

# Act of Extradition

(Act No. 68 of July 21, 1953)

## (Definition)

Article 1 (1) As used in this Act, an "extradition treaty" means a treaty concluded between Japan and a foreign state on the extradition of offenders.

(2) As used in this Act, the "requesting country" means a foreign state which has requested Japan to extradite an offender.

(3) As used in this Act, the "requested offense" means any offense in the extradition request which the offender allegedly has committed.

(4) As used in this Act, the "fugitive" means a person against whom the requesting country has implemented criminal procedures for the requested offense.

## (Restrictions on extradition)

Article 2 A fugitive shall not be extradited in any of the following circumstances; provided that this shall not apply in cases falling under items (iii), (iv), (viii), or (ix) when the extradition treaty provides otherwise.

(i) When the requested offense is a political offense.

(ii) When the extradition request is deemed to have been made with a view to trying or punishing the fugitive for a political offense which he/she has committed.

(iii) When the requested offense is not punishable by death, life imprisonment with or without work for life or for a long term of three years or more according to the laws and regulations of the requesting country.

(iv) When the act constituting the requested offense is deemed to have been committed in Japan and would not be punishable under the laws and regulations of Japan by death or imprisonment with or without work for life or for a long term of three years or more.

(v) When it is deemed that the act that constitutes the requested offense was committed in Japan or the trial for the offense was held in Japan, but the imposition or the execution of punishment on the fugitive for the requested offense would be barred under the laws and regulations of Japan.

(vi) Except in the case of a fugitive who was convicted in the requesting country for the requested offense, when there is no probable cause to suspect that the fugitive committed the act constituting the requested offense.

(vii) When a criminal prosecution based on the act constituting the requested offense is pending in a Japanese court, or when the judgment in such case has become final.

- (viii) When a criminal prosecution for an offense committed by the fugitive other than the requested offense is pending in a Japanese court, or when the fugitive has been sentenced to punishment in a Japanese court, with the requested offense but, has not completed serving the sentence or the sentence is still enforceable
- (ix) When the fugitive is a Japanese national.

(Measures to be taken by the Minister of Foreign Affairs upon the receipt of an extradition request)

Article 3 Upon receiving an extradition request, the Minister of Foreign Affairs shall, except where any of the following items applies, forward to the Minister of Justice the written request or a document prepared by the Minister of Foreign Affairs that certifies that an extradition request has been made, together with the related documents.

- (i) When the request has been made based on an extradition treaty but the formality of the request is not consistent with the requirements of the extradition treaty.
- (ii) When the request has been made without having an extradition treaty as its base, but there is no guarantee from the requesting country that it would honor a request of the same kind made by Japan.

(Measures to be taken by the Minister of Justice)

Article 4 (1) When the Minister of Justice receives the documents of an extradition request from the Minister of Foreign Affairs as set forth in the preceding Article, he/she shall, except where any of the following items applies, forward the related 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 fugitive can be extradited.

- (i) When it is deemed to be a case in which the fugitive clearly cannot be extradited.
- (ii) When the extradition treaty provides that the determination as to whether the fugitive is to be extradited is to be left to the discretion of Japan if the case falls under item (viii) or (ix) of Article 2, and the case clearly falls under one of these items and it is deemed inappropriate to extradite the fugitive.
- (iii) In addition to the cases falling under item (ii) above, when there is a provision in the extradition treaty which leaves the determination as to whether the fugitive is to be extradited to the discretion of Japan, and the case falls under the provision and it is deemed inappropriate to extradite the fugitive.
- (iv) When an extradition request has been made without being based on an

- extradition treaty and it is deemed inappropriate to extradite the fugitive.
- (2) Before the Minister of Justice makes the finding provided for in item (iii) or (iv) of paragraph (1) above, the Minister of Justice shall consult with the Minister of Foreign Affairs in advance.
  - (3) The Minister of Justice may conduct an inquiry on the whereabouts of the fugitive and other necessary matters, when he/she deems it necessary to give the order provided for in paragraph (1) or to take any other measures relating to the extradition.

