

国際受刑者移送法

Act on the Transnational Transfer of Sentenced Persons

(平成十四年六月十二日法律第六十六号)
(Act No. 66 of June 12, 2002)

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第一章 総則

Chapter I General Provisions

(目的)

(Purpose)

第一条 この法律は、外国において外国刑の確定裁判を受けその執行として拘禁されている日本国民等及び日本国において懲役又は禁錮（こ）の確定裁判を受けその執行として拘禁されている外国人について、国際的な協力の下に、その本国において当該確定裁判の執行の共助をすることにより、その改善更生及び円滑な社会復帰を促進することの重要性にかんがみ、並びに日本国が締結した刑を言い渡された者の移送及び確定裁判の執行の共助について定める条約（以下単に「条約」という。）を実施するため、当該日本国民等が受けた外国刑の確定裁判及び当該外国人が受けた懲役又は禁錮の確定裁判の執行の共助等について必要な事項を定めることを目的とする。

Article 1 In the case of a Japanese national, etc. who is being detained pursuant to a final and binding decision rendered in a foreign state, or a foreign national who is being detained pursuant to a final and binding decision imposing imprisonment with or without work in Japan, this act shall provide the necessary matters concerning assistance in the enforcement of the final and binding decision regarding the foreign punishment to which a Japanese national, etc. has been sentenced, and in the enforcement of the final and

binding decision imposing imprisonment with or without work to which a foreign national has been sentenced, in light of the importance of facilitating the reformation and rehabilitation of sentenced persons and their smooth re-entry into society by assisting enforcement of the final and binding decision in their country of origin through international cooperation, and in order to comply with the treaties and conventions that Japan has concluded which provide for transfer of sentenced persons and assistance in the enforcement of final and binding decisions (hereinafter simply referred to as "Treaties").

(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 shall be as prescribed respectively in those items:

一 外国刑 懲役又は禁錮に相当する外国の法令による刑をいう。

(i) "Foreign punishment" means any punishment under the laws of a foreign state comparable to imprisonment with or without work.

二 共助刑 受入移送犯罪に係る確定裁判の執行の共助として日本国が執行する外国刑をいう。

(ii) "Assistance punishment" means a foreign punishment enforced by Japan to assist in the enforcement of a final and binding decision with regard to an offense that is the premise of an incoming transfer.

三 日本国民等 日本の国籍を有する者及び日本国との平和条約に基づき日本の国籍を離脱した者等の出入国管理に関する特例法（平成三年法律第七十一号）に定める特別永住者（以下「特別永住者」という。）をいう。

(iii) "Japanese national, etc." means a person who has Japanese nationality or who is a special permanent resident (hereinafter referred to as a "special permanent resident") as stipulated in the Special Act on the Immigration Control of, Inter Alia, Those Who Have Lost Japanese Nationality on the Basis of the Treaty of Peace with Japan (Act No. 71 of 1991).

四 締約国の国民等 条約の締約国たる外国（以下「締約国」という。）の国籍を有する者及び条約に基づき当該締約国がその国民とみなす者をいう。

(iv) "National, etc. of a member state" means a person who has nationality in a foreign state that has entered into Treaties (hereinafter referred to as a "member state"), or a person whom a member state deems to be a national for the purposes of Treaties.

五 受入移送 条約に基づき、締約国において外国刑の確定裁判を受けその執行として拘禁されている日本国民等の引渡しを当該締約国から受けて、当該確定裁判の執行の共助をすることをいう。

(v) "Incoming transfer" means the provision of assistance in the enforcement of

a final and binding decision upon the surrender by a member state to Japan of a Japanese national, etc. who is being detained pursuant to a final and binding decision imposing foreign punishment rendered by the member state, based on Treaties.

六 送出移送 条約に基づき、日本国において懲役又は禁錮の確定裁判を受けその執行として拘禁されている締約国の国民等を日本国から当該締約国に引き渡して、当該確定裁判の執行の共助を囑託することをいう。

(vi) "Outgoing transfer" means the entrusting to a member state of assistance in the enforcement of a final and binding decision upon the surrender by Japan to a member state of a national, etc. of the member state who is being detained pursuant to a final and binding decision imposing of imprisonment with or without work rendered in Japan, based on Treaties.

七 裁判国 日本国から受入移送の要請をしようとする締約国及び日本国からその要請をした締約国並びに日本国に対してその要請をした締約国をいう。

(vii) "Sentencing state" means a member state from which Japan is to request an incoming transfer, a member state from which Japan has requested an incoming transfer, or a member state that has requested that Japan accept an incoming transfer.

八 執行国 日本国から送出移送の要請をしようとする締約国及び日本国からその要請をした締約国並びに日本国に対してその要請をした締約国をいう。

(viii) "Administering state" means a member state from which Japan is to request an outgoing transfer, a member state from which Japan has requested an outgoing transfer, or a member state that has requested that Japan accept an outgoing transfer.

九 受入受刑者 裁判国において外国刑の確定裁判を受けその執行として拘禁されている日本国民等及び受入移送により引渡しを受けた日本国民等であって外国刑の確定裁判の執行の共助が終わるまでの者をいう。

(ix) "Incoming sentenced person" means a Japanese national, etc. who is being detained in a sentencing state pursuant to a final and binding decision imposing foreign punishment, and who, until assistance in the enforcement of said final and binding decision is completed, is surrendered to Japan for an incoming transfer.

十 送出受刑者 日本国において懲役又は禁錮の確定裁判を受けその執行として拘禁されている締約国の国民等及び送出移送により引き渡した締約国の国民等であって懲役又は禁錮の確定裁判の執行の共助が終わるまでの者をいう。

(x) "Outgoing sentenced person" means a national, etc. of a member state who is being detained in Japan pursuant to a final and binding decision imposing imprisonment with or without work, and who, until assistance in the enforcement of said final and binding decision is completed, is surrendered to the member state for an outgoing transfer.

十一 受入移送犯罪 受入移送において執行の共助の対象とされる外国刑の確定裁判

により受入受刑者が犯したものと認められた犯罪をいう。

(xi) "Offense that is the premise of an incoming transfer" means the offense that is deemed to have been committed by the incoming sentenced person in the final and binding decision imposing foreign punishment regarded as the subject of the assistance in the enforcement of the decision in the incoming transfer.

十二 送出移送犯罪 送出移送において執行の共助の対象とされる懲役又は禁錮の確定裁判により送出受刑者が犯したものと認められた犯罪をいう。

(xii) "Offense that is the premise of an outgoing transfer" means the offense that is deemed to have been committed by the outgoing sentenced person in the final and binding decision imposing imprisonment with or without work regarded as the subject of the assistance in the enforcement of the decision in the outgoing transfer.

(要請の発受等)

(Issuance of requests)

第三条 受入移送及び送出移送の要請の発受並びに条約の実施に関し必要な締約国との間の文書及び通知の発受は、外務大臣が行う。ただし、緊急その他特別の事情がある場合において、外務大臣が同意したときは、法務大臣が行うものとする。

Article 3 The Minister of Foreign Affairs shall forward and receive requests for incoming transfers and outgoing transfers, as well as documents and notices between Japan and member states required for compliance with Treaties; provided, however, that the Minister of Justice shall forward and receive the above-mentioned documents if the Minister of Foreign Affairs agrees, in cases of emergency or other extraordinary circumstances.

