criminal Court (where Article 22, paragraph (6) is applied mutatis mutandis pursuant to Article 27, paragraph (8) of said Act, the report shall be limited to one given when the suspension of the detention was rescinded after the order of surrender was issued by the Minister of Justice under the provisions of Article 25, paragraph (1) of said Act)," and the term "the requesting country" in Article 19 of said Act shall be deemed to be replaced with "the International Criminal Court."

2 前項において準用する逃亡犯罪人引渡法第十六条第一項の引渡状及び同条第三項の受領許可状には、引渡犯罪人の氏名、引渡犯罪名、引渡しの場所、引渡しの期限及び発付の年月日並びに国際刑事裁判所の言い渡した拘禁刑の執行中に逃亡した引渡犯罪人の引渡しにあっては国際刑事裁判所が引渡先として指定する外国の名称を記載し、法務大臣が記名押印しなければならない。

(2) The notice of surrender set forth in Article 16, paragraph (1) of the Act of Extradition and the written permit of custody set forth in paragraph (3) of said Article as applied mutatis mutandis pursuant to the preceding paragraph shall each contain the name of the offender sought for surrender, the offense

underlying the surrender request, the place of surrender, the time limit for the surrender, the date of issuance, and, in the surrender of an offender sought for surrender who escaped during the execution of a sentence of detention rendered by the ICC, the name of the foreign country designated by the ICC as the place where the offender is to be surrendered, and the Minister of Justice shall affix his/her name and seal thereto.

第三十二条 前条第一項において準用する逃亡犯罪人引渡法第十七条第一項の規定による指揮を受けた刑事施設の長又はその指名する刑事施設の職員は、引渡犯罪人を、引渡状に記載された引渡しの場所に護送し、国際刑事裁判所の指定する者であって受領許可状を有するものに引き渡さなければならない。

Article 32 The warden of a penal institution who has received an order under the provisions of Article 17, paragraph (1) of the Act of Extradition as applied mutatis mutandis pursuant to paragraph (1) of the preceding Article or an official of the penal institution who has been nominated by that warden shall escort the offender sought for surrender to the place of surrender stated in the notice of surrender, and shall surrender said offender sought for surrender to the person designated by the ICC who is in possession of the written permit of custody.

第三十三条 前条の規定により引渡犯罪人の引渡しを日本国内において受けた者は、速やかに、当該引渡犯罪人を国際刑事裁判所又は第三十一条第二項に規定する引渡先として指定された外国に護送するものとする。

Article 33 The person to whom an offender sought for surrender has been surrendered in Japan pursuant to the provisions of the preceding Article shall promptly escort the offender sought for surrender to the ICC or to the foreign country designated as the place where the offender sought for surrender is to be surrendered, as prescribed in Article 31, paragraph (2).

第二款 仮拘禁

Subsection 2 Provisional Detention

(仮拘禁の命令)

(Order of Provisional Detention)

第三十四条 法務大臣は、外務大臣から第四条の規定により仮拘禁に係る協力の請求に関する書面の送付を受けたときは、第二十条第一項各号（第一号については、第十九条第一項第三号に係る部分を除く。）のいずれかに該当すると認める場合を除き、東京高等検察庁検事長に対し、仮拘禁をすべき旨を命じなければならない。

Article 34 When the Minister of Justice has received documents sent by the Minister of Foreign Affairs pursuant to the provisions of Article 4 concerning a request for cooperation through provisional detention, he/she shall, except

where the case falls under any of the items of Article 20, paragraph (1) (excluding the part of item (i) that pertains to Article 19, paragraph (1), item (iii)), order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to provisionally detain the offender sought for provisional detention.

(仮拘禁に関する措置)

(Measures Concerning Provisional Detention)

第三十五条 東京高等検察庁検事長は、前条の規定による命令を受けたときは、東京高等検察庁の検察官をして、東京高等裁判所の裁判官があらかじめ発する仮拘禁許可状により、仮拘禁犯罪人を拘禁させなければならない。

Article 35 (1) The Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, when he/she has been issued an order under the provisions of the preceding Article, cause a public prosecutor of the Tokyo High Public Prosecutors Office to detain the offender sought for provisional detention under a provisional detention permit that has been issued in advance by a judge of the Tokyo High Court.

2 逃亡犯罪人引渡法第五条第二項及び第三項、第六条並びに第七条の規定は前項の仮拘禁許可状による仮拘禁犯罪人の拘禁について、同法第二十六条の規定は仮拘禁許可状により拘禁されている仮拘禁犯罪人の釈放について、同法第二十七条の規定は仮拘禁許可状が発せられている仮拘禁犯罪人について第二十条第一項の規定による命令があった場合について、同法第二十八条の規定は前条に規定する書面の送付があった後に国際刑事裁判所から仮拘禁犯罪人の引渡しの請求をしない旨の通知があった場合について、同法第二十九条の規定は仮拘禁許可状により拘禁されている仮拘禁犯罪人について、それぞれ準用する。この場合において、同法第五条第三項中「請求国の名称、有効期間」とあるのは「有効期間」と、同法第二十六条第一項中「第三条の規定による引渡しの請求に関する」とあるのは「国際刑事裁判所に対する協力等に関する法律第二十条第一項に規定する」と、「第四条第一項各号」とあるのは「同項各号」と、同法第二十七条第三項中「第八条第一項」とあるのは「国際刑事裁判所に対する協力等に関する法律第二十二条第二項において準用する第八条第一項後段」と、同法第二十九条中「拘束された日から二箇月（引渡条約に二箇月より短い期間の定めがあるときは、その期間）」とあるのは「拘束された日の翌日から六十日」と読み替えるものとする。

(2) The provisions of Article 5, paragraphs (2) and (3), and Articles 6 and 7 of the Act of Extradition shall apply mutatis mutandis to the detention of an offender sought for provisional detention under a provisional detention permit set forth in the preceding paragraph, the provisions of Article 26 of said Act shall apply mutatis mutandis to the release of an offender sought for provisional detention who is being detained under a provisional detention permit; the provisions of Article 27 of said Act shall apply mutatis mutandis to where an order under Article 20, paragraph (1) has been issued with regard to an offender sought for

provisional detention for whom a provisional detention permit has been issued; the provisions of Article 28 of said Act shall apply mutatis mutandis to where the ICC notifies the relevant person, after the documents prescribed in the preceding Article have been sent, that it will not request the surrender of the offender sought for provisional detention; and the provisions of Article 29 of said Act shall apply mutatis mutandis to an offender sought for provisional detention who is being detained under a provisional detention permit. In the case above, "the requesting country, the valid period of the permit" in Article 5, paragraph (3) of said Act shall be deemed to be replaced with "the valid period of the permit"; the phrases "regarding the extradition of an offender who is being detained under a provisional detention permit as provided for in Article 3" and "the items of Article 4, paragraph (1)" in Article 26, paragraph (1) of said Act shall be deemed to be replaced with "prescribed in Article 20, paragraph (1) of the Act on Cooperation with the International Criminal Court" and "the items of said paragraph," respectively; the phrase "paragraph (1) of Article 8" in Article 27, paragraph (3) of said Act shall be deemed to be replaced with "the second sentence of Article 8, paragraph (1) as applied mutatis mutandis pursuant to Article 22, paragraph (2) of the Act on Cooperation with the International Criminal Court"; and the phrase "two months from the day on which the offender was taken into custody (or within a period of less than two months if the extradition treaty provides otherwise)" in Article 29 of said Act shall be deemed to be replaced with "sixty days from the day following the day on which the offender was taken into custody."

3 東京高等検察庁の検察官は、仮拘禁許可状により拘禁されている仮拘禁犯罪人の申立てにより又は職権で、拘禁によって著しく仮拘禁犯罪人の健康を害するおそれがあるときその他拘禁の継続が困難であると認めるときは、当該仮拘禁犯罪人の拘禁の停止をすることができる。

(3) A public prosecutor of the Tokyo High Public Prosecutors Office may, at the motion of an offender sought for provisional detention who is being detained under a provisional detention permit or ex officio, suspend the detention of the offender sought for provisional detention when there is a risk that the health of the offender sought for provisional detention will be substantially damaged by the detention or when he/she otherwise finds that continuing to detain him/her would be problematic.

4 第二十七条第二項から第七項まで及び逃亡犯罪人引渡法第二十二条第三項から第五項までの規定は、前項の規定による仮拘禁犯罪人の拘禁の停止及び当該拘禁の停止を取り消した場合について準用する。

(4) The provisions of Article 27, paragraphs (2) through (7) of this Act and the provisions of Article 22, paragraphs (3) through (5) of the Act of Extradition shall apply mutatis mutandis to the suspension of the detention of an offender sought for provisional detention under the provisions of the preceding

paragraph and to where the suspension of said detention has been rescinded.

5 第三項の規定により仮拘禁許可状による拘禁の停止があった場合において、仮拘禁犯罪人に対し第二項において準用する逃亡犯罪人引渡法第二十七条第一項の規定による告知がされたときは、当該仮拘禁許可状による拘禁の停止は、第二十七条第一項の規定による拘禁の停止とみなす。

(5) Where a detention under a provisional detention permit has been suspended pursuant to the provisions of paragraph (3), when the offender sought for provisional detention has been notified pursuant to the provisions of Article 27, paragraph (1) of the Act of Extradition as applied mutatis mutandis pursuant to paragraph (2), the suspension of his/her detention under a provisional detention permit shall be deemed to be the suspension of a detention under the provisions of Article 27, paragraph (1).