(Detention of the fugitive)

- Article 5 (1) Upon receiving the order from the Minister of Justice provided for in paragraph (1) of Article 4, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, except when the fugitive is being detained under a provisional detention permit or when the detention of the fugitive under a provisional detention permit has been suspended, have a public prosecutor of the Tokyo High Public Prosecutors Office detain the fugitive under a detention permit which has been issued in advance by a judge of the Tokyo High Court; provided that this provision shall not apply when the fugitive has a fixed residence and the Superintending Prosecutor of the Tokyo High Public Prosecutors Office finds that there is no risk of the fugitive fleeing.
- (2) The detention permit provided for in paragraph (1) above may be issued upon a request by a public prosecutor of the Tokyo High Public Prosecutors Office.
  - (3) The detention permit shall contain the full name of the fugitive, the name of the requested offense, the requesting country, the valid period of the permit, a statement to the effect that there shall be no detention after the valid period has expired and that in such case the detention permit shall be returned and the date of issue, and the permit shall bear the name and seal of the issuing judge.

Article 6 (1) A public prosecutor of the Tokyo High Public Prosecutors Office may have a public prosecutor's assistant officer, police officer or a coast guard officer or coast guard assistant officer of the Japan Coast Guard (hereinafter referred to as "public prosecutor's assistant officer et al.") hold the fugitive in custody under the detention permit provided for in Article 5.

- (2) When a fugitive is held in custody upon a detention permit, the permit shall be shown to the fugitive.
- (3) When a public prosecutor's assistant officer, et al. takes a fugitive into custody under a detention permit, the fugitive shall be brought to a public prosecutor of the Tokyo High Public Prosecutors Office as promptly as is practicable.
- (4) The provisions of Article 71, paragraph (3) of Article 73, Article 74 and Article

126 of the Code of Criminal Procedure (Act No. 131 of 1948) shall apply mutatis mutandis to custody under a detention permit.

Article 7 (1) When a public prosecutor of the Tokyo High Public Prosecutors Office takes a fugitive into custody upon a detention permit, or has received a fugitive held in custody upon a detention permit, the public prosecutor shall immediately examine the fugitive's identity.

(2) When the identity of the fugitive has been confirmed, the public prosecutor of the Tokyo High Public Prosecutors Office, shall immediately notify the fugitive of the grounds for detention, designate the penal institution in which the fugitive is to be detained, and shall promptly and directly refer the fugitive to that penal institution. In such case the provisions of paragraph (1) of Article 6 shall apply mutatis mutandis.

(Application for Examination)

Article 8 (1) A public prosecutor of the Tokyo High Public Prosecutors Office shall, when the order by the Minister of Justice provided for in paragraph (1) of Article 4 has been made, except when the whereabouts of the fugitive is unknown, promptly apply to the Tokyo High Court for an examination on whether the case is extraditable. This application for examination shall be made within twenty-four hours of the public prosecutor of the Tokyo High Public Prosecutors Office taking the fugitive into custody under a detention permit or receiving the fugitive who was taken into custody under a detention permit.

(2) The application provided for in paragraph (1) above shall be made in writing, accompanied by the related documents.

(3) When a public prosecutor of the Tokyo High Public Prosecutors Office makes the application provided for in paragraph (1) above, the public prosecutor shall send a certified copy of the written application set forth in paragraph (2) above to the fugitive.

(Examination by the Tokyo High Court)

Article 9 (1) When the Tokyo High Court receives the application provided for in Article 8, it shall promptly begin its examination and render a decision. When the fugitive is detained under a detention permit, the decision shall be rendered, at the latest, within two months from the day on which the fugitive was taken into custody.

(2) The fugitive may obtain the assistance of counsel in relation to the examination provided for in paragraph (1) above.

(3) Before rendering its decision, the Tokyo High Court shall give the fugitive and his/her counsel an opportunity to express their opinions; provided that this

shall not apply when the decision to be rendered is in accordance with item (i) or (ii) of paragraph (1) of Article 10.

- (4) The Tokyo High Court may, when it is necessary to carry out the examination provided for in paragraph (1) above, examine witnesses, order examination by an expert, interpretation or translation. In this case, the provisions of Chapters XI through XIII of Part I of the Code of Criminal Procedure and of those laws and regulations concerning the costs of criminal proceedings shall apply *mutatis mutandis*, insofar as such application is not incompatible with the nature of the proceedings.

(Decision of the Tokyo High Court)

Article 10 (1) The Tokyo High Court shall, on the basis of the results of the examination provided for in paragraph (1) of Article 9, render its decision in the following manner.