(要請を受けた外務大臣の措置)

(Actions by the Minister of Foreign Affairs upon receiving a request)

第四条 外務大臣は、締約国から受入移送又は送出移送の要請を受理したときは、要請書に關係書類を添付し、意見を付して法務大臣に送付しなければならない。

Article 4 Upon receiving a request for an incoming transfer or an outgoing transfer from a member state, the Minister of Foreign Affairs shall forward the written request and the related documents, with his or her opinion attached, to the Minister of Justice.

第二章 受入移送

Chapter II Incoming Transfer

(受入移送の実施)

(Implementation of an incoming transfer)

第五条 受入移送は、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 5 An incoming transfer may be implemented except in one of the following cases:

一 受入受刑者の同意がないとき。

(i) When the incoming sentenced person does not consent;

二 受入受刑者が十四歳に満たないとき。

(ii) When the incoming sentenced person is under 14 years of age;

三 受入移送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、その行為が日本国の法令によれば禁錮以上の刑が定められている罪に当たるものでないとき。

(iii) When the conduct constituting the offense that is the premise of the incoming transfer would not constitute an offense for which punishment of imprisonment without work or a heavier penalty could be imposed under the laws of Japan if the conduct were committed in Japan;

四 受入移送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言い渡された無罪の裁判が確定したとき、日本国の裁判所において禁錮以上の刑に処せられその刑の全部若しくは一部の執行を受けたとき若しくはその刑の全部の執行を受けないこととなっていないとき。

(iv) When a criminal case related to the act constituting the offense that is the premise of the incoming transfer is pending in a Japanese court; or when a verdict of not guilty rendered in a Japanese court has become final and binding in the case; or when a sentence by a Japanese court to imprisonment without work or a heavier penalty has been enforced in whole or in part, or it has not been determined that the sentence does not have to be enforced in whole.

(同意の確認)

(Confirmation of consent)

第六条 前条第一号の同意は、次の各号のいずれかに掲げる職員が確認するものとする。この場合において、当該職員は、受入受刑者をして、第十六条及び第十七条の規定に関する事項その他法務省令で定める事項を記載した書面に、当該職員の面前で、署名押印させるものとする。

Article 6 An official specified below shall confirm the consent of an incoming sentenced person as stipulated in item (i) of Article 5. The official shall have the incoming sentenced person sign and seal an official document containing the items related to the provisions of Articles 16 and 17 and other items specified by a Ministry of Justice ordinance in front of the official.

一 法務大臣の委任を受けた外国に駐在する日本国の大使、公使若しくは領事官又はこれらの者が指定する職員

(i) Japanese ambassadors, ministers and consuls, and officials designated by them, stationed in foreign states and authorized by the Minister of Justice;

二 法務大臣が指定する職員

(ii) Officials designated by the Minister of Justice.

(法務大臣の措置)

(Actions by the Minister of Justice)

第七条 法務大臣は、裁判国から受入移送の要請があった場合において、第五条各号のいずれにも該当せず、かつ、要請に応ずることが相当であると認めるときは、東京地方検察庁検事正に対し関係書類を送付して、受入移送をすることができる場合に該当するかどうかについて東京地方裁判所に審査の請求をすることを命じなければならない。

Article 7 (1) When a sentencing state requests an incoming transfer, if the Minister of Justice does not find the situation to fall under any of the items of Article 5 and finds it appropriate to accept the request, he or she shall forward the related documents to the Chief Prosecutor of the Tokyo District Public Prosecutors Office and order the Chief Prosecutor to apply to the Tokyo District Court for an examination as to whether the case is one in which an incoming transfer can be implemented.

2 裁判国から受入移送の要請がない場合において、法務大臣が、第五条各号のいずれにも該当せず、かつ、裁判国に対し受入移送の要請をすることが相当であると認めるときも、前項と同様とする。

(2) When the sentencing state does not request the incoming transfer, the same procedures shall apply when the Minister of Justice does not find the situation to fall under any of the items of Article 5 and finds it appropriate to request that the sentencing state implement an incoming transfer.

3 法務大臣は、前項の規定に基づき審査の請求をすることを命じようとするときは、あらかじめ外務大臣の意見を聴かななければならない。

(3) When the Minister of Justice intends to order the prosecutor to apply for an examination pursuant to the provisions of the preceding paragraph, he or she shall obtain the opinion of the Minister of Foreign Affairs in advance.

(審査の請求)

(Application for examination)

第八条 東京地方検察庁の検察官は、前条第一項又は第二項の命令があったときは、速やかに、東京地方裁判所に対し、受入移送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。

Article 8 (1) A public prosecutor of the Tokyo District Public Prosecutors Office shall, when an order provided for in paragraph (1) or (2) of Article 7 is made, promptly apply to the Tokyo District Court for an examination as to whether the case is one in which an incoming transfer can be implemented.

2 前項の審査の請求は書面で行い、当該書面に関係書類を添付しなければならない。

(2) The application prescribed in the preceding paragraph shall be made in

writing, accompanied by related documents.

(東京地方裁判所の審査)

(Examination by the Tokyo District Court)

第九条 東京地方裁判所は、前条の審査の請求を受けたときは、速やかに、審査を開始し、決定をするものとする。

Article 9 When the Tokyo District Court receives the application provided for in Article 8, it shall promptly begin its examination and render a decision.

(東京地方裁判所の決定)

(Decision of the Tokyo District Court)

第十条 東京地方裁判所は、前条の規定による審査の結果に基づいて、次の区別に従い、決定をしなければならない。

Article 10 (1) The Tokyo District Court shall, on the basis of the results of the examination prescribed in Article 9, render its decision in the following manner:

一 審査の請求が不適法であるときは、これを却下する決定

(i) When the application for examination is not made in conformity with the requirements of law, a decision to dismiss the application;

二 受入移送をすることができない場合に該当するときは、その旨の決定

(ii) When the case is one in which an incoming transfer cannot be implemented, a decision to that effect;

三 受入移送をすることができる場合に該当するときは、その旨の決定

(iii) When the case is one in which an incoming transfer can be implemented, a decision to that effect.

2 東京地方裁判所は、前項の決定をしたときは、速やかに、東京地方検察庁の検察官に裁判書の謄本を送達するとともに、関係書類を返還しなければならない。

(2) When the Tokyo District Court renders its decision as prescribed in the preceding paragraph, it shall promptly serve a public prosecutor of the Tokyo District Public Prosecutors Office with a certified copy of the written judicial decision and return the related documents that were submitted by him or her.

(裁判書の謄本等の法務大臣への提出)

(Submission of a certified copy of the written judicial decision, etc. to the Minister of Justice)

第十一条 東京地方検察庁検事正は、前条第二項の規定により、裁判書の謄本が東京地方検察庁の検察官に送達されたときは、速やかに、関係書類とともに、これを法務大臣に提出しなければならない。

Article 11 When a public prosecutor of the Tokyo District Public Prosecutors Office is served with a certified copy of a written judicial decision prepared as prescribed in paragraph (2) of Article 10, the Chief Prosecutor of the Tokyo

District Public Prosecutors Office shall promptly submit the certified copy and the related documents to the Minister of Justice.