6 第三項の規定により仮拘禁許可状による拘禁の停止があった場合において、次の各号のいずれかに該当するときは、停止されている仮拘禁許可状による拘禁は、その効力を失う。

(6) In a case that falls under any of the following items, where a detention under a provisional detention permit has been suspended pursuant to the provisions of paragraph (3), the detention under the provisional detention permit that is being suspended shall cease to be effective:

一 仮拘禁犯罪人に対し、第二項において準用する逃亡犯罪人引渡法第二十六条第一項又は第二十八条第二項の規定による通知があったとき。

(i) when the offender sought for provisional detention has been notified pursuant to the provisions of Article 26, paragraph (1) or Article 28, paragraph (2) of the Act of Extradition as applied mutatis mutandis pursuant to paragraph (2); or

二 仮拘禁犯罪人が仮拘禁許可状により拘束された日の翌日から六十日以内に、当該仮拘禁犯罪人に対し、第二項において準用する逃亡犯罪人引渡法第二十七条第一項の規定による告知がないとき。

(ii) when the offender sought for provisional detention has not been notified pursuant to the provisions of Article 27, paragraph (1) of the Act of Extradition as applied mutatis mutandis pursuant to paragraph (2) within sixty days from the day following the day on which said offender sought for provisional detention was taken into custody under a provisional detention permit.

第三款 雑則

Subsection 3 Miscellaneous Provisions

(行政手続法等の適用除外)

(Exclusion from Application of the Administrative Procedure Act, etc.)

第三十六条 前二款の規定に基づいて行う処分については、行政手続法(平成五年法律

第八十八号) 第三章の規定は、適用しない。

Article 36 (1) The provisions of Chapter III of the Administrative Procedure Act (Act No. 88 of 1993) shall not apply to a disposition made based on the provisions of the preceding two Subsections.

2 前二款の規定に基づいて行う処分(行政事件訴訟法(昭和三十七年法律第百三十九号)第三条第二項に規定する処分をいう。)又は裁決(同条第三項に規定する裁決をいう。)に係る抗告訴訟(同条第一項に規定する抗告訴訟をいう。)については、同法第十二条第四項及び第五項(これらの規定を同法第三十八条第一項において準用する場合を含む。)の規定は、適用しない。

(2) The provisions of Article 12, paragraphs (4) and (5) of the Administrative Case Litigation Act (Act No. 139 of 1962) (including the cases where these paragraphs are applied mutatis mutandis pursuant to Article 38, paragraph (1) of said Act) shall not apply to an action for the judicial review of an administrative disposition (meaning an action for the judicial review of an administrative disposition as prescribed in Article 3, paragraph (1) of said Act) in connection with an original administrative disposition (meaning an original administrative disposition as prescribed in paragraph (2) of said Article) or an administrative disposition on appeal (meaning an administrative disposition on appeal as prescribed in paragraph (3) of said Article) that is based on the provisions of the preceding two Subsections.

(準用)

(Mutatis Mutandis Application)

第三十七条 逃亡犯罪人引渡法第三十二条の規定は、前二款に定める東京高等裁判所若しくはその裁判官又は東京高等検察庁の検察官の職務の執行について準用する。

Article 37 The provisions of Article 32 of the Act of Extradition shall apply mutatis mutandis to the performance of duties prescribed in the preceding two Subsections by the Tokyo High Court or its judges or of public prosecutors of the Tokyo High Public Prosecutors Office.

第四節 執行協力

Section 4 Cooperation with Enforcement

(執行協力の要件)

(Requirements for Cooperation with Enforcement)

第三十八条 執行協力は、請求犯罪が重大犯罪である場合には、次の各号のいずれかに該当する場合を除き、これを行うことができる。

Article 38 (1) Where an offense underlying a surrender request constitutes a serious crime, cooperation with enforcement may be rendered, except in a case that falls under any of the following items:

一 没収刑のための保全に係る執行協力については、請求犯罪に係る事件が日本国の

裁判所に係属するとき。ただし、当該事件について、国際刑事裁判所において、規程第十七条 1 の規定により事件を受理する旨の決定をし、又は公判手続を開始しているときは、この限りでない。

(i) cooperation with enforcement entailing preservation for a forfeiture, when a case for the offense underlying the cooperation request is pending before a Japanese court; provided, however, that this shall not apply where the ICC has determined that the case is admissible pursuant to the provisions of article 17, paragraph 1 of the Statute or has commenced proceedings in the case;

二 没収刑のための保全に係る執行協力については、請求犯罪に係る事件について日本国の裁判所において確定判決を経たとき。ただし、当該事件について、国際刑事裁判所において、規程第十七条 1 の規定により事件を受理する旨の決定をし、又は有罪の判決の言渡しをしているときは、この限りでない。

(ii) cooperation with enforcement entailing preservation for a forfeiture, when a final and binding judgment has been issued by a Japanese court in a case connected with the offense underlying the surrender request; provided, however, that this shall not apply where the ICC has determined that the case is admissible pursuant to the provisions of article 17, paragraph 1 of the Statute or has rendered a judgment of conviction in the case;

三 没収刑のための保全に係る執行協力については、請求犯罪につき日本国において刑罰を科すとした場合において、日本国の法令によれば当該執行協力の請求に係る財産が没収保全をすることができる財産に当たるものでないとき（当該請求に係る財産が、請求犯罪に係る行為によりその被害を受けた者から得た財産である場合には、その者又はその一般承継人に帰属することを理由として没収保全をすることができる財産に当たるものでないときを除く。）。

(iii) cooperation with enforcement entailing preservation for a forfeiture in instances when, if a punishment were to be imposed in Japan for the offense underlying the cooperation request, the property connected with the request for cooperation with enforcement would not be subject to preservation for confiscation under Japanese laws and regulations (excluding instances where property connected with said request was obtained from a person who was harmed by the act constituting the offense underlying the cooperation request, when said property would not be subject to preservation for confiscation, on the basis that it belongs to said person or his/her general successor);

四 被害回復命令のための保全であってその内容及び性質を考慮して日本国の法令によれば没収の保全に相当するものに係る執行協力については、請求犯罪につき日本国において刑罰を科すとした場合において、日本国の法令によれば当該執行協力の請求に係る財産が没収保全をすることができる財産に当たるものでないとき（当該請求に係る財産が、重大犯罪に係る行為によりその被害を受けた者から得た財産であって、被害回復命令によりその者又はその一般承継人に返還すべきものである場

合には、それらの者に帰属することを理由として没収保全をすることができる財産に当たるものでないときを除く。)。

(iv) cooperation with enforcement entailing preservation for a reparations order that is equivalent to preservation for confiscation under Japanese laws and regulations in light of its contents and nature, in instances when, if a punishment were to be imposed in Japan for the offense underlying the cooperation request, the property connected with the request for cooperation with enforcement would not be subject to preservation for confiscation under Japanese laws and regulations (excluding instances where property connected with said request was obtained from a person who was harmed by an act constituting a serious crime and is to be returned to said person or his/her general successor by a reparations order, when said property would not be subject to preservation for confiscation, on the basis that the property belongs to such person); or

五 被害回復命令のための保全であってその内容及び性質を考慮して日本国の法令によれば追徴の保全に相当するものに係る執行協力については、請求犯罪につき日本国において刑罰を科すとした場合において、日本国の法令によれば当該執行協力の請求に係る財産が追徴保全をすることができる財産に当たるものでないとき。

(v) cooperation with enforcement entailing preservation for a reparations order that is equivalent to preservation for the collection of an equivalent value under Japanese laws and regulations in light of its contents and nature, when, if a punishment were to be imposed in Japan for the offense underlying the cooperation request, the property connected with said request for cooperation with enforcement would not be subject to preservation for collection of equivalent value under Japanese laws and regulations.

2 執行協力は、請求犯罪が規程第七十条 1 に規定する犯罪である場合には、次の各号のいずれかに該当する場合を除き、これを行うことができる。

(2) Where the offense underlying the surrender request is any of the crimes prescribed in article 70, paragraph 1 of the Statute, cooperation with enforcement may be given except in a case that falls under any of the following items:

一 請求犯罪に係る行為が日本国内において行われたとした場合において、日本国の法令によればこれについて刑罰を科すことができないと認められるとき。

(i) when, if the act constituting the offense underlying the surrender request were to be committed within Japan, it would be found impossible to impose a punishment under Japanese laws and regulations;

二 請求犯罪に係る事件が日本国の裁判所に係属するとき、又はその事件について日本国の裁判所において確定判決を経たとき。

(ii) when a case connected with the offense underlying the surrender request is pending before a Japanese court, or when a final and binding judgment has been issued thereon by a Japanese court; or

三 没収刑のための保全に係る執行協力については、請求犯罪につき日本国において刑罰を科すとした場合において、日本国の法令によれば当該執行協力の請求に係る財産が没収保全をすることができる財産に当たるものでないとき（当該請求に係る財産が、請求犯罪に係る行為によりその被害を受けた者から得た財産である場合には、その者又はその一般承継人に帰属することを理由として没収保全をすることができる財産に当たるものでないときを除く。）。

(iii) cooperation with enforcement entailing preservation for a forfeiture in instances when, if a punishment were to be imposed in Japan for the offense underlying the cooperation request, the property connected with said request for cooperation with enforcement would not be subject to preservation for confiscation under Japanese laws and regulations (excluding instances where property connected with said request was obtained from a person who was harmed by the act constituting the offense underlying the cooperation request, when the property would not be subject to preservation for confiscation, on the basis that the property belongs to said person or his/her general successor).