- (i) When the application for examination is unlawful, a decision shall be to dismiss the application.
  - (ii) When the case is one in which the fugitive cannot be extradited, a decision shall be rendered to that effect.
  - (iii) When the case is one in which the fugitive can be extradited, a decision shall be rendered to that effect.
- (2) The decision provided for in paragraph (1) above shall become effective through the Court notifying the public prosecutor of the Tokyo High Public Prosecutors Office of the main text of the decision.
- (3) When the Tokyo High Court renders the decision provided for in paragraph (1) above, the Court shall promptly deliver a certified copy of the written decision to the public prosecutor of the Tokyo High Public Prosecutors Office and to the fugitive, and return the related documents submitted by the public prosecutor to him/her.

(Rescission of the order for an application for examination)

Article 11 (1) When, after forwarding the documents provided for in Article 3, the Minister of Foreign Affairs 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, the Minister of Foreign Affairs shall immediately notify the Minister of Justice thereof.

- (2) When the Minister of Justice receives the notification from the Minister of Foreign Affairs provided for in paragraph (1) above or the case has come to fall under any of the items of paragraph (1) of Article 4 after the Minister of Justice issued the order provided for in paragraph (1) of Article 4, the Minister of Justice shall immediately rescind the order and notify as such to the fugitive to whom a certified copy of the application for examination provided for in

paragraph (3) of Article 8 has been forwarded.

- (3) When an order to apply for examination is rescinded after the application for examination was made, a public prosecutor of the Tokyo High Public Prosecutors Office shall promptly withdraw the application for examination.

(Release of the fugitive)

Article 12 When a decision is rendered as provided for in item (i) or (ii) of paragraph (1) of Article 10, or when an order for an application for examination was rescinded as provided for in Article 11, the public prosecutor of the Tokyo High Public Prosecutors Office shall immediately release the fugitive who is being detained under a detention permit.

(Submission of a certified copy of the written decision to the Minister of Justice)

Article 13 The Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, when a certified copy of a written decision has been delivered to a public prosecutor of the Tokyo High Public Prosecutors Office as provided for in paragraph (3) of Article 10, promptly submit the certified copy and the related documents, with his/her opinion, to the Minister of Justice.

(Order of the Minister of Justice regarding extradition)

Article 14 (1) When the Minister of Justice finds it appropriate to extradite the fugitive, in a case where the decision provided for in item (iii) of paragraph (1) of Article 10 was rendered, the Minister shall order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to surrender the fugitive, and at the same time notify the fugitive to that effect; however, when the Minister finds it inappropriate to extradite the fugitive, the Minister shall immediately notify the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and the fugitive to that effect, and order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to release the fugitive who is being detained under a detention permit.

- (2) The public prosecutor of the Tokyo High Public Prosecutors Office shall, when he/she has been ordered to release the fugitive as provided for in paragraph (1) above, or when an order for extradition has not been made as provided for in paragraph (1) above within ten days of the day on which the certified copy of the decision provided for in item (iii) of paragraph (1) of Article 10 was delivered as provided for in paragraph (3) of Article 10, immediately release the fugitive who is being detained under a detention permit.

- (3) After making the notification provided for in paragraph (1) above that extradition of the fugitive is inappropriate, the Minister of Justice shall not order the surrender of the fugitive with respect to the extradition request

concerned; provided that this shall not apply when the extradition treaty provides otherwise regarding item (viii) of Article 2 and the Minister has made the notification that he/she finds it inappropriate for the fugitive to be extradited due to the case falling under the item but the case subsequently comes not to fall under the item.

(Place and time limit of surrender)

Article 15 The place where the fugitive is to be surrendered under the order of surrender as provided for in paragraph (1) of Article 14 shall be the penal institution where the fugitive is being detained under a detention permit and the time limit of the surrender shall be thirty days from the day following the day of the surrender order; provided that when the fugitive is not detained on the day the surrender was ordered, the place of surrender shall be the penal institution where the fugitive is to be detained under a detention notice, or the penal institution where the fugitive was detained prior to suspension of the detention, and the time limit of surrender shall be thirty days from the day on which the fugitive is held in custody under the detention notice or the fugitive is held in custody through revocation of the suspension of detention.

(Measures relating to surrender)

Article 16 (1) The order of surrender as provided for in paragraph (1) of Article 14 shall be carried out by the issuance of a notice of surrender.