(裁判国に対する受入移送の要請)

(Request to a sentencing state for an incoming transfer)

第十二条 法務大臣は、裁判国から受入移送の要請がない場合において、第十条第一項第三号の決定があり、かつ、相当であると認めるときは、裁判国に対し受入移送の要請をすることができる。

Article 12 When the Minister of Justice deems it appropriate, in the case of a decision rendered as provided in item (iii) of paragraph (1) of Article 10, he or she may make a request for an incoming transfer to the sentencing state if a request for the incoming transfer has not yet been made by the sentencing state.

(法務大臣の受入移送命令)

(Order for an incoming transfer by the Minister of Justice)

第十三条 法務大臣は、裁判国から受入移送の要請があった場合において第十条第一項第三号の決定があったとき、又は前条の規定により裁判国に対し受入移送の要請をした場合において裁判国から要請に応ずる旨の通知があったときは、東京地方検察庁検事正に対し、当該要請に係る受入移送を命じなければならない。ただし、受入移送を命ずることが相当でないと認めるときは、この限りでない。

Article 13 When a decision provided for in item (iii) of paragraph (1) of Article 10 is rendered in a case where a request for an incoming transfer has been made by a sentencing state, or when a sentencing state notifies Japan of its acceptance of such a request by Japan as provided for in Article 12, the Minister of Justice shall order the Chief Prosecutor of the Tokyo District Public Prosecutors Office to implement the incoming transfer; provided, however, that this shall not apply to cases where the Minister of Justice deems it inappropriate to order the incoming transfer.

(受入受刑者に対する通知)

(Notice to the incoming sentenced person)

第十四条 法務大臣は、第十二条の規定により裁判国に対して受入移送の要請をしたとき及び前条の規定により受入移送の命令をしたときは、当該受入受刑者に書面でその旨を通知しなければならない。裁判国から要請があった場合又は第六条の規定に基づき受入受刑者の同意を確認した場合において、受入移送をしないこととしたときも、同様とする。

Article 14 When the Minister of Justice makes a request for an incoming transfer to a sentencing state as provided for in Article 12 or orders implementation of the incoming transfer as provided for in Article 13, he or she shall notify the incoming sentenced person in writing. The same shall apply

when the Minister of Justice decides not to implement the incoming transfer, either where the request for the incoming transfer was made by the sentencing state or where the Minister of Justice has confirmed pursuant to the provisions of Article 6 that the sentenced person does consent.

(受入移送命令の方式)

(Form of the order for incoming transfer)

第十五条 第十三条の命令は書面によるものとし、当該書面に関係書類の謄本を添付しなければならない。

Article 15 (1) The order provided for in Article 13 shall be made in writing, accompanied by certified copies of the related documents.

2 前項の書面には、受入受刑者の氏名、年齢、裁判国の名称、受入移送犯罪の名称、外国刑の刑期、引渡しを受ける日及び場所並びに引致すべき刑事施設を記載し、法務大臣が記名押印しなければならない。

(2) The written order prescribed in the preceding paragraph shall contain the full name of the incoming sentenced person, his or her age, the name of the sentencing state, the offense that is the premise of the incoming transfer, the term of the foreign punishment, the date and place of surrender and the penal institution to which the incoming sentenced person is to be taken, and shall bear the name and seal of the Minister of Justice.

(共助刑の執行方法)

(Method of enforcing assistance punishment)

第十六条 第十三条の命令により裁判国から受入受刑者の引渡しを受けたときは、次の各号に掲げる受入移送犯罪に係る確定裁判において言い渡された外国刑の区分に応じ、当該各号に掲げる種類の共助刑を執行することにより、受入移送犯罪に係る外国刑の確定裁判の執行の共助をするものとする。

Article 16 (1) When an incoming sentenced person is surrendered by a sentencing state pursuant to the order provided for in Article 13, assistance shall be provided in the enforcement of the final and binding decision imposing foreign punishment for the offense that is the premise of the incoming transfer, by enforcing the type of assistance punishment listed in the following items, in accordance with the classification of the foreign punishment rendered in the final and binding decision:

一 外国刑が懲役に相当する刑であるとき 当該受入受刑者を刑事施設に拘置して所定の作業を行わせること。

(i) When the foreign punishment is comparable to imprisonment with work, the incoming sentenced person is to be detained in a penal institution and made to engage in designated work.

二 前号に掲げる場合に該当しないとき 当該受入受刑者を刑事施設に拘置すること。

(ii) When the foreign punishment is not comparable to the case provided for in

the preceding item, the incoming sentenced person is to be detained in a penal institution.

- 2 受入移送犯罪に係る確定裁判において言い渡された外国刑が二以上あるときは、これらを一の共助刑として執行する。この場合における共助刑の種類は、当該外国刑のすべてが懲役に相当する刑であるときは、前項第一号に掲げるものとし、当該外国刑のいずれかが懲役に相当する刑でないときは、同項第二号に掲げるものとする。

(2) When there are two or more foreign punishments rendered in a final and binding decision with regard to the offense that is the premise of the incoming transfer, they shall be enforced as a single instance of assistance punishment. In this case, when all of the foreign punishments are comparable to imprisonment with work, assistance punishment as prescribed in item (i) of the preceding paragraph shall apply, and when any of the foreign punishments is not comparable to imprisonment with work, assistance punishment as prescribed in item (ii) of the preceding paragraph shall apply.

(共助刑の期間)

(Term of assistance punishment)

第十七条 共助刑の期間は、次の各号に掲げる受入移送犯罪に係る確定裁判において言い渡された外国刑の区分に応じ、当該各号に掲げるものとする。

Article 17 (1) The term of assistance punishment shall, corresponding to the classifications of the foreign punishment rendered in the final and binding decision with regard to the offense that is the premise of the incoming transfer, be the term listed in the following items:

一 外国刑（二以上あるときは、そのいずれか）が無期であるとき 無期

(i) Life, when the foreign punishment (or, if there are two or more punishments, either of them) is imprisonment for life.

二 前号に掲げる場合に該当しないとき 次のイ又はロに掲げる裁判国において当該外国刑の執行が開始された日（二以上あるときは、当該日のうち最も早い日。以下同じ。）から受入受刑者の拘禁をすることができる日とされる最終日までの日数（裁判国においてその執行としての拘禁をしていないとされる日数を除く。）の区分に応じ、当該イ又はロに定める期間

(ii) The term listed in the following item (a) or (b) corresponding to the classification of the number of days (excluding the number of days the incoming sentenced person was not detained in the sentencing state in the enforcement of the sentence) from the date (the earliest date if there are two or more dates; hereinafter the same) on which the enforcement of the foreign punishment commenced in the sentencing state to the date on which the term of the foreign punishment is due to expire, when the foreign punishment does not fall within the case provided for in the preceding item.

イ 裁判国において当該外国刑の執行が開始された日から三十年を経過する日までの日数を超えるとき 当該三十年を経過する日までの日数

(a) When the term of the foreign punishment exceeds 30 years from the date on which the enforcement of the foreign punishment commenced in the sentencing state, then the number of days until the day on which 30 years is due to elapse.

ロ 裁判国において当該外国刑の執行が開始された日から三十年を経過する日までの日数を超えないとき 当該最終日までの日数

(b) When the term of the foreign punishment does not exceed 30 years from the date on which the enforcement of the foreign punishment commenced in the sentencing state, then the number of days until the final date of the sentence.