（法務大臣の措置）

(Measures by the Minister of Justice)

第三十九条 法務大臣は、外務大臣から第四条の規定により執行協力の請求に関する書面の送付を受けたときは、次の各号のいずれかに該当する場合を除き、相当と認める地方検察庁の検事正に対し、関係書類を送付して、執行協力に必要な措置をとるよう命ずるものとする。

Article 39 (1) When the Minister of Justice has received documents sent by the Minister of Foreign Affairs pursuant to the provisions of Article 4 concerning a request for cooperation with enforcement, he/she shall, except in a case that falls under any of the following items, send the relevant documents to the Chief Prosecutor of the appropriate District Public Prosecutors Office and order him/her to take the necessary measures for cooperation with enforcement:

一 前条第一項各号又は第二項各号のいずれかに該当すると認めるとき。

(i) when the case is found to fall under any of the items of paragraph (1) of the preceding Article or any of the items of paragraph (2) of the preceding Article;

二 執行協力の請求が組織的な犯罪の処罰及び犯罪収益の規制等に関する法律（平成十一年法律第百三十六号。以下「組織的犯罪処罰法」という。）第五十九条第一項の規定による共助、国際的な協力の下に規制薬物に係る不正行為を助長する行為等の防止を図るための麻薬及び向精神薬取締法等の特例等に関する法律（平成三年法律第九十四号）第二十一条の規定による共助又は捜査共助の要請と競合し、かつ、規程の定めるところによりその要請を優先させることができる場合において、当該要請に係る措置をとることが相当であると認めるとき。

- (ii) when the request for cooperation with enforcement competes with a request for assistance under the provisions of Article 59, paragraph (1) of the Act on Punishment of Organized Crime and Control of Crime Proceeds (Act No. 136 of 1999; hereinafter referred to as the "Organized Crime Punishment Act") or a request for assistance under the provisions of Article 21 of the Act Concerning Special Provisions of the Narcotics and Psychotropics Control Act, etc. and Other Matters for the Prevention of Activities Encouraging Illicit Conduct and Other Activities Involving Controlled Substances through International Cooperation (Act No. 94 of 1991), or a request for Investigation Assistance, where it is possible to give priority to the relevant request pursuant to the provisions of the Statute, and when the Minister of Justice finds it reasonable to take the measures under said request;
- 三 執行協力の請求に応ずることにより、規程第九十八条 1 に規定する国際法に基づく義務に反することとなるとき。
- (iii) when complying with the request for cooperation with enforcement would result in a breach of any of the obligations under international law prescribed in article 98, paragraph 1 of the Statute;
- 四 執行協力の請求に応ずることにより、請求犯罪以外の罪に係る事件で日本国の検察官、検察事務官若しくは司法警察職員によって捜査され又は日本国の裁判所に係属しているものについて、その捜査又は裁判を妨げるおそれがあり、直ちに当該請求に応ずることが相当でないと認めるとき。
- (iv) when complying with the request for cooperation with enforcement would risk of obstructing an investigation or trial in a case connected with a crime other than the offense underlying the cooperation request, which is being investigated by a Japanese public prosecutor, public prosecutor's assistant officer, or judicial police official, or which is pending before a Japanese court, and the Minister of Justice finds it unreasonable to immediately comply with said request; or
- 五 その他直ちに執行協力の請求に応じないことに正当な理由があるとき。
- (v) when there are any other justifiable grounds for not immediately complying with the request for cooperation with enforcement.
- 2 法務大臣は、次の各号のいずれかに該当する場合には、あらかじめ、外務大臣と協議するものとする。
- (2) The Minister of Justice shall consult with the Minister of Foreign Affairs in advance in a case that falls under any of the following items:
 - 一 前項第二号又は第三号のいずれかに該当することを理由として、執行協力に係る協力をしないこととするとき。
 - (i) when deciding not to render cooperation for cooperation with enforcement on the basis that the case falls under either item (ii) or (iii) of the preceding paragraph; or
 - 二 前項第一号 (前条第一項第一号及び第二号に係る部分に限る。)、第四号又は第

五号のいずれかに該当することを理由として、前項の規定による命令を留保するとき。

(ii) when withholding an order under the provisions of the preceding paragraph on the basis that the case falls under any of the provisions of item (i) (limited to the portion pertaining to paragraph (1), item (i) or (ii) of the preceding Article), (iv), or (v) of the preceding paragraph.

3 第六条第四項の規定は、第一項の規定による命令その他執行協力に関する措置をとる場合について準用する。

(3) The provisions of Article 6, paragraph (4) shall apply mutatis mutandis to where an order under the provisions of paragraph (1) is issued or where any other measures are taken in connection with cooperation with enforcement.

(検事正の措置及び審査の請求)

(Measures by the Chief Prosecutor and Applications for Examination)

第四十条 前条第一項の規定による命令を受けた検事正は、その庁の検察官に執行協力に必要な措置をとらせ、執行協力の実施に係る財産を保管しなければならない。

Article 40 (1) A Chief Prosecutor who has been issued an order under the provisions of paragraph (1) of the preceding Article shall cause a public prosecutor of his/her office to take the necessary measures for cooperation with enforcement, and shall retain the property connected with the implementation of cooperation with enforcement.

2 前項の検察官は、執行協力の請求が罰金刑、没収刑又は被害回復命令の確定裁判の執行に係るものであるときは、裁判所に対し、執行協力をすることができる場合に該当するかどうかについて審査の請求をしなければならない。この場合において、当該請求が被害回復命令の確定裁判の執行に係るものであるときは、当該被害回復命令の内容及び性質を考慮し、これが日本国の法令によれば没収又は追徴の確定裁判のいずれに相当するかについて、意見を付さなければならない。

(2) When a request for cooperation with enforcement entails enforcing a final judgment for a fine, forfeiture, or reparations order, the public prosecutor set forth in the preceding paragraph shall file an application for examination with a court as to whether or not it is a case where cooperation with enforcement may be rendered. In this case, when the request entails the enforcement of a final judgment for a reparations order, the public prosecutor shall attach his/her opinion on whether it is equivalent to a final judgment of confiscation or that of collection of equivalent value under Japanese laws and regulations in light of the contents and nature of said reparations order.

(裁判所の審査等)

(Examination by a Court, etc.)

第四十一条 裁判所は、審査の結果に基づいて、次の各号に掲げる区分に応じ、当該各号に定める決定をしなければならない。

Article 41 (1) A court shall, on the basis of the results of the examination, render the decisions specified in the following items in accordance with the cases listed in each of those items:

一 前条第二項の審査の請求が不適法であるとき 却下する決定

(i) when the application for examination set forth in paragraph (2) of the preceding Article is unlawful: a decision for dismissal;

二 執行協力の請求に係る確定裁判の全部又は一部について執行協力をする事ができる場合に該当するとき その旨の決定

(ii) when the case is one in which cooperation with enforcement may be rendered with regard to all or part of the final judgment connected with the request for cooperation with enforcement: a decision to that effect; and

三 執行協力の請求に係る確定裁判の全部について執行協力をする事ができる場合に該当しないとき その旨の決定

(iii) when the case is not one in which cooperation with enforcement may be rendered with regard to any of the final judgment connected with the request for cooperation with enforcement: a decision to that effect.

2 裁判所は、被害回復命令の確定裁判に係る執行協力の請求について、前項第二号に定める決定をするときは、当該被害回復命令の内容及び性質に応じ、当該確定裁判が日本国の法令によれば没収又は追徴の確定裁判のいずれに相当するかを示さなければならない。

(2) When a court renders the decision specified in item (ii) of the preceding paragraph with regard to a request for cooperation with enforcement of a final judgment for a reparations order, it shall indicate whether said final judgment is equivalent to a final judgment of confiscation or that of collection of equivalent value under Japanese laws and regulations, according to the contents and nature of said reparations order.

3 裁判所は、没収刑の確定裁判の執行に係る執行協力の請求について、第一項第二号に定める決定をするときは、滅失、毀損その他の事由により当該確定裁判を執行することができない場合にこれに代えて当該確定裁判を受けた者から追徴すべき日本円の金額を同時に示さなければならない。被害回復命令の確定裁判の執行に係る執行協力の請求について、同号に定める決定をする場合において、前項の規定により当該確定裁判が没収の確定裁判に相当する旨を示すべきときも、同様とする。

(3) When a court renders the decision specified in paragraph (1), item (ii) with regard to a request for cooperation with enforcement that entails enforcing a final judgment of forfeiture, it shall simultaneously indicate the amount of money in Japanese yen that is to be collected from the person subject to said final judgment in lieu of confiscation, in the event that it is not possible to enforce said final judgment due to loss, damage, or any other reason. The same shall apply where the decision specified in said item is rendered with regard to a request for cooperation with enforcement that entails enforcing a final judgment for a reparations order, when the court must indicate that said final

judgment is equivalent to a final judgment of confiscation pursuant to the provisions of the preceding paragraph.

4 裁判所は、没収刑の確定裁判の執行に係る執行協力の請求について、第一項第二号に定める決定をする場合において、請求犯罪につき日本国において刑罰を科すとした場合において日本国の法令によれば当該請求に係る財産が没収の裁判をすることができる財産に当たるものでないと認めるとき（当該請求に係る財産が、請求犯罪に係る行為によりその被害を受けた者から得た財産である場合には、その者又はその一般承継人に帰属することを理由として没収の裁判をすることができる財産に当たるものでないと認めるときを除く。）は、その旨及び当該確定裁判の執行に代えて当該確定裁判を受けた者から追徴すべき日本円の金額を同時に示さなければならない。

(4) Where a court renders the decision specified in paragraph (1), item (ii) with regard to a request for cooperation with enforcement that entails enforcing a final judgment of forfeiture, in instances when, if a punishment were to be imposed in Japan for the offense underlying the cooperation request, property connected with the request would be found not to be subject to a judicial decision for confiscation under Japanese laws and regulations (excluding instances where property connected with said request was obtained from a person who was harmed by the act constituting the offense underlying the cooperation request, when the property would be found not to be subject to preservation for confiscation, on the basis that the property belongs to said person or his/her general successor), the court shall simultaneously indicate such fact and the amount of money in Japanese yen that is to be collected from the person subject to said final judgment in lieu of enforcement of said final judgment.