(2) The notice of surrender shall be delivered to the Superintending Prosecutor of the Tokyo High Public Prosecutors Office.

(3) Upon issuing the notice of surrender, the Minister of Justice shall forward a written permit of custody to the Minister of Foreign Affairs.

(4) The notice of surrender and the permit of custody shall each contain the full name of the fugitive, the requested offense, the requesting country, the place of surrender, the time limit of surrender and the date of issuance, and the name and the seal of the Minister of Justice shall be affixed thereto.

Article 17 (1) The Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, upon receipt of the notice of surrender from the Minister of Justice and when the fugitive is being detained under a detention permit or such detention has been suspended, deliver the notice of surrender to the warden of the penal institution in which the fugitive is being detained or was detained until the detention was suspended and order the warden to surrender the fugitive.

(2) Except in the cases provided in paragraph (1) above, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, upon receiving a notice of surrender from the Minister of Justice, have a public prosecutor of the

Tokyo High Public Prosecutors Office detain the fugitive under a notice of detention.

- (3) The notice of detention provided for in paragraph (2) above shall be issued by a public prosecutor of the Tokyo High Public Prosecutors Office.
- (4) The provisions of Articles 6 and 7 shall apply mutatis mutandis to the custody of a fugitive under a notice of detention.
- (5) The Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, when the fugitive has been taken into custody under a notice of detention and was committed to the penal institution in which the fugitive was to be detained, promptly deliver the notice of surrender to the warden of that penal institution, order the warden to surrender the fugitive, and report to the Minister of Justice thereof and the date the fugitive was taken into custody.

Article 18 The Minister of Justice shall, upon receipt of the report from the Superintending Prosecutor of the Tokyo High Prosecutors Office provided for in paragraph (5) of Article 17, or in paragraph (6) of Article 22, immediately notify the Minister of Foreign Affairs of the fact that the fugitive has been detained in the place where the fugitive is to be surrendered and the time limit of surrender.

- Article 19 (1) The Minister of Foreign Affairs shall immediately forward the permit of custody to the requesting country on receiving it as provided for in paragraph (3) of Article 16.
- (2) The Minister of Foreign Affairs shall immediately notify the requesting country of the contents of the notification he/she has received as provided for in Article 18.

- Article 20 (1) The warden of the penal institution who has received the order to surrender the fugitive as provided for in paragraph (1) or (5) of Article 17, shall surrender the fugitive to the authorities of the requesting country when those authorities show the written permit of custody to the warden and request him/her to surrender the fugitive.
- (2) The warden of the penal institution shall, when the request of surrender as provided for in paragraph (1) above was not made within the time limit of surrender, release the fugitive and report to the Superintending Prosecutor of the Tokyo High Public Prosecutors Office thereof.

(Escort of the fugitive by the authorities of the requesting country)

Article 21 Upon receipt of the surrendered fugitive as provided for in paragraph (1) of Article 20, the authorities of the requesting country shall promptly escort the fugitive to the requesting country.

(Suspension of detention)

Article 22 (1) A public prosecutor of the Tokyo High Public Prosecutors Office may, when he/she finds it to be necessary, suspend detention of the fugitive under the detention permit by entrusting the fugitive to his/her relative or some other person, or otherwise restrict the residence of the fugitive.

(2) A public prosecutor of the Tokyo High Public Prosecutors Office may, at any time the prosecutor finds it to be necessary, revoke the suspension of detention. When the Superintending Prosecutor of the Tokyo High Public Prosecutors Office receives a notice of surrender from the Minister of Justice as provided for in paragraph (1) of Article 17, the public prosecutor of the Tokyo High Public Prosecutors Office shall revoke the suspension of detention.

(3) A public prosecutor of the Tokyo High Public Prosecutors Office may have a public prosecutor's assistant et al. take the fugitive into custody when the detention is suspended as provided for in paragraph (2) above.

(4) Custody as provided for in paragraph (3) above shall be carried out by showing a certified copy of the detention permit and a written statement prepared by a public prosecutor of the Tokyo High Public Prosecutors Office stating that the suspension of detention has been revoked to the fugitive and bringing the fugitive to the penal institution where the fugitive is to be detained.