2 受入受刑者が二十歳に満たないときに共助刑に係る外国刑（二以上あるときは、それらのすべて）の言渡しを受けた者である場合における前項の規定の適用については、同項第二号中「三十年」とあるのは「十五年」とする。

(2) In the application of the preceding paragraph, when the foreign punishment (any of them if there are two or more) was rendered when the incoming sentenced person was under 20 years of age, "30 years" in item (ii) of the preceding paragraph, shall be deemed to be replaced with "15 years".

（共助刑の刑期の計算）

(Calculation of the term of assistance punishment)

第十八条 共助刑の刑期は、裁判国において受入移送犯罪に係る確定裁判において言い渡された外国刑の執行が開始された日（二以上あるときは、当該日のうち最も早い日）の午前零時に応ずる日本国における時刻の属する日から起算する。

Article 18 (1) The term of assistance punishment shall run from the date encompassing the time in Japan corresponding to midnight of the date (the earliest date if there are two dates or more) on which the enforcement of the foreign punishment rendered in the final and binding decision with regard to the offense that is the premise of the incoming transfer commenced in the sentencing state.

2 裁判国において受入移送犯罪に係る確定裁判において言い渡された外国刑の執行としての拘禁をしていないとされる日数及び第十三条の命令により裁判国から受入受刑者の引渡しを受けた後に当該受入受刑者を拘禁していない日数は、共助刑の刑期に算入しない。

(2) The days for which the sentenced person is deemed not to have been detained in the sentencing state in the enforcement of the foreign punishment rendered in the final and binding decision with regard to the offense that is the premise of the incoming transfer, and days not spent in actual confinement after the surrender of the incoming sentenced person from the sentencing state in compliance with the order provided for in Article 13, shall not be included in the term of assistance punishment.

(受入収容状の発付等)

(Issuance of a writ of commitment for an incoming transfer)

第十九条 東京地方検察庁の検察官は、第十三条の命令があったときは、受入収容状を
発しなければならない。

Article 19 (1) When the order provided for in Article 13 is made, a public
prosecutor of the Tokyo District Public Prosecutors Office shall issue a writ of
commitment for an incoming transfer.

2 前項の受入収容状には、第十五条第二項に掲げる事項を記載し、東京地方検察庁の
検察官が記名押印しなければならない。

(2) The writ of commitment for an incoming transfer prescribed in the preceding
paragraph shall contain the items listed in paragraph (2) of Article 15, and
bear the name and seal of the public prosecutor of the Tokyo District Public
Prosecutors Office.

3 第一項の受入収容状は、勾引状と同一の効力を有するものとし、東京地方検察庁の
検察官の指揮によって刑事施設の長又はその指名する刑事施設の職員が執行する。

(3) The writ of commitment for an incoming transfer prescribed in paragraph (1)
above shall have the same effect as a subpoena, and the warden or other
designated official of the penal institution shall enforce the writ under the
direction of a public prosecutor of the Tokyo District Public Prosecutors Office.

4 刑事訴訟法（昭和二十三年法律第百三十一号）第七十三条第一項前段及び第七十四
条の規定は、第一項の受入収容状の執行について準用する。この場合において、これ
らの規定中「被告人」とあるのは「国際受刑者移送法第二条第九号の受入受刑者」と、
同法第七十三条第一項前段中「勾引状」とあり、及び同法第七十四条中「勾引状又は
勾留状」とあるのは「国際受刑者移送法第十九条第一項の受入収容状」と、同法第七
十三条第一項前段中「裁判所その他の場所」とあるのは「刑事施設」と読み替えるも
のとする。

(4) The provisions of the first sentence of paragraph (1) of Article 73 and Article
74 in the Code of Criminal Procedure (Act No. 131 of 1948) shall be applied
mutatis mutandis to the enforcement of the writ of commitment for an
incoming transfer prescribed in paragraph (1) above. In this case, the term "a
defendant" in the provisions shall be deemed to be replaced with "an incoming
sentenced person as defined in item (ix) of Article 2 of the Act on the
Transnational Transfer of Sentenced Persons"; "the subpoena" prescribed in
the first sentence of paragraph (1) of Article 73 and "a subpoena or detention
warrant" prescribed in Article 74 of the same code shall be deemed to be
replaced with "a writ of commitment for an incoming transfer prescribed in
paragraph (1) of Article 19 of the Act on the Transnational Transfer of
Sentenced Persons"; and "a court and other places" in the first sentence of
paragraph (1) of Article 73 of the same code shall be deemed to be replaced
with "a penal institution".

(共助刑の執行指揮)

(Directions for enforcement of assistance punishment)

第二十条 共助刑の執行は、東京地方検察庁の検察官が指揮する。

Article 20 (1) The enforcement of assistance punishment shall be directed by a public prosecutor of the Tokyo District Public Prosecutors Office.

2 前項の指揮は書面で行い、当該書面に第十五条第一項の書面の謄本及び関係書類の謄本を添付しなければならない。

(2) The enforcement prescribed in the preceding paragraph shall be directed in writing and the written document shall be accompanied by a certified copy of the document prescribed in paragraph (1) of Article 15 and certified copies of related documents.

(刑法等の適用)

(Application of the Penal Code)

第二十一条 共助刑の執行に関しては、第十六条第一項第一号の共助刑の執行を受ける者を懲役に処せられた者と、同項第二号の共助刑の執行を受ける者を禁錮に処せられた者と、同項第一号の共助刑を懲役と、同項第二号の共助刑を禁錮とそれぞれみなして、刑法（明治四十年法律第四十五号）第二十二条、第二十四条、第二十八条、第二十九条、第三十一条から第三十三条まで及び第三十四条第一項、刑事訴訟法第四百七十四条、第四百八十条から第四百八十二条まで、第四百八十四条から第四百八十九条まで、第五百二条から第五百四条まで及び第五百七条、少年法（昭和二十三年法律第百六十八号）第二条第一項、第二十七条第一項、第五十六条、第五十七条及び第六十一条、少年院法（昭和二十三年法律第百六十九号）第一条、第二条、第四条から第九条まで、第十条第一項、第十条の二、第十三条、第十四条第一項、第四項及び第五項、第十四条の二から第十六条まで、第十七条第二項、第十七条の二並びに第十七条の四から第十七条の六まで並びに更生保護法（平成十九年法律第八十八号）第三条、第四条第二項、第十一条から第十四条まで、第十六条、第二十三条から第三十条まで、第三十三条、第三十四条第一項、第三十五条から第四十条まで、第四十八条、第四十九条第一項、第五十条、第五十一条、第五十二条第二項及び第三項、第五十三条第二項及び第三項、第五十四条第二項、第五十五条から第五十八条まで、第六十条から第六十五条まで、第七十五条から第七十七条まで、第八十二条、第八十四条から第八十八条まで並びに第九十一条から第九十八条までの規定を適用する。この場合において、刑法第二十八条中「三分の一」とあるのは「三分の一（国際受刑者移送法第二条第七号の裁判国（以下「裁判国」という。）において同法第二条第十一号の受入移送犯罪（以下「受入移送犯罪」という。）に係る確定裁判において言い渡された同法第二条第一号の外国刑（以下「外国刑」という。）の執行としての拘禁をしたとされる日数を含む。）」と、「十年」とあるのは「十年（裁判国において受入移送犯罪に係る確定裁判において言い渡された外国刑の執行としての拘禁をしたとされる日数を含む。）」と、同法第三十二条中「刑の言渡しが確定した後」とあるのは「国際受刑者移送法第十三条の命令により裁判国から引渡しを受けた後」と、刑事訴訟法第四百七十四条中「二以上の」とあるのは「国際受刑者移送法第二条第二号の共助刑（以下