5 裁判所は、被害回復命令の確定裁判に係る執行協力の請求について、第一項第二号に定める決定をする場合（第二項の規定により当該確定裁判が没収の確定裁判に相当する旨を示すべきときに限る。）において、請求犯罪につき日本国において刑罰を科すとした場合において日本国の法令によれば当該請求に係る財産が没収の裁判をすることができる財産に当たるものでないと認めるとき（当該請求に係る財産が、重大犯罪に係る行為によりその被害を受けた者から得た財産であって、被害回復命令によりその者又はその一般承継人に返還すべきものである場合には、それらの者に帰属することを理由として没収の裁判をすることができる財産に当たるものでないと認めるときを除く。）は、その旨及び当該確定裁判の執行に代えて当該確定裁判を受けた者から追徴すべき日本円の金額を同時に示さなければならない。

(5) Where a court renders the decision specified in paragraph (1), item (ii) with regard to a request for cooperation with enforcement that entails enforcing a final judgment for a reparations order (limited to where the court is to indicate that said final judgment is equivalent to a final judgment for confiscation pursuant to the provisions of paragraph (2)), in instances when, if a punishment were to be imposed in Japan for the offense underlying the cooperation request, the property connected with the request would be found

not to be subject to a judicial decision for confiscation under Japanese laws and regulations (excluding instances where property connected with said request was obtained from a person who was harmed by the act constituting the serious crime and should be returned to said person or his/her general successor by a reparations order, when the property would be found not to be subject to preservation for confiscation, on the basis that the property belongs to such person), the court shall simultaneously indicate such fact and the amount of money in Japanese yen that is to be collected from the person subject to said final judgment in lieu of enforcement of said final judgment.

6 裁判所は、没収刑の確定裁判の執行に係る執行協力の請求について、第一項第二号に定める決定をする場合において、当該確定裁判に係る目的とされている財産を有し又はその財産の上に地上権、抵当権その他の権利を有すると思料するに足りる相当な理由のある者が、自己の責めに帰することのできない理由により、当該確定裁判に係る手続において自己の権利を主張することができなかつたと認めるときは、その旨及び当該確定裁判の執行に代えて当該確定裁判を受けた者から追徴すべき日本円の金額を同時に示さなければならない。被害回復命令の確定裁判の執行に係る執行協力の請求について、同号に定める決定をする場合（第二項の規定により当該確定裁判が没収の確定裁判に相当する旨を示すべきときに限る。）においても、同様とする。

(6) Where a court renders the decision specified in paragraph (1), item (ii) with regard to a request for cooperation with enforcement that entails enforcing a final judgment of forfeiture, when the court finds that a person by whom there are reasonable grounds to consider that property that is the subject matter of said final judgment or a superficies, mortgage, or any other right to such property is owned was unable to claim his/her right in the proceedings connected with said final judgment due to grounds not attributable to him/her, the court shall simultaneously indicate such fact and the amount of money in Japanese yen which is to be collected from the person subject to said final judgment in lieu of enforcement of said final judgment. The same shall apply where the court renders the decision specified in said item with regard to a request for cooperation with enforcement that entails enforcing a final judgment for a reparations order (limited to where the court is to indicate that said final judgment is equivalent to a final judgment for confiscation pursuant to the provisions of paragraph (2)).

7 前条第二項の規定による審査に関しては、没収刑の確定裁判の執行に係る執行協力の請求について、当該請求に係る財産を有し若しくはその財産の上に地上権、抵当権その他の権利を有すると思料するに足りる相当な理由のある者又はこれらの財産若しくは権利について没収刑のための保全がされる前に強制競売の開始決定、強制執行による差押え若しくは仮差押えの執行がされている場合における差押債権者若しくは仮差押債権者が、当該審査請求事件の手続への参加を許されていないときは、第一項第二号に定める決定をすることができない。被害回復命令の確定裁判であつてその内容及び性質を考慮して日本国の法令によれば没収の確定裁判に相当すると認めるものに

係る同号に定める決定についても、同様とする。

(7) With regard to an examination under the provisions of paragraph (2) of the preceding Article, the decision specified in paragraph (1), item (ii) may not be rendered for a request for cooperation with enforcement that entails enforcing a final judgment of forfeiture when participation in the proceedings of the case for which the application for examination was filed was not permitted for a person by whom there are reasonable grounds to consider that property connected with said request or a superficies, mortgage, or any other right to such property is owned, or for an obligee effecting a seizure or an obligee effecting a provisional seizure where a commencement order for a compulsory auction has been issued or a seizure or provisional seizure through compulsory execution has been executed against such property or right prior to its preservation due to forfeiture. The same shall apply to the decision specified in said item in connection with a final judgment for a reparations order that is found to be equivalent to a final judgment for confiscation under Japanese laws and regulations in light of its contents and nature.

8 組織的犯罪処罰法第五十九条第三項及び第六十二条第三項の規定は没収刑の確定裁判の執行に係る執行協力の請求について第一項第二号に定める決定をする場合（被害回復命令の確定裁判の執行に係る執行協力の請求について、同号に定める決定をする場合において、第二項の規定により当該確定裁判が没収の確定裁判に相当する旨を示すべきときを含む。）について、同条第五項及び第七項から第九項までの規定は執行協力の請求に係る前条第二項の規定による審査について、組織的犯罪処罰法第六十三条の規定は前条第二項の審査の請求に係る決定に対する抗告について、それぞれ準用する。

(8) The provisions of Article 59, paragraph (3) and Article 62, paragraph (3) of the Organized Crime Punishment Act shall apply mutatis mutandis to where a court renders the decision specified in paragraph (1), item (ii) with regard to a request for cooperation with enforcement that entails enforcing a final judgment of forfeiture (including where, when the court renders the decision specified in said item with regard to a request for cooperation with enforcement that entails enforcing a final judgment for a reparations order, the court is to indicate that said final judgment is equivalent to a final judgment for confiscation pursuant to the provisions of paragraph (2)), the provisions of paragraphs (5) and (7) through (9) of said Article shall apply mutatis mutandis to an examination under the provisions of paragraph (2) of the preceding Article with regard to a request for cooperation with enforcement, and the provisions of Article 63 of the Organized Crime Punishment Act shall apply mutatis mutandis to an appeal against the decision on the application for examination set forth in paragraph (2) of the preceding Article, respectively.

（執行協力の実施に関する決定の効力等）

(Effect of Decisions on the Implementation of Cooperation with Enforcement, etc.)

第四十二条 次の各号に掲げる確定裁判の執行に係る執行協力の請求について、前条第一項第二号に定める決定が確定したときは、当該確定裁判は、執行協力の実施に関しては、それぞれ、当該各号に定める日本国の裁判所が言い渡した確定裁判とみなす。

Article 42 (1) Where the decision specified in paragraph (1), item (ii) of the preceding Article has become final and binding with regard to a request for cooperation with enforcement that entails enforcing any of the final judgments listed in the following items, said final judgments shall be deemed to be the final judgments rendered by a Japanese court that are respectively specified in those items, in terms of the implementation of cooperation with enforcement:

一 罰金刑の確定裁判 罰金の確定裁判

(i) a final judgment for a fine: a final judgment for a fine;

二 没収刑及び前条第二項の規定により没収の確定裁判に相当する旨が示された被害回復命令の確定裁判（次号に掲げるものを除く。） 没収の確定裁判

(ii) a final judgment of forfeiture and a final judgment for a reparations order that has been indicated to be equivalent to a final judgment for confiscation pursuant to the provisions of paragraph (2) of the preceding Article (excluding that set forth in the following item): a final judgment for confiscation;

三 没収刑又は前条第二項の規定により没収の確定裁判に相当する旨が示された被害回復命令であって、同条第四項から第六項までの規定により追徴すべき日本円の金額が示されたものの確定裁判 追徴の確定裁判

(iii) a final judgment of forfeiture or a final judgment for a reparations order that has been indicated to be equivalent to a final judgment for confiscation pursuant to the provisions of paragraph (2) of the preceding Article and for which the amount of money in Japanese yen to be collected has been indicated pursuant to the provisions of paragraphs (4) through (6) of said Article: a final judgment for collection of the equivalent value; and

四 前条第二項の規定により追徴の確定裁判に相当する旨が示された被害回復命令の確定裁判 追徴の確定裁判

(iv) a final judgment for a reparations order that has been indicated to be equivalent to a final judgment for collection of an equivalent value pursuant to the provisions of paragraph (2) of the preceding Article: a final judgment for collection of an equivalent value.

2 前項第二号に掲げる確定裁判についての執行協力を実施する場合において、その没収刑又は被害回復命令の目的とされている財産について、滅失、毀損その他の事由により当該確定裁判を執行することができないときは、同項の規定にかかわらず、当該確定裁判は、これを受けた者から前条第三項の規定により示された金額を追徴する旨の日本国の裁判所が言い渡した確定裁判とみなす。

(2) Where cooperation with enforcement is implemented with regard to the final

judgment set forth in item (ii) of the preceding paragraph, when it is not possible to enforce said final judgment against the property subject to the forfeiture or reparations order due to loss, damage, or any other reason, notwithstanding the provisions of said paragraph, the final judgment shall be deemed to be a final judgment rendered by a Japanese court to the effect that the amount indicated pursuant to the provisions of paragraph (3) of the preceding Article is to be collected from the person subject to said final judgment.

3 検察官は、第一項第二号に掲げる確定裁判についての執行協力の実施に係る財産で、国際刑事裁判所への送付に適さないものについては、これを売却することができる。この場合において、その代価は、当該確定裁判についての執行協力の実施に係る財産とみなす。

(3) With regard to property connected with the implementation of cooperation through the enforcement of the final judgment set forth in paragraph (1), item (ii) that is not suitable to be sent to the ICC, a public prosecutor may sell said property. In this case, the proceeds therefrom shall be deemed to be property connected with the implementation of cooperation through the enforcement of said final judgment.