(5) Notwithstanding the provisions of paragraph (4) above, when the executing official does not possess the documents provided for in paragraph (4) above and thus is unable to show them to the fugitive, the executing official may, in an urgent case, tell the fugitive that the suspension of detention has been revoked and bring the fugitive to the penal institution where the fugitive is to be detained; provided, however, that the documents shall be shown to the fugitive as promptly as possible.

(6) The Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, when the suspension of detention has been revoked as provided for in the second sentence of paragraph (2) above and the fugitive has been taken to the penal institution in which the fugitive is to be detained, promptly report to the Minister of Justice thereof and the date on which the fugitive was taken into custody.

(7) The suspended detention shall lose its effect under any of the following circumstances.

(i) When a certified copy of the decision of the court as provided for in item (i) or (ii) of paragraph (1) of Article 10 has been delivered to the fugitive

(ii) When the notification provided for in paragraph (2) of Article 11 was given to the fugitive.

(iii) When the fugitive has been notified by the Minister of Justice as provided

for in paragraph (1) of Article 14 that the Minister finds it inappropriate to extradite the fugitive.

(Request concerning provisional detention, etc)

Article 23 (1) The Minister of Foreign Affairs shall, when he/she receives a request pursuant to an extradition treaty from a contracting country for the provisional detention of an offender whose extradition may be requested to Japan under the treaty for an offense (limited to those offences for which the contracting country may request the offender's extradition to Japan under the treaty), forward a certificate of the request for provisional detention and the related documents to the Minister of Justice, except for any case that falls under any of the following items.

(i) When there is no notification either that a warrant has been issued for the arrest of the person concerned or that a sentence has been imposed on that person.

(ii) When there is no assurance that a request for the extradition of the person concerned will be made.

(2) When a request for the provisional detention of an offender was not based on an extradition treaty, paragraph (1) above shall apply only if the requesting country has assured that it would honor a request of the same kind made by Japan.

(Measures concerning provisional detention)

Article 24 The Minister of Justice shall, when he/she receives the documents provided for in Article 23 and finds it appropriate to provisionally detain the offender concerned, order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to provisionally detain the offender concerned.

Article 25 (1) The Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, upon receiving the order from the Minister of Justice provided for in Article 24, have a public prosecutor of the Tokyo High Public Prosecutors Office detain the offender concerned under a provisional detention permit which is to be issued in advance by a judge of the Tokyo High Court.

(2) The provisions of paragraphs (2) and (3) of Article 5, Article 6 and Article 7 shall apply mutatis mutandis to detention under a provisional detention permit.

Article 26 (1) The Minister of Justice shall, when he/she receives documents regarding the extradition of an offender who is being detained under a provisional detention permit as provided for in Article 3 from the Minister of Foreign Affairs, but does not issue the order provided for in paragraph (1) of

Article 4 because the case falls under one of the items contained in that paragraph, notify the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and the offender concerned thereof and order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to release the offender concerned.

- (2) The public prosecutor of the Tokyo High Public Prosecutors Office shall, upon receipt of the order for release as provided for in paragraph (1) above, immediately release the offender concerned.

Article 27 (1) The Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, when he/she receives an order from the Minister of Justice as provided for in paragraph (1) of Article 4 concerning an offender for whom a provisional detention permit has been issued, immediately have a public prosecutor of the Tokyo High Public Prosecutors Office notify the offender concerned that the extradition request has been made.

- (2) The notification provided for in paragraph (1) above shall be carried out by notifying the warden of the penal institution if the offender concerned is being detained under a provisional detention permit, or by forwarding a written notification to the offender concerned if the offender is not being detained.
- (3) When the notification provided for in paragraph (1) above has been made to an offender who is being detained under a provisional detention permit, such detention shall be deemed to be detention under a detention permit; and for the purposes of applying paragraph (1) of Article 8, it shall be deemed that a public prosecutor of the Tokyo High Public Prosecutors Office took the fugitive into custody under a detention permit at the time of this notification.

Article 28 (1) The Minister of Foreign Affairs shall, when notified by the foreign state which requested provisional detention that it will not request the extradition of the offender concerned, after having already forwarded the documents as provided for in Article 23, immediately notify the Minister of Justice thereof.

- (2) The Minister of Justice shall, when notified as provided for in paragraph (1) above, immediately notify the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and the offender concerned thereof, and order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to release the offender concerned.
- (3) The public prosecutor of the Tokyo High Public Prosecutors Office shall, when ordered to execute the release provided for in paragraph (2), immediately release the offender concerned.