「共助刑」という。)と」と、「その重いもの」とあり、及び「重い刑」とあるのは「共助刑」と、「他の刑」とあるのは「主刑」と、同法第四百八十条及び第四百八十二条中「刑の言渡をした裁判所に対応する検察庁」とあるのは「東京地方検察庁」と、同法第四百八十七条中「刑名」とあるのは「共助刑の種類」と、同法第五百二条中「裁判の執行を受ける者」とあるのは「共助刑の執行を受ける者」と、「言渡をした裁判所」とあるのは「東京地方裁判所」と、少年法第二十七条第一項中「保護処分の継続中、本人に対して有罪判決が確定した」とあり、及び同法第五十七条中「保護処分の継続中、懲役、禁錮又は拘留の刑が確定した」とあるのは「国際受刑者移送法第二条第二号の共助刑の執行を受ける者が保護処分の継続中である」とし、その他これらの規定の適用に関し必要な技術的読替えは、政令で定める。

Article 21 A person upon whom the assistance punishment prescribed in Article 16, paragraph (1), item (i) is to be enforced shall be regarded as a person upon whom imprisonment with work is to be enforced; a person upon whom the assistance punishment prescribed in item (ii) of the same paragraph is to be enforced shall be regarded as a person upon whom imprisonment without work is to be enforced; the assistance punishment prescribed in item (i) of the same paragraph shall be regarded as imprisonment with work; the assistance punishment in item (ii) of the same paragraph shall be regarded as imprisonment without work; and the following provisions shall apply for the purpose of enforcing the assistance punishment: Article 22, Article 24, Article 28, Article 29, Articles 31 to 33 and Article 34, paragraph (1) of the Penal Code (Act No. 45 of 1907), Article 474, Articles 480 to 482, Articles 484 to 489, Articles 502 to 504 and Article 507 of the Code of Criminal Procedure, Article 2, paragraph (1), Article 27, paragraph (1), Article 56, Article 57 and Article 61 of the Juvenile Act (Act No. 168 of 1948), Article 1, Article 2, Articles 4 to 9, Article 10, paragraph (1), Article 10-2, Article 13, Article 14, paragraphs (1), (4) and (5), Articles 14-2 to 16, Article 17, paragraph (2), Article 17-2 and Article 17-4 to Article 17-6 of the Juvenile Training Schools Act (Act No. 169 of 1948) and Article 3, Article 4, paragraph (2), Articles 11 to 14, Article 16, Articles 23 to 30, Article 33, Article 34, paragraph (1), Articles 35 to 40, Article 48, Article 49, paragraph (1), Article 50, Article 51, Article 52, paragraphs (2) and (3), Article 53, paragraphs (2) and (3), Article 54, paragraph (2), Articles 55 to 58, Articles 60 to 65, Articles 75 to 77, Article 82, Articles 84 to 88 and Articles 91 to 98 of the Offenders Rehabilitation Act (Act No. 88 of 2007). In such a case, the "one-third" in Article 28 of the Penal Code shall be, "one-third (including the number of days an incoming sentenced person has been detained in the enforcement of the foreign punishment as defined in Article 2, item (i) of the Act on the Transnational Transfer of Sentenced Persons (hereinafter referred to as the "foreign punishment")), rendered in the final and binding decision with regard to the offense that is the premise of the incoming transfer as defined in Article 2, item (xi) of the same act (hereinafter referred to as the

"offense that is the premise of the incoming transfer") in a sentencing state as defined in Article 2, item (vii) of the same act (hereinafter referred to as the "sentencing state")); "10 years" shall be "10 years (including the number of days an incoming sentenced person has been detained in the enforcement of the foreign punishment rendered in the final and binding decision with regard to the offense that is the premise of the incoming transfer in the sentencing state)"; "after a sentence has become final and binding" in Article 32 of the same code shall be "after the surrender by a sentencing state in accordance with the order prescribed in Article 13 of the Act on the Transnational Transfer of Sentenced Persons"; "two or more" and "the greatest among the punishments" in Article 474 of the Code of Criminal Procedure shall be "assistance punishment as defined in Article 2, item (ii) of the Act on the Transnational Transfer of Sentenced Persons (hereinafter referred to as the "assistance punishment)"; "the other punishment" in the same Article shall be "the principal punishment"; "the public prosecutors office responding to the court that has rendered the punishment" in Article 480 and Article 482 of the same code shall be "the Tokyo District Public Prosecutors Office"; "category of punishment" in Article 487 of the same code shall be "types of assistance punishment"; "a person upon whom a decision is to be enforced" in Article 502 in the same code shall be "a person upon whom the assistance punishment is to be enforced"; "the court that rendered such decision" in the same Article shall be "the Tokyo District Court"; and "a judgment of guilty has become final and binding against an individual in the course of enforcement of a protective measure" in Article 27, paragraph (1) of the Juvenile Act and "a sentence of imprisonment with or without work, or of penal detention has become final and binding in the course of enforcement of a protective measure" in Article 57 in the same code shall be "a person with regard to whom assistance punishment as defined in item (ii) of Article 2 of the Act on the Transnational Transfer of Sentenced Persons is to be enforced and who is currently undergoing a protective measure"; additional technicalities requiring alternative readings in connection with the application of these provisions shall be determined by a Cabinet order.

(仮釈放の特則)

(Special provision on parole)

第二十二條 二十歳に満たないときに共助刑に係る外国刑（二以上あるときは、それらのすべて）の言渡しを受けた受入受刑者については、次の期間（裁判国において当該外国刑の執行としての拘禁をしたとされる日数を含む。）を経過した後、仮釈放をすることができる。

Article 22 Parole may be granted to an incoming sentenced person upon whom a foreign punishment (all punishments if there are two or more) in a final and

binding decision with regard to the offense that is the premise of the incoming transfer was rendered when he or she was under 20 years of age, after the lapse of the following periods (including the number of days the sentenced person was detained in the sentencing state in the enforcement of the foreign punishment):

一 無期の共助刑については七年

(i) Seven years in the case of assistance punishment for life;

二 十年を超える有期の共助刑については三年

(ii) Three years in the case of assistance punishment with a definite term of more than ten years;

三 五年を超え十年以下の有期の共助刑については一年八月

(iii) One year and eight months in the case of assistance punishment with a definite term of more than five years, not more than ten years;

四 五年以下の有期の共助刑については、その刑期の三分の一

(iv) One third of the term in the case of assistance punishment with a definite term of five years or less.

(施設の長の通告義務の特則)

(Special provision on the reporting obligation of the warden)

第二十三条 刑事施設の長は、第二十条第一項の指揮があつた場合において、受入受刑者が第二十一条の規定により適用される刑法第二十八条又はこの法律第二十二条に掲げる期間を既に経過しているときは、速やかに、その旨を地方更生保護委員会に通告しなければならない。

Article 23 In cases where the direction prescribed in paragraph (1) of Article 20 is implemented, when the incoming sentenced person has already served the term specified in Article 28 of the Penal Code applied by the provision of Article 21 of this act, or the term specified in Article 22 of this act, the warden of the penal institution shall promptly report as such to the regional parole board.