4 検事正は、罰金刑、没収刑又は被害回復命令の確定裁判の執行に係る執行協力の実施を終えたときは、速やかに、その執行協力の実施に係る財産を法務大臣に引き渡さなければならない。

(4) When the Chief Prosecutor has finished implementing cooperation with enforcement that entails enforcing a final judgment for a fine, forfeiture, or reparations order, he/she shall promptly deliver the property connected with the implementation of cooperation with enforcement to the Minister of Justice.

5 組織的犯罪処罰法第六十五条の規定は、第一項に規定する執行協力の請求に係る前条第一項第二号に定める決定の取消しについて準用する。この場合において、組織的犯罪処罰法第六十五条第二項中「没収」とあるのは「罰金、没収」と、同条第三項中「第六十三条」とあるのは「国際刑事裁判所に対する協力等に関する法律（平成十九年法律第三十七号）第四十一条第八項において準用する第六十三条」と読み替えるものとする。

(5) The provisions of Article 65 of the Organized Crime Punishment Act shall apply mutatis mutandis to rescission of the decision specified in paragraph (1), item (ii) of the preceding Article in connection with the request for cooperation with enforcement prescribed in paragraph (1). In this case, the term "confiscation" in Article 65, paragraph (2) of the Organized Crime Punishment Act shall be deemed to be replaced with "a fine, confiscation,;" and the term "Article 63" in paragraph (3) of said Article shall be deemed to be replaced with "Article 63 as applied mutatis mutandis pursuant to Article 41, paragraph (8) of the Act on Cooperation with the International Criminal Court (Act No. 37 of 2007)."

(没収保全の請求)

(Request for Preservation for Confiscation)

第四十三条 検察官は、執行協力の請求が、没収刑のための保全に係るものであるとき、又は被害回復命令のための保全に係るものであってその内容及び性質を考慮して日本国の法令によれば没収の保全に相当するものであると認めるときは、裁判官に、没収保全命令を発して当該請求に係る財産についてその処分を禁止することを請求しなければならない。この場合において、検察官は、必要と認めるときは、附帯保全命令を発して当該財産の上に存在する地上権、抵当権その他の権利の処分を禁止することを請求することができる。

Article 43 (1) When a request for cooperation with enforcement is a request for preservation for a forfeiture or when it is a request for preservation for a reparations order that is found to be equivalent to preservation for confiscation under Japanese laws and regulations in light of its contents and nature, the public prosecutor shall request the judge to issue a protective order in anticipation of confiscation to prohibit the disposition of property connected with said request for cooperation with enforcement. In this case, when the public prosecutor finds it necessary, he/she may request the judge to issue an ancillary protective order to prohibit the disposition of a superficies, mortgage, or any other right that exists to such property.

2 第四十条第二項の審査の請求があった後は、前項の没収刑又は被害回復命令のための保全に関する処分は、その審査の請求を受けた裁判所が行う。

(2) After the application for examination set forth in Article 40, paragraph (2) has been filed, a disposition to preserve the property for the forfeiture or reparations order under the preceding paragraph shall be rendered by the court that has received the application for examination.

(没収保全命令)

(Protective Order in Anticipation of Confiscation)

第四十四条 裁判所又は裁判官は、前条第一項前段の規定による請求を受けた場合において、第三十八条第一項各号及び第二項各号のいずれにも該当しないと認めるときは、没収保全命令を発して、当該請求に係る財産について、この節の定めるところにより、その処分を禁止するものとする。

Article 44 (1) When a court or a judge has received a request under the provisions of the first sentence of paragraph (1) of the preceding Article, when the court or the judge finds that the case does not fall under any of the items of Article 38, paragraph (1) nor any of the items of paragraph (2) of said Article, the court or the judge shall issue a protective order in anticipation of confiscation to prohibit the disposition of property pertaining to said request, pursuant to the provisions of this Section.

2 裁判所又は裁判官は、地上権、抵当権その他の権利がその上に存在する財産につい

て没収保全命令を発した場合又は発しようとする場合において、当該権利が没収刑の執行によって消滅すると思料するに足りる相当な理由がある場合であってその執行のため必要があると認めるとき、又は当該権利が仮装のものであると思料するに足りる相当な理由があるとき、検察官の請求により、附帯保全命令を別に発して、当該権利の処分を禁止することができる。

- (2) Where a court or a judge has issued or intends to issue a protective order in anticipation of confiscation with regard to property to which there exists superficies, mortgage, or any other rights, when the court or the judge finds that there are reasonable grounds to consider that such rights will be extinguished through the enforcement of a forfeiture and when it is necessary for such enforcement, or when the court or the judge finds that there are reasonable grounds to consider that said right is fake, the court or the judge may, at the request of the public prosecutor, issue an ancillary protective order separately to prohibit the disposition of such rights.
- 3 組織的犯罪処罰法第二十二条第三項、第四項及び第六項並びに第二十三条第六項の規定は、第一項の没収保全命令又は前項の附帯保全命令について準用する。この場合において、組織的犯罪処罰法第二十二条第三項中「被告人」とあるのは「国際刑事裁判所に対する協力等に関する法律第二条第十号に規定する没収刑又は被害回復命令の裁判を受けるべき者」と、「公訴事実」とあるのは「同条第十二号に規定する請求犯罪」と、同条第四項中「第一項若しくは第二項」とあるのは「国際刑事裁判所に対する協力等に関する法律第四十四条第一項若しくは第二項」と、組織的犯罪処罰法第二十三条第六項中「第一項又は第四項」とあるのは「国際刑事裁判所に対する協力等に関する法律第四十三条第一項」と読み替えるものとする。
- (3) The provisions of Article 22, paragraphs (3), (4), and (6) and Article 23, paragraph (6) of the Organized Crime Punishment Act shall apply mutatis mutandis to a protective order in anticipation of confiscation under paragraph (1) or to an ancillary protective order under the preceding paragraph. In this case, the terms "defendant" and "charged fact" in Article 22, paragraph (3) of the Organized Crime Punishment Act shall be deemed to be replaced with "person who would be subject to the judicial decision of forfeiture or judicial decision for a reparations order prescribed in Article 2, item (x) of the Act on Cooperation with the International Criminal Court" and "offense underlying the cooperation request prescribed in item (xii) of said Article," respectively; the phrase "paragraph (1) or (2)" in paragraph (4) of said Article shall be deemed to be replaced with "Article 44, paragraph (1) or (2) of the Act on Cooperation with the International Criminal Court"; and the phrase "paragraph (1) or (4)" in Article 23, paragraph (6) of the Organized Crime Punishment Act shall be deemed to be replaced with "Article 43, paragraph (1) of the Act on Cooperation with the International Criminal Court."
- 4 第一項の没収保全命令又は第二項の附帯保全命令については、国際刑事裁判所において規程第六十一条1に規定する審理が行われる前であっても、これをすることがで

きる。

- (4) The protective order in anticipation of confiscation set forth in paragraph (1) and the ancillary protective order set forth in paragraph (2) may be issued even before the hearing prescribed in article 61, paragraph 1 of the Statute is held at the ICC.
- 5 組織的犯罪処罰法第二十三条第七項及び第六十八条の規定は、前項の場合における没収保全命令について準用する。この場合において、組織的犯罪処罰法第二十三条第七項中「公訴の提起があった」とあるのは「国際刑事裁判所に関するローマ規程第六十一条1に規定する審理が開始された」と、「被告人」とあるのは「当該審理の対象とされる者」と、組織的犯罪処罰法第六十八条第一項中「没収又は追徴のための保全の共助の要請が公訴の提起されていない」とあるのは「国際刑事裁判所に対する協力等に関する法律第二条第十号に規定する没収刑又は被害回復命令のための保全に係る同号に規定する執行協力の請求が国際刑事裁判所に関するローマ規程第六十一条1に規定する審理が開始されていない」と、「要請国」とあるのは「国際刑事裁判所」と、「公訴が提起された」とあるのは「当該審理が開始された」と、同条第二項中「要請国」とあるのは「国際刑事裁判所」と、「公訴を提起できない」とあるのは「国際刑事裁判所に関するローマ規程第六十一条1に規定する審理を行うことができない」と読み替えるものとする。
- (5) The provisions of Article 23, paragraph (7) and Article 68 of the Organized Crime Punishment Act shall apply mutatis mutandis to a protective order in anticipation of confiscation in the case set forth in the preceding paragraph. In this case, the phrase "institution of prosecution" and "defendant" in Article 23, paragraph (7) of the Organized Crime Punishment Act shall be deemed to be replaced with "commencement of the hearing prescribed in article 61, paragraph 1 of the Rome Statute of the International Criminal Court" and "person subject to that hearing," respectively; the phrases "a request for assistance through preservation for confiscation or collection of an equivalent value is made in a case for which prosecution has not been instituted," "requesting country," and "that prosecution has been instituted" in Article 68, paragraph (1) of the Organized Crime Punishment Act shall be deemed to be replaced with "a request for cooperation with enforcement prescribed in Article 2, item (x) of the Act on Cooperation with the International Criminal Court entailing preservation for a forfeiture or for a reparations order prescribed in said item is made in a case for which the hearing prescribed in article 61, paragraph 1 of the Rome Statute of the International Criminal Court has not been commenced," "International Criminal Court," and "that the hearing has been commenced," respectively; and the phrases "requesting country" and "prosecution cannot be instituted" in paragraph (2) of said Article shall be deemed to be replaced with "International Criminal Court" and "the hearing prescribed in article 61, paragraph 1 of the Rome Statute of the International Criminal Court cannot be held," respectively.