Article 29 The warden of a penal institution shall, when he/she does not receive

the notification provided for in paragraph (2) of Article 27 with respect to an offender who is being detained under a provisional detention permit, within 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), release the offender concerned and report thereof to the Superintending Prosecutor of the Tokyo High Public Prosecutors Office.

Article 30 (1) The provisions of paragraphs (1) to (5) of Article 22 shall apply mutatis mutandis to detention under a provisional detention permit.

(2) In the case of a detention under a provisional detention permit which is suspended as provided for in paragraph (1) of Article 22 and has been applied mutatis mutandis pursuant to paragraph (1) above, when the offender concerned is notified as provided for in paragraph (1) of Article 27, the suspension of detention under the provisional detention permit shall be deemed to be the suspension of detention provided for in paragraph (1) of Article 22.

(3) In the case of a detention under a provisional detention permit which is suspended as provided for in paragraph (1) of Article 22 and has been applied mutatis mutandis pursuant to paragraph (1) above, the suspended detention under a provisional detention permit shall lose its effect in any of the following circumstances.

(i) When the notification provided for in paragraph (1) of Article 26, or in paragraph (2) of Article 28 has been made to the offender concerned.

(ii) When the offender concerned was not notified as provided for in paragraph (1) of Article 27 within two months from the day on which the offender concerned was taken into custody (or within a period of less than two months if the extradition treaty provides otherwise) under a provisional detention permit.

(Rules of the Supreme Court)

Article 31 Besides the provisions of this Act, the necessary procedural matters concerning examinations by the Tokyo High Court and the issuance of permits of detention or of provisional detention shall be prescribed by the Supreme Court.

(Exception to the jurisdictional district of the Tokyo High Court)

Article 32 Notwithstanding the provisions of the Act on the Establishment of Lower Courts and their Jurisdictional Districts (Act No. 63 of 1947), there shall be no provision limiting the jurisdictional area of the Tokyo High Court in relation to the performance of the duties of the Tokyo High Court or its judges, or to that of the public prosecutors of the Tokyo High Public Prosecutors Office

undertaken pursuant to this Act.

(Extradition request relating to an offense committed prior to the entry into force of an extradition treaty)

Article 33 When a new extradition treaty is concluded between Japan and a foreign state, the provisions of this Act concerning an extradition request pursuant to an extradition treaty shall also apply to an extradition request based on the new treaty even for an offense committed prior to the new treaty becoming effective, except if there are provisions in the treaty that bars the contracting country from making a request to Japan for the extradition of an offender for an offense committed prior to the entry into force of the treaty concerned.

(Measures by the Minister of Justice concerning the approval of transportation through Japanese territory)

Article 34 (1) The Minister of Justice may, upon a request made by a foreign state through diplomatic channels, give approval for a person surrendered to that state by another foreign state to be transported through the territory of Japan, except in any of the following circumstances.

- (i) When the act of the person in the request which constitutes the grounds of the extradition concerned would not constitute an offense under Japanese laws and regulations if the act were to be committed in Japan.
- (ii) When the offense of the person in the request which constitutes the grounds of the extradition concerned is a political offense or when the request for the extradition concerned is deemed to have been made with a view to trying or punishing the person for a political offense.
- (iii) When the request is not based on an extradition treaty and the person concerned in the request is a Japanese national.

(2) The Minister of Justice shall consult with the Minister of Foreign Affairs before deciding whether to give the approval provided for in paragraph (1) above.

(Exclusions from application of the Administrative Procedure Act, etc.)

Article 35 (1) With respect to a disposition undertaken pursuant to this Act, the provisions of Chapter III of the Administrative Procedure Act (Act No. 88 of 1993) shall not apply.

(2) The provisions of paragraphs (4) and (5) of Article 12 of the Administrative Case Litigation Act ((Act No. 139 of 1962) including where these paragraphs are applied mutatis mutandis pursuant to paragraph (1) of Article 38 of the Act) shall not apply to an appeal suit (which means an appeal suit as provided for by paragraph (1) of Article 3 of the Act) concerning a disposition (which

means a disposition provided for by paragraph (2) of Article 3) or a determination (which means a determination provided for by paragraph (3) of the Article 3) undertaken pursuant to this Extradition Act.