(仮釈放期間の終了の特則)

(Special provision on expiration of the parole term)

第二十四条 第二十二条に規定する受入受刑者が無期の共助刑についての仮釈放後、その処分を取り消されないうで十年を経過したときは、共助刑の執行を受け終わったものとする。

Article 24 (1) If an incoming sentenced person has been paroled as provided for in Article 22 with regard to assistance punishment for life and 10 years have passed since the parole without rescission, he or she shall be regarded as having served the term of assistance punishment.

2 第二十二条に規定する受入受刑者が有期の共助刑についての仮釈放後、その処分を取り消されないうで仮釈放前に共助刑の執行を受けた期間（裁判国において受入移送犯

罪に係る確定裁判において言い渡された外国刑の執行としての拘禁をしたとされる日数を含む。) と同一の期間又は共助刑の刑期を経過したときは、そのいずれか早い時期において、共助刑の執行を受け終わったものとする。ただし、共助刑の刑期が三年に満たないときは、この限りでない。

- (2) If an incoming sentenced person has been paroled as provided for in Article 22 and the same length of time as the time served in the assistance punishment with a definite term before parole, or the term of the assistance punishment, has passed since the parole without rescission (including the number of days the incoming sentenced person was detained in the sentencing state in the enforcement of the foreign punishment rendered in a final and binding decision with regard to the offense that is the premise of the incoming transfer), he or she shall be regarded as having served the term of the assistance punishment as of the end of the shorter of the two periods mentioned above; provided, however, that this shall not apply to an assistance punishment with a term of less than 3 years.

(共助刑の執行の減輕等)

(Reduction/remission of assistance punishment)

第二十五条 中央更生保護審査会は、法務大臣に対し、受入受刑者に対する共助刑の執行の減輕又は免除の実施について申出をすることができる。

Article 25 (1) The National Offenders Rehabilitation Commission may make a recommendation to the Minister of Justice for the reduction or remission of enforcement of assistance punishment against an incoming sentenced person.

2 法務大臣は、前項の申出があったときは、当該受入受刑者に対して共助刑の執行の減輕又は免除をすることができる。

(2) When the recommendation prescribed in the preceding paragraph has been made, the Minister of Justice may reduce or remit the enforcement of the assistance punishment against the incoming sentenced person.

3 法務大臣は、前項の規定により共助刑の執行の減輕又は免除をしたときは、共助刑の執行の減輕状又は共助刑の執行の免除状を当該受入受刑者に下付しなければならない。

(3) When the Minister of Justice has reduced or remitted the enforcement of assistance punishment prescribed in the preceding paragraph, he or she shall issue to the incoming sentenced person a certificate of reduction of enforcement of assistance punishment or a certificate of remission of enforcement of assistance punishment.

4 恩赦法（昭和二十二年法律第二十号）第十一条及び更生保護法第九十条の規定は、共助刑の執行の減輕又は免除について準用する。この場合において、恩赦法第十一条中「有罪の言渡」とあるのは「国際受刑者移送法第十三条の命令」と、「大赦、特赦、減刑、刑の執行の免除又は復権」とあるのは「同法第二十五条第二項の規定による共助刑の執行の減輕又は免除」と、更生保護法第九十条第一項中「前条の申出」とあり、

及び同条第二項中「特赦、減刑又は刑の執行の免除の申出」とあるのは「国際受刑者移送法第二十五条第一項の申出」と読み替えるものとする。

(4) The provisions in Article 11 of the Pardon Act (Act No. 20 of 1947) and Article 90 of the Offenders Rehabilitation Act shall be applied mutatis mutandis to the reduction or remission of enforcement of assistance punishment. In such a case, the "judgment of conviction being rendered" in Article 11 of the Pardon Act shall be deemed to be replaced with "the order prescribed in Article 13 of the Act on the Transnational Transfer of Sentenced Persons"; "general pardon, special pardon, commutation of sentence, remission of enforcement of sentence or restoration of rights" shall be deemed to be replaced with "reduction or remission of enforcement of assistance punishment pursuant to paragraph (2) of Article 25 in the same act"; "the recommendation under the preceding Article" in paragraph (1) of Article 90 of the Offenders Rehabilitation Act and "the recommendation for a special pardon, commutation of sentence or remission of enforcement of the sentence" in paragraph (2) of the same Article shall be deemed to be replaced with "recommendation provided for in paragraph (1) of Article 25 of the Act on the Transnational Transfer of Sentenced Persons".

(外国刑の確定裁判の執行不能等の通知を受けた法務大臣の措置等)

(Actions by the Minister of Justice upon receipt of a notice of inability to enforce the final and binding decision of foreign punishment)

第二十六条 裁判国において受入移送犯罪に係る外国刑の確定裁判（二以上あるときは、それらのすべて）が取り消された場合その他その執行ができなくなった場合において、裁判国からその旨の通知があったときは、法務大臣は、第十三条の命令を撤回し、直ちに、東京地方検察庁検事正に当該受入受刑者の釈放を命じなければならない。

Article 26 (1) When there is notice from a sentencing state that the final and binding decision of foreign punishment with regard to an offense that is the premise of an incoming transfer (all of them if there are two or more) has been rescinded or its enforcement has otherwise become impossible in the sentencing state, the Minister of Justice shall revoke the order prescribed in Article 13 and order the Chief Prosecutor of the Tokyo District Public Prosecutors Office to release the incoming sentenced person concerned.

2 東京地方検察庁の検察官は、前項の規定による釈放の命令があったときは、直ちに、当該受入受刑者を釈放しなければならない。

(2) When the order of release prescribed in the preceding paragraph is issued, a public prosecutor of the Tokyo District Public Prosecutors Office shall immediately release the incoming sentenced person concerned.

3 第一項に規定する場合を除き、裁判国から、受入移送犯罪に係る確定裁判において言い渡された外国刑について、減刑その他の事由により当該外国刑の種類又は裁判国において受入受刑者の拘禁をすることができるとされる最終日を変更する旨の通知が

あったときは、当該通知に基づき、第十六条及び第十七条の定めるところに従い、共助刑の種類及び期間を変更するものとする。

- (3) Except as provided in paragraph (1) above, when there is notice from a sentencing state that the type of foreign punishment rendered in the final and binding decision with regard to the offense that is the premise of an incoming transfer, or the final date deemed for detention of the incoming sentenced person in the sentencing state has been changed due to commutation of the punishment or for other reasons, the type of assistance punishment and its term shall be changed as provided for in Articles 16 and 17, based on the notice.

(裁判国に対する通知)

(Notice to the sentencing state)

第二十七条 法務大臣は、受入受刑者が次の各号のいずれかに該当する場合には、速やかに、裁判国にその旨を通知しなければならない。

Article 27 The Minister of Justice shall promptly notify the sentencing state if the status of the incoming sentenced person falls under either of the following items:

- 一 共助刑の執行を終わり、又は執行を受けることがなくなったとき。
(i) The incoming sentenced person has served out the assistance punishment or has been deemed not to be subject to its further enforcement;
- 二 共助刑の執行が終わる前に死亡し、又は逃走したとき。
(ii) The incoming sentenced person dies before he or she has served out the assistance punishment or has escaped from custody.