6 前項において準用する組織的犯罪処罰法第六十八条第二項の規定による更新の裁判は、検察官に告知された時にその効力を生ずる。

(6) The judicial decision for a renewal under the provisions of Article 68, paragraph (2) of the Organized Crime Punishment Act as applied *mutatis mutandis* pursuant to the preceding paragraph shall become effective at the time when the public prosecutor is notified thereof.

(追徴保全の請求)

(Request for Preservation for the Collection of an Equivalent Value)

第四十五条 検察官は、執行協力の請求が、被害回復命令のための保全に係るものであってその内容及び性質を考慮して日本国の法令によれば追徴の保全に相当するものであると認めるときは、裁判官に、追徴保全命令を発して被害回復命令の裁判を受けるべき者に対しその財産の処分を禁止することを請求しなければならない。

Article 45 (1) When a public prosecutor finds that a request for cooperation with enforcement entails preservation for a reparations order and is equivalent to preservation for the collection of an equivalent value under Japanese laws and regulations in light of its contents and nature, he/she shall request the judge to issue a protective order in anticipation of collection to prohibit the person who would be subject to the judicial decision for a reparations order from disposing of his/her property.

2 第四十三条第二項の規定は、前項の被害回復命令のための保全に関する処分について準用する。

(2) The provisions of Article 43, paragraph (2) shall apply *mutatis mutandis* to a disposition concerning preservation for a reparations order under the preceding paragraph.

(追徴保全命令)

(Protective Order in Anticipation of Collection)

第四十六条 裁判所又は裁判官は、前条第一項の規定による請求を受けた場合において、第三十八条第一項各号及び第二項各号のいずれにも該当しないと認めるときは、追徴保全命令を発して、被害回復命令の裁判を受けるべき者に対し、その財産の処分を禁止するものとする。

Article 46 (1) Where a court or a judge has received a request under the provisions of paragraph (1) of the preceding Article, when the court or the judge finds that the case does not fall under any of the items of Article 38, paragraph (1) nor any of the items of paragraph (2) of said Article, the court or the judge shall issue an protective order in anticipation of collection to prohibit the person who would be subject to the judicial decision of a reparations order from disposing of his/her property.

2 組織的犯罪処罰法第二十二条第四項、第二十三条第六項及び第四十二条第二項から第四項までの規定は、前項の追徴保全命令について準用する。この場合において、組

組織的犯罪処罰法第二十二條第四項中「第一項若しくは第二項」とあるのは「国際刑事裁判所に対する協力等に関する法律第四十六條第一項」と、組織的犯罪処罰法第二十三條第六項中「第一項又は第四項」とあるのは「国際刑事裁判所に対する協力等に関する法律第四十五條第一項」と、組織的犯罪処罰法第四十二條第三項及び第四項中「被告人」とあるのは「国際刑事裁判所に対する協力等に関する法律第二條第十号に規定する被害回復命令の裁判を受けるべき者」と、同項中「公訴事実」とあるのは「同條第十二号に規定する請求犯罪」と読み替えるものとする。

(2) The provisions of Article 22, paragraph (4), Article 23, paragraph (6), and Article 42, paragraphs (2) through (4) of the Organized Crime Punishment Act shall apply mutatis mutandis to the protective order in anticipation of collection set forth in the preceding paragraph. In this case, the phrase "paragraph (1) or (2)" in Article 22, paragraph (4) of the Organized Crime Punishment Act shall be deemed to be replaced with "Article 46, paragraph (1) of the Act on Cooperation with the International Criminal Court"; the phrase "paragraph (1) or (4)" in Article 23, paragraph (6) of the Organized Crime Punishment Act shall be deemed to be replaced with "Article 45, paragraph (1) of the Act on Cooperation with the International Criminal Court"; the term "defendant" in Article 42, paragraphs (3) and (4) of the Organized Crime Punishment Act shall be deemed to be replaced with "person who would be subject to the judicial decision for a reparations order prescribed in Article 2, item (x) of the Act on Cooperation with the International Criminal Court," and the term "charged fact" in said paragraph shall be deemed to be replaced with "offense underlying the cooperation request prescribed in item (xii) of said Article."

(準用)

(Mutatis Mutandis Application)

第四十七條 この節に特別の定めがあるもののほか、裁判所若しくは裁判官のする審査、処分若しくは令状の発付、検察官若しくは検察事務官のする処分又は裁判所の審査への利害関係人の参加については組織的犯罪処罰法第三章、第四章（第二十二條、第二十三條、第三十二條、第三十三條、第四十二條、第四十三條、第四十七條及び第四十八條を除く。）及び第六十九條から第七十二條まで、刑事訴訟法（第一編第二章及び第五章から第十三章まで、第二編第一章、第三編第一章及び第四章並びに第七編に限る。）、刑事訴訟費用に関する法令並びに刑事事件における第三者所有物の没収手続に関する応急措置法（昭和三十八年法律第百三十八号）の規定を、執行協力の請求を受理した場合における措置については逃亡犯罪人引渡法第八條第二項並びに第十一條第一項及び第二項の規定を、それぞれその性質に反しない限り、準用する。

Article 47 In addition to what is specially provided for in this Section, the provisions of Chapter III, Chapter IV (excluding Articles 22, 23, 32, 33, 42, 43, 47, and 48), and Articles 69 through 72 of the Organized Crime Punishment Act, the provisions of the Code of Criminal Procedure (limited to Part I,

Chapters II and V through XIII, Part II, Chapter I, Part III, Chapters I and IV, and Part VII), the provisions of laws and regulations on the costs of criminal procedure and the Act on Emergency Measures in Criminal Procedure to Confiscate Items Owned by Third Parties (Act No. 138 of 1963) shall apply mutatis mutandis to the examination, a disposition, or issuance of a warrant by a court or a judge, a disposition by a public prosecutor or a public prosecutor's assistant officer, or participation of an interested party in an examination by a court, and the provisions of Article 8, paragraph (2) and Article 11, paragraphs (1) and (2) of the Act of Extradition shall apply mutatis mutandis to measures taken where a request for cooperation with enforcement has been accepted, unless contrary to the nature thereof, respectively.

(政令への委任)

(Delegation to Cabinet Order)

第四十八条 この節に定めるもののほか、没収保全命令による処分の禁止と滞納処分と
の手續の調整について必要な事項で、滞納処分に関するものは、政令で定める。

Article 48 In addition to what is provided for in this Section, matters related to a
disposition of delinquency that are necessary with regard to the adjustment of
procedures between a prohibition on disposition under a protective order in
anticipation of confiscation and a disposition of delinquency, shall be specified
by Cabinet Order.

第五節 雑則

Section 5 Miscellaneous Provisions

(通過護送の承認)

(Approval of Transportation through Japanese Territory)

第四十九条 外務大臣は、国際刑事裁判所から通過護送（外国の官憲又は国際刑事裁判
所の指定する者（次条において「外国官憲等」という。）が規程第八十九条 1 の規定
による引渡しの対象となる者（次条において「引渡対象者」という。）を日本国内を
通過して護送することをいう。次条において同じ。）の承認の請求があったときは、
請求の方式が規程に適合しないと認める場合を除き、これを承認するものとする。

Article 49 Where a request for approval of transportation (meaning
transportation in which foreign authorities or a person designated by the ICC
(referred to as "foreign authorities" in the following Article) escort a person
sought for surrender under the provisions of article 89, paragraph 1 of the
Statute (referred to as the "person sought for surrender" in the following
Article) while passing through the Japanese territory; the same shall apply in
the following Article) has been made by the ICC, the Minister of Foreign
Affairs shall, except where he/she finds that the form of said request does not
to comply with the Statute, give his/her approval to that request.

(護送中の着陸があった場合の措置)

(Measures for Landings in Japan under Escort)

第五十条 警察官又は入国警備官は、外国官憲等が護送（前条の規定による承認を受けた通過護送を除く。）中の引渡対象者が搭乗する航空機が天候その他やむを得ない理由により日本国内に着陸した場合において、当該引渡対象者を発見したときは、外国官憲等に引き渡すため、これを拘束することができる。

Article 50 (1) Where an aircraft carrying a person sought for surrender under transportation by foreign authorities (excluding transportation that has been approved under the provisions of the preceding Article) has landed in Japan due to weather conditions or any other unavoidable grounds, when a police official or an immigration control officer has discovered the person sought for surrender, he/she may take said person sought for surrender into custody in order to deliver him/her to the foreign authorities.

2 入国警備官は、前項の規定により引渡対象者を拘束したときは、これを直ちに警察官に引き渡すものとする。この場合において、警察官は、当該引渡対象者を引き続き拘束することができる。

(2) Upon taking a person sought for surrender into custody pursuant to the provisions of the preceding paragraph, an immigration control officer shall immediately deliver said person to a police official. In this case, the police official may continue to keep said person sought for surrender in custody.

3 前二項の規定による引渡対象者の拘束は、着陸の時から九十六時間を超えて行うことができない。

(3) The duration of custody of a person sought for surrender under the provisions of the preceding two paragraphs may not exceed ninety six hours from the time of landing.

4 第一項の規定により引渡対象者を拘束した警察官又は第二項の規定により引渡対象者の引渡しを受けた警察官は、外務大臣に対し、その旨を通知するものとする。

(4) A police official who has taken a person sought for surrender into custody pursuant to the provisions of paragraph (1) or a police official to whom a person sought for surrender has been delivered pursuant to the provisions of paragraph (2) shall notify the Minister of Foreign Affairs to that effect.

5 外務大臣は、前項の通知を受けたときは、国際刑事裁判所に対し、引渡対象者を拘束した旨を通報するものとする。

(5) When the Minister of Foreign Affairs has been notified as set forth in the preceding paragraph, he/she shall notify the ICC that the person sought for surrender has been taken into custody.

6 外務大臣は、国際刑事裁判所から前条の通過護送の承認の請求を受理したときは、第四項の警察官に対し、その旨を通知するものとする。

(6) When the Minister of Foreign Affairs has received a request for approval of transportation as set forth in the preceding Article from the ICC, he/she shall

notify the police official set forth in paragraph (4) to that effect.

7 第三項に規定する期間内に前条の通過護送の承認の請求が受理された場合には、警察官は、同項の規定にかかわらず、引渡対象者の護送を行う外国官憲等に引渡対象者を引き渡すまでの間、当該引渡対象者を引き続き拘束することができる。ただし、外務大臣から当該通過護送の承認をしない旨の通知を受けた場合には、その拘束を続けることができない。

(7) Where a request for approval of transportation under the preceding Article has been accepted within the period prescribed in paragraph (3), a police official may, notwithstanding the provisions of said paragraph, continue to keep the person sought for surrender in custody until he/she delivers said person sought for surrender to the foreign authorities escorting said person sought for surrender; provided, however, that where a police official has been notified by the Minister of Foreign Affairs that approval has not been given for transportation, he/she may not continue to keep the person sought for surrender in custody.

8 警察官は、第三項又は前項の規定により引渡対象者の拘束を続けることができなくなったときは、これを入国警備官に引き渡すものとする。

(8) When a police official becomes unable to continue keeping a person sought for surrender in custody pursuant the provisions of paragraph (3) or the preceding paragraph, he/she shall deliver the person sought for surrender to an immigration control officer.

9 前各項に定めるもののほか、警察官による引渡対象者の拘束に関する手続について必要な事項は、国家公安委員会規則で定める。

(9) In addition to what is provided for in the preceding paragraphs, the necessary matters with regard to procedures concerning the custody of a person sought for surrender by a police official shall be specified by the Rules of the National Public Safety Commission.

(最高裁判所規則)

(Rules of the Supreme Court)

第五十一条 この章に定めるもののほか、証拠の提供に関する令状の発付、証人尋問及び不服申立てに関する手続、引渡犯罪人の引渡し及び仮拘禁に関する裁判所の審査及び令状の発付に関する手続並びに執行協力に関する手続について必要な事項は、最高裁判所規則で定める。

Article 51 In addition to what is provided for in this Chapter, the necessary procedural matters concerning the issuance of warrants, examination of witnesses, and appeals in relation to the provision of evidence, procedures concerning examination by a court and issuance of warrants in relation to the surrender of an offender sought for surrender and provisional detention, and the necessary procedural matters concerning cooperation with enforcement shall be specified by the Rules of the Supreme Court.

第三章 国際刑事警察機構に対する措置

Chapter III Measures Taken for the International Criminal Police Organization

第五十二条 国家公安委員会は、国際刑事裁判所から国際刑事警察機構を通じて管轄刑事事件の捜査に関する措置の請求を受けたときは、第六条第一項第四号に該当する場合を除き、次の各号のいずれかの措置をとることができる。

Article 52 (1) The National Public Safety Commission may, on receiving a request for measures concerning the investigation of a criminal case before the ICC from the ICC through the International Criminal Police Organization, take one of the following measures, except where the case falls under Article 6, paragraph (1), item (iv):

一 相当と認める都道府県警察に必要な調査を指示すること。

(i) instructing the appropriate prefectural police headquarters to conduct the necessary inquiry; or

二 第六条第二項第三号の国の機関の長に当該措置の請求に関する書面を送付すること。

(ii) sending documents concerning the request for measures to the head of a national agency set forth in Article 6, paragraph (2), item (iii).

2 国際捜査共助等に関する法律第十八条第三項から第八項までの規定は、前項に規定する請求に係る措置について準用する。この場合において、同条第四項中「同項第二号」とあり、及び同条第七項中「第一項第二号」とあるのは「国際刑事裁判所に対する協力等に関する法律第五十二条第一項第二号」と、同条第六項中「第一項第一号」とあるのは「国際刑事裁判所に対する協力等に関する法律第五十二条第一項第一号」と読み替えるものとする。

(2) The provisions of Article 18, paragraphs (3) through (8) of the Act on International Assistance in Investigations and Other Related Matters shall apply mutatis mutandis to measures under a request prescribed in the preceding paragraph. In this case, the phrase "item (ii) of said paragraph" in paragraph (4) of said Article and the phrase "paragraph (1), item (ii)" in paragraph (7) of said Article shall be deemed to be replaced with "Article 52, paragraph (1), item (ii) of the Act on Cooperation with the International Criminal Court," and the phrase "paragraph (1), item (i)" in paragraph (6) of said Article shall be deemed to be replaced with "Article 52, paragraph (1), item (i) of the Act on Cooperation with the International Criminal Court."

第四章 国際刑事裁判所の運営を害する罪

Chapter IV Offenses That Obstruct the Administration of the ICC

(証拠隠滅等)

(Destruction of Evidence, etc.)

第五十三条 他人の管轄刑事事件に関する証拠を隠滅し、偽造し、若しくは変造し、又は偽造若しくは変造の証拠を使用した者は、二年以下の懲役又は二十万円以下の罰金に処する。

Article 53 (1) A person who destroys, counterfeits or alters evidence related to a criminal case before the ICC, or who uses counterfeit or altered evidence, shall be punished by imprisonment with work for up to two years or a fine of up to 200,000 yen.

2 犯人の親族が犯人の利益のために前項の罪を犯したときは、その刑を免除することができる。

(2) Where the relative of an offender has committed the crime set forth in the preceding paragraph in the interest of the offender, the relative may be exempted from punishment.

(証人等威迫)

(Intimidation of a Witness, etc.)

第五十四条 自己若しくは他人の管轄刑事事件の捜査若しくは裁判に必要な知識を有すると認められる者又はその親族に対し、その事件に関して、正当な理由がないのに面会を強請し、又は強談威迫の行為をした者は、一年以下の懲役又は二十万円以下の罰金に処する。

Article 54 A person who, in relation to his/her own criminal case before the ICC or that of another person, has forcibly demanded a meeting with any person found to have knowledge necessary for the investigation or trial of such case or a relative thereof without justifiable grounds, or who has intimidated any of such persons, shall be punished by imprisonment with work for up to one year or a fine of up to 200,000 yen.

(証人等買収)

(Bribery of a Witness, etc.)

第五十五条 自己又は他人の管轄刑事事件に関し、証言をしないこと、若しくは虚偽の証言をすること、又は証拠を隠滅し、偽造し、若しくは変造すること、若しくは偽造若しくは変造の証拠を使用することの報酬として、金銭その他の利益を供与し、又はその申込み若しくは約束をした者は、一年以下の懲役又は二十万円以下の罰金に処する。

Article 55 A person who, in relation to his/her own criminal case before the ICC or that of another person, has conferred, offered, or promised money or any other benefit as consideration for not giving testimony, for giving false testimony, for destroying, counterfeiting, or altering evidence, or for using counterfeit or altered evidence, shall be punished by imprisonment with work for up to one year or a fine of up to 200,000 yen.

(組織的な犯罪に係る証拠隠滅等)

(Destruction of Evidence of Organized Crime, etc.)

第五十六条 規程が定める罪に当たる行為が、団体（共同の目的を有する多数人の継続的結合体であって、その目的又は意思を実現する行為の全部又は一部が組織（指揮命令に基づき、あらかじめ定められた任務の分担に従って構成員が一体として行動する人の結合体をいう。以下この項において同じ。）により反復して行われるものをいう。次項において同じ。）の活動として、当該行為を実行するための組織により行われた場合において、その罪に係る管轄刑事事件について前三条（第五十三条第二項を除く。次項において同じ。）のいずれかに該当する行為をした者は、三年以下の懲役又は二十万円以下の罰金に処する。

Article 56 (1) Where an act that constitutes a crime specified by the Statute has been committed as the work of a group (meaning a continually unified body of many people with a common purpose, where the acts that fulfill such purpose or intent are repeatedly engaged in, in whole or in part, by an organization (meaning a combination of people whose members act as one according to their predetermined share of duties based on directions and orders; hereinafter the same shall apply in this paragraph); the same shall apply in the following paragraph), by an organization whose purpose is to bring said act to fruition, any person who has committed an act that falls under any of the preceding three Articles (excluding Article 53, paragraph (2); the same shall apply in the following paragraph) with regard to a criminal case before the ICC in connection with such crime shall be punished by imprisonment with work for up to three years or a fine of up to 200,000 yen.

2 規程が定める罪が、団体に不正権益（団体の威力に基づく一定の地域又は分野における支配力であって、当該団体の構成員による犯罪その他の不正な行為により当該団体又はその構成員が継続的に利益を得ることを容易にすべきものをいう。以下この項において同じ。）を得させ、又は団体の不正権益を維持し、若しくは拡大する目的で犯された場合において、その罪に係る管轄刑事事件について前三条のいずれかに該当する行為をした者も、前項と同様とする。

(2) Where a crime specified by the Statute is committed in order to cause a group to acquire illicit interests (meaning control over a specific region or field based on the group's power, facilitating said group or its members in continuously acquiring interests through crime or any other illicit acts committed by members of that group; hereinafter the same shall apply in this paragraph) or in order to maintain or expand the group's illicit interests, any person who has committed an act that falls under any of the preceding three Articles with regard to a criminal case before the ICC in connection with such crime shall also be subject to the provisions of the preceding paragraph.

(偽証等)

(Perjury, etc.)

第五十七条 規程第六十九条 1 に定めるところに従って宣誓した証人が虚偽の陳述をしたときは、三月以上十年以下の懲役に処する。

Article 57 (1) When a witness who has sworn an oath pursuant to the provisions of article 69, paragraph 1 of the Statute has given a false statement, he/she shall be punished by imprisonment with work for no fewer than three months and up to ten years.