第三章 送出国移送

Chapter III Outgoing Transfer

(送出国移送の実施)

(Implementation of an outgoing transfer)

第二十八条 送出国移送は、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 28 An outgoing transfer may be implemented except in one of the following cases:

- 一 送出国受刑者の同意がないとき。
(i) When the outgoing sentenced person does not consent;
- 二 送出国移送犯罪に係る行為が執行国内において行われたとした場合において、その行為が執行国の法令によれば罪に当たるものでないとき。
(ii) When the conduct constituting the offense that is the premise of the outgoing transfer would not constitute an offense under the laws of the administering state if the conduct were committed in the administering state;

三 送出国移送犯罪について刑事訴訟法第三百五十条の請求又は送出国移送犯罪に係る事件について上訴権回復若しくは再審の請求若しくは非常上告の手續が日本国の裁判所に係属するとき。

(iii) Regarding the offense that is the premise of the outgoing transfer, when the request provided for in Article 350 of the Code of Criminal Procedure is made; or in a criminal case related to the act constituting the offense that is the premise of the outgoing transfer when a demand for recovery of the right to appeal or apply for a retrial or for an extraordinary appeal to the court of last resort is pending in a Japanese court;

四 送出国移送犯罪について特赦の出願若しくは上申がなされ、又は送出国移送犯罪に係る確定裁判において言い渡された懲役若しくは禁錮について減刑若しくは刑の執行の免除の出願若しくは上申がなされ、その手續が終了していないとき。

(iv) Regarding the offense that is the premise of the outgoing transfer, when an application for a special pardon has been filed or a petition for such a pardon has been made but the procedures have not yet been completed; or regarding imprisonment with or without work under a final and binding decision with regard to the offense that is the premise of the outgoing transfer, when an application for commutation or remission of the enforcement of the punishment has been filed or a petition has been made and the procedures have not yet been completed;

五 送出国移送犯罪に係る懲役又は禁錮の確定裁判において罰金、没収又は追徴が併科されている場合において、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。

(v) When a fine, confiscation or collection of equivalent value is imposed in a final and binding decision in addition to imprisonment with or without work with regard to the offense that is the premise of the outgoing transfer, and its enforcement has not been completed nor has it been determined that the outgoing sentenced person is not subject to that enforcement;

六 送出国移送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送出国受刑者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。

(vi) When a criminal case related to the act constituting an offense other than the offense that is the premise for the outgoing transfer is pending in a Japanese court; or regarding the case, the outgoing sentenced person has been sentenced to punishment by a Japanese court for such offense and the enforcement of the sentence has not been completed, or it has not been determined that the outgoing sentenced person is not subject to the enforcement of the sentence.

(条約の内容の告知)

(Notification of the contents of Treaties)

第二十九条 刑事施設の長は、当該刑事施設に収容されている締約国の国民等に対して言い渡された懲役又は禁錮の裁判が確定したときは、速やかに、その者に対し条約に定める事項のうち重要なものを告知しなければならない。締約国の国民等が懲役又は禁錮の裁判を言い渡されその確定裁判の執行のため刑事施設に収容されたときも、同様とする。

Article 29 When the decision of imprisonment with or without work rendered to a national, etc. of a member state held in a penal institution becomes final and binding, the warden of the penal institution shall promptly notify the sentenced person of the important contents of the provisions of Treaties. The same shall apply to the case when a national, etc. of a member state is sentenced to imprisonment with or without work and is taken to a penal institution for enforcement of the sentence pursuant to a final and binding decision.

(送出受刑者に対する通知)

(Notice to the outgoing sentenced person)

第三十条 法務大臣は、送出受刑者が送出移送の申出をした場合において、条約に基づき日本国が当該送出受刑者の執行国となるべき国に対し行うこととされる通知をしたときは、当該送出受刑者に書面でその旨を通知しなければならない。

Article 30 If an outgoing sentenced person makes an application for an outgoing transfer, and Japan, based on Treaties, has given notice to the state that is to be the administering state for the outgoing sentenced person, the Minister of Justice shall notify the outgoing sentenced person to that effect in writing.

(送出受刑者の同意)

(Consent of the outgoing sentenced person)

第三十一条 送出受刑者は、第二十八条第一号の同意をするときは、その収容されている刑事施設の長又はその指定する職員の立会いの下に、法務省令で定める事項を記載した書面に署名押印しなければならない。

Article 31 (1) When the outgoing sentenced person consents pursuant to item (i) of Article 28, he or she shall sign and seal an official document containing the items specified in a Ministry of Justice ordinance witnessed by the warden or other designated official of the penal institution where he or she is being held.

2 刑事施設の長は、送出受刑者が前項の書面に署名押印したときは、速やかに、当該書面を法務大臣に提出しなければならない。

(2) When the outgoing sentenced person signs and seals the document set forth in the preceding paragraph, the warden of the penal institution shall promptly submit the document to the Minister of Justice.

(同意の確認のための接見)

(Interview for confirmation of consent)

第三十二条 刑事施設の長は、締約国の大使、公使、領事官その他領事任務を遂行する者又は締約国が指定する当該締約国の公務員が、条約に基づき送受刑者が送受移送に同意しているかどうかを確認するためにその者との接見を求めるときは、これを許さなければならない。

Article 32 (1) When an ambassador, minister, consul or official in charge of a consular mission of a member state, or a public official of a member state designated by the member state requests an interview with an outgoing sentenced person to verify whether or not the sentenced person consents to the outgoing transfer under Treaties, the warden of the penal institution shall honor the request.

2 前項の接見は、法令の範囲内で行うものとする。

(2) The interview shall be conducted within the limits permitted by laws and regulations.

(執行国に対する送受移送の要請)

(Request for an outgoing transfer to an administering state)

第三十三条 法務大臣は、第二十八条各号のいずれにも該当せず、かつ、相当であると認めるときは、執行国に対し送受移送の要請をすることができる。

Article 33 (1) When the Minister of Justice does not find the situation to fall under any of the items in Article 28 and deems it otherwise appropriate, he or she may make a request for an outgoing transfer to the administering state.

2 法務大臣は、前項の要請をしようとするときは、あらかじめ外務大臣の意見を聴かなければならない。

(2) When the Minister of Justice intends to make the request set forth in the preceding paragraph, he or she shall obtain the opinion of the Minister of Foreign Affairs in advance.

(法務大臣の送受移送決定等)

(Decision of an outgoing transfer by the Minister of Justice)

第三十四条 法務大臣は、執行国から送受移送の要請があった場合において第二十八条各号のいずれにも該当しないとき、又は前条第一項の規定により執行国に対し送受移送の要請をした場合において執行国から要請に応ずる旨の通知があったときは、送受移送の決定をしなければならない。ただし、送受移送をすることが相当でないと認めるときは、この限りでない。

Article 34 (1) When an administering state requests an outgoing transfer, and the Minister of Justice does not find the situation to fall under any of the items in Article 28, or when an administering state notifies Japan of its acceptance if Japan has requested an outgoing transfer pursuant to the provisions of paragraph (1) of Article 33, the Minister of Justice shall make the decision to implement the outgoing transfer; provided, however, that this shall not apply to cases where the Minister of Justice deems it inappropriate to implement the

outgoing transfer.

2 法務大臣は、前項の決定をしたときは、送出受刑者が収容されている刑事施設の長に対し、当該決定に係る引渡しを命じなければならない。

(2) When the Minister of Justice makes the decision set forth in the preceding paragraph, he or she shall order the warden of the penal institution where the outgoing sentenced person is being held to surrender the sentenced person.