2 前項の罪を犯した者が、その証言をした管轄刑事事件について、その裁判が確定する前に自白したときは、その刑を減輕し、又は免除することができる。

(2) When a person who has committed the crime set forth in the preceding paragraph confesses before a judicial decision becomes final and binding with regard to the criminal case before the ICC for which he/she has testified, the punishment may be reduced or he/she may be exempted from it.

3 国際刑事裁判所における手続に従って宣誓した鑑定人、通訳人又は翻訳人が虚偽の鑑定、通訳又は翻訳をしたときは、前二項の例による。

(3) When an expert witness, interpreter, or translator who has sworn an oath in accordance with procedure at the ICC has given a false expert opinion or interpretation or made a false translation, the provisions of the preceding two paragraphs shall apply.

(収賄、受託収賄及び事前収賄)

(Acceptance of a Bribe, Acceptance of a Bribe Involving a Specific Favor, and Acceptance of a Bribe in Advance of Assumption of Office)

第五十八条 国際刑事裁判所の裁判官、検察官その他の職員（以下「国際刑事裁判所職員」という。）が、その職務に関し、賄賂を収受し、又はその要求若しくは約束をしたときは、五年以下の懲役に処する。この場合において、請託を受けたときは、七年以下の懲役に処する。

Article 58 (1) When a judge, the Prosecutor or any other official of the ICC (hereinafter referred to as an "ICC official") has accepted, solicited, or promised to accept a bribe in connection with his/her duties, he/she shall be punished by imprisonment with work for up to five years. In this case, when he/she has accepted a request for a specific favor in doing so, he/she shall be punished by imprisonment with work for up to seven years.

2 国際刑事裁判所職員になろうとする者が、その担当すべき職務に関し、請託を受けて、賄賂を収受し、又はその要求若しくは約束をしたときは、国際刑事裁判所職員となった場合において、五年以下の懲役に処する。

(2) When a person who wishes to become an ICC official has accepted, solicited, or promised to accept a bribe in connection with a duty he/she will assume, and has accepted a request for a specific favor in doing so, he/she shall be punished by imprisonment with work for up to five years in the event that he/she becomes an ICC official.

(第三者供賄)

(Passing of a Bribe to a Third Party)

第五十九条 国際刑事裁判所職員が、その職務に関し、請託を受けて、第三者に賄賂を供与させ、又はその供与の要求若しくは約束をしたときは、五年以下の懲役に処する。

Article 59 When an ICC official has caused a bribe to be conferred to a third party or has solicited or promised the conferral of such a bribe to a third party, and has accepted a request for a specific favor in connection with his/her duties in doing so, said official shall be punished by imprisonment with work for up to five years.

(加重収賄及び事後収賄)

(Aggravated Acceptance of a Bribe and Acceptance after Resignation from Office)

第六十条 国際刑事裁判所職員が前二条の罪を犯し、よって不正な行為をし、又は相当の行為をしなかったときは、一年以上の有期懲役に処する。

Article 60 (1) When an ICC official has committed any of the crimes set forth in the preceding two Articles and has acted unfairly or refrained from acting appropriately as a consequence, he/she shall be punished by imprisonment with work for a definite term of not less than one year.

2 国際刑事裁判所職員が、その職務上不正な行為をしたこと又は相当の行為をしなかったことに関し、賄賂を収受し、若しくはその要求若しくは約束をし、又は第三者にこれを供与させ、若しくはその供与の要求若しくは約束をしたときも、前項と同様とする。

(2) The provisions of the preceding paragraph shall also apply when an ICC official has acted unfairly or refrained from acting appropriately in the course of his/her duties, and has accepted, solicited, or promised to accept a bribe, has caused a bribe to be conferred to a third party, or has solicited or promised to cause the conferral of a bribe to a third party in connection therewith.

3 国際刑事裁判所職員であった者が、その在職中に請託を受けて職務上不正な行為をしたこと又は相当の行為をしなかったことに関し、賄賂を収受し、又はその要求若しくは約束をしたときは、五年以下の懲役に処する。

(3) When a person who was formerly an ICC official accepted a request for a specific favor during his/her term of office to act unfairly or to refrain from acting appropriately in the course of his/her duties, in connection with which he/she accepted, solicited, or promised to accept a bribe, he/she shall be punished by imprisonment with work for up to five years.

(あっせん収賄)

(Acceptance of a Bribe for Exertion of Influence)

第六十一条 国際刑事裁判所職員が請託を受け、他の国際刑事裁判所職員に職務上不正な行為をさせるように、又は相当の行為をさせないようにあっせんをすること又はし

たことの報酬として、賄賂を收受し、又はその要求若しくは約束をしたときは、五年以下の懲役に処する。

Article 61 When an ICC official has accepted, solicited, or promised to accept a bribe as consideration for causing or for having caused another ICC official to act unfairly or to refrain from acting appropriately in the course of his/her duties, and has accepted a request for a specific favor in doing so, he/she shall be punished by imprisonment with work for up to five years.

(没収及び追徴)

(Confiscation and Collection of Equivalent Value)

第六十二条 犯人又は情を知った第三者が收受した賄賂は、没収する。その全部又は一部を没収することができないときは、その価額を追徴する。

Article 62 A bribe accepted by an offender or by a knowing third party shall be confiscated. When the whole or a part of the bribe cannot be confiscated, an equivalent sum of money shall be collected.

(贈賄)

(Offering of a Bribe)

第六十三条 第五十八条から第六十一条までに規定する賄賂を供与し、又はその申込み若しくは約束をした者は、三年以下の懲役又は二百五十万円以下の罰金に処する。

Article 63 A person who confers, offers, or promises to confer any of the bribes prescribed in Articles 58 through 61 shall be punished by imprisonment with work for up to three years or a fine of up to 2,500,000 yen.

(職務執行妨害及び職務強要)

(Obstructing or Compelling Official Duties)

第六十四条 国際刑事裁判所職員が職務を執行するに当たり、これに対して暴行又は脅迫を加えた者は、三年以下の懲役若しくは禁錮又は五十万円以下の罰金に処する。

Article 64 (1) A person who has committed assault or intimidation against an ICC official in connection with the execution of his/her duties shall be punished by imprisonment with or without work for up to three years or a fine of up to 500,000 yen.

2 国際刑事裁判所職員に、ある処分をさせ、若しくはさせないため、又はその職を辞させるために、暴行又は脅迫を加えた者も、前項と同様とする。

(2) The provisions of the preceding paragraph shall also apply to a person who has committed assault or intimidation against an ICC official in order to cause the official to make or refrain from making a specific disposition or in order to cause the official to resign.

(国民の国外犯)

(Crime by a Japanese National Outside Japan)

第六十五条 この章の罪は、刑法第三条の例に従う。

Article 65 The crimes set forth in this Chapter shall be governed by Article 3 of the Penal Code.

附 則 〔抄〕

Supplementary Provisions [Extract]

(施行期日)

(Effective Date)

第一条 この法律は、規程が日本国について効力を生ずる日から施行する。ただし、第五十五条及び第五十六条（第五十五条に該当する行為に係る部分に限る。）の規定は、犯罪の国際化及び組織化並びに情報処理の高度化に対処するための刑法等の一部を改正する法律（平成十九年法律第 号）の施行の日又はこの法律の施行の日のいずれか遅い日から施行する。

Article 1 This Act shall come into effect as of the day on which the Statute becomes effective with regard to Japan; provided, however, that the provisions of Articles 55 and 56 (limited to the portion related to an act that falls under Article 55) shall come into effect as of the day of enforcement of the Act for the Partial Amendment of the Penal Code Regarding the Internationalization and Organization of Crimes and Advancement of Information Processing (Act No. xxx of 2007) or the day of enforcement of this Act, whichever is later.

(経過措置)

(Transitional Measures)

第二条 この法律の施行前に犯された請求犯罪又は引渡犯罪に係る協力の請求については、第二章の規定は、次の各号のいずれかに該当する場合を除き、適用しない。

Article 2 (1) The provisions of Chapter II shall not apply to a request for cooperation in connection with an offense underlying a cooperation request or an offense underlying a surrender request that has been committed prior to the enforcement of this Act, except in a case that falls under any of the following items:

一 国際刑事裁判所が規程第十三条（b）の規定により管轄権を行使するとき。

(i) when the ICC exercises jurisdiction pursuant to article 13 (b) of the Statute;

二 当該請求犯罪又は引渡犯罪が、規程の締約国である外国について規程が効力を生じた後に、当該外国内若しくはその国籍を有する船舶若しくは航空機内で犯され、又は当該外国の国籍を有する者により犯されたものであるとき。

(ii) when the offense underlying the cooperation request or the offense underlying the surrender request has been committed, after the Statute became effective with regard to a foreign country which is a party to the Statute, within said foreign country, aboard a vessel or aircraft with the nationality of said foreign country, or by a person with the nationality of said

foreign country; or

三 当該請求犯罪又は引渡犯罪が、規程第十二条 3 の規定により当該請求犯罪若しくは引渡犯罪について国際刑事裁判所の管轄権の行使を受諾した国の国内若しくはその国籍を有する船舶若しくは航空機内で犯され、又は当該国の国籍を有する者により犯されたものであるとき。

(iii) when the offense underlying the cooperation request or the offense underlying the surrender request has been committed within a foreign country that has accepted the ICC's exercise of jurisdiction with respect to the offense underlying the cooperation request or the offense underlying the surrender request pursuant to the provisions of article 12, paragraph 3 of the Statute, aboard a vessel or aircraft with the nationality of said foreign country, or by a person with the nationality of said foreign country.

2 前項の規定は、国際刑事警察機構を通じた管轄刑事事件の捜査に関する措置の請求に係る第三章の規定の適用について準用する。

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to the application of the provisions of Chapter III in connection with measures related to the investigation of a criminal case before the ICC through the International Criminal Police Organization.