3 法務大臣は、第一項ただし書の規定により送出移送をしないこととするときは、あらかじめ外務大臣と協議しなければならない。

(3) When the Minister of Justice decides not to implement the outgoing transfer pursuant to the provisions of the proviso in paragraph (1) above, he or she shall consult with the Minister of Foreign Affairs in advance.

(送出受刑者に対する通知)

(Notice to the outgoing sentenced person)

第三十五条 法務大臣は、第三十三条第一項の規定により執行国に対し送出移送の要請をしたとき及び前条第二項の規定により引渡しの命令をしたときは、当該送出受刑者に書面でその旨を通知しなければならない。執行国から要請があった場合又は第三十一条第一項の規定に基づく送出受刑者の同意があった場合において、送出移送をしないこととしたときも、同様とする。

Article 35 When the Minister of Justice makes a request for an outgoing transfer to an administering state as provided for in paragraph (1) of Article 33 and orders the surrender of the sentenced person pursuant to the provisions of paragraph (2) of Article 34, he or she shall notify the outgoing sentenced person in writing. The same shall apply when the Minister of Justice decides not to implement an outgoing transfer, either where the request for the outgoing transfer was made by the administering state or where the Minister of Justice has confirmed pursuant to the provisions of paragraph (1) of Article 31 that the sentenced person does consent.

(送出移送の実施に関する準用規定)

(Mutatis mutandis application to implementation of an outgoing transfer)

第三十六条 逃亡犯罪人引渡法（昭和二十八年法律第六十八号）第十六条第一項、第三項及び第四項、第十九条第一項、第二十条第一項並びに第二十一条の規定は、第三十四条第二項の命令により送出受刑者を執行国に引き渡す場合について準用する。この場合において、同法第十六条第一項中「第十四条第一項の規定による引渡の命令」とあり、及び同法第二十条第一項中「第十七条第一項又は第五項の規定による逃亡犯罪人の引渡の指揮」とあるのは「国際受刑者移送法第三十四条第二項の命令」と、同法第十六条第四項中「逃亡犯罪人の氏名、引渡犯罪名、請求国の名称、引渡の場所、引渡の期限及び発付の年月日」とあるのは「国際受刑者移送法第二条第十号の送出受刑者（以下「送出受刑者」という。）の氏名、年齢、国籍、同法第二条第八号の執行国（以下「執行国」という。）の名称、同法第二条第十二号の送出移送犯罪の名称、刑

名、刑期、引渡日及び引渡し場所」と、同法第十九条第一項中「第十六条第三項」とあるのは「国際受刑者移送法第三十六条の規定により準用される逃亡犯罪人引渡法第十六条第三項」と、同法第十九条第一項、第二十条第一項及び第二十一条中「請求国」とあるのは「執行国」と、同法第二十条第一項中「示して逃亡犯罪人の」とあるのは「示して送出国受刑者の」と、「逃亡犯罪人を」とあるのは「送出国受刑者を」と、同法第二十一条中「前条第一項」とあるのは「国際受刑者移送法第三十六条の規定により準用される逃亡犯罪人引渡法第二十条第一項」と、「逃亡犯罪人」とあるのは「送出国受刑者」と読み替えるものとする。

Article 36 The provisions of Article 16, paragraphs (1), (3) and (4), Article 19, paragraph (1), Article 20, paragraph (1) and Article 21 of the Act of Extradition (Act No. 68 of 1953) shall be applied mutatis mutandis to the surrender of an outgoing sentenced person to an administering state pursuant to the order provided for in Article 34, paragraph (2). In this case, the following terms shall be deemed to be replaced as follows: "the order of surrender provided for in paragraph (1) of Article 14" in Article 16, paragraph (1) of the Act of Extradition and "the direction for surrender of a fugitive as provided for in paragraph (1) or (5) of Article 17" Article 20, paragraph (1) of the same act shall be deemed to be replaced with "the order provided for in Article 34, paragraph (2) of the Act on the Transnational Transfer of Sentenced Persons"; "the full name of the fugitive, the name of the offense for which extradition is requested, the name of the requesting state, the place of surrender, the time limit for surrender and the date of issue" in Article 16, paragraph (4) of the same act shall be deemed to be replaced with "the full name, age and nationality of the outgoing sentenced person provided for in Article 2, item (x) of the Act on the Transnational Transfer of Sentenced Persons (hereinafter referred to as the "outgoing sentenced person"), the name of the administering state in Article 2, item (viii) of the same act (hereinafter referred to as the "administering state"), the name of the offense that is the premise of the outgoing transfer provided for in Article 2, item (xii) of the same act, the name and term of punishment imposed, and the date and place of surrender"; "paragraph (3) of Article 16" in Article 19, paragraph (1) of the same act shall be deemed to be replaced with "Article 16, paragraph (3) of the Act of Extradition applied mutatis mutandis by the provisions of Article 36 of the Act on the Transnational Transfer of Sentenced Persons"; "the requesting state" in Article 19, paragraph (1), Article 20, paragraph (1) and Article 21 in the same act shall be deemed to be replaced with "the administering state"; "the fugitive" in Article 20, paragraph (1) of the same act shall be deemed to be replaced with "the outgoing sentenced person"; "paragraph (1) of Article 20" and "the fugitive" in Article 21 of the same act shall be deemed to be replaced with "Article 20, paragraph (1) of the Act of Extradition applied mutatis mutandis by the provisions of Article 36 of the Act on the Transnational

Transfer of Sentenced Persons" and "the outgoing sentenced person", respectively.

(送出国移送をした場合における懲役又は禁錮の執行の終了)

(Completion of enforcement of imprisonment with or without work when an outgoing transfer is implemented)

第三十七条 送出国移送犯罪に係る確定裁判において言い渡された懲役又は禁錮の執行は、執行国においてその執行の共助が終わった日の午前零時に相当する日本国における時刻の属する日に終了したものとする。

Article 37 The enforcement of a sentence of imprisonment with or without work rendered in a final and binding decision with regard to the offense that is the premise of the outgoing transfer shall be deemed to have been completed on the date encompassing the time in Japan corresponding to midnight of the date on which the assistance in the enforcement is completed in the administering state.

(執行国に対する通知)

(Notice to the administering state)

第三十八条 法務大臣は、送出国受刑者が第三十四条第二項の命令により執行国に引き渡された後に、その者について次の各号のいずれかの事由が生じた場合には、直ちに、執行国にその旨を通知しなければならない。

Article 38 If either of the following situations arises after the outgoing sentenced person has been surrendered to the administering state according to the order provided for in paragraph (2) of Article 34, the Minister of Justice shall immediately notify the administering state:

一 刑事訴訟法第三百五十条の請求、上訴権回復、再審、非常上告又は同法第五百二条の申立ての手續により、送出国移送犯罪に係る懲役若しくは禁錮の確定裁判の執行をすることができなくなったとき、又は刑の種類若しくは送出国受刑者を拘禁することができる最終日に変更が生じたとき。

(i) Inability to enforce the final and binding decision to imprisonment with or without work with regard to the offense that is the premise of the outgoing transfer by virtue of a request provided for in Article 350 of the Code of Criminal Procedure, a demand for recovery of the right of appeal, application for a retrial, extraordinary appeal to the court of last resort or a procedure for the petition provided for in Article 502 in the same code, or when the type of punishment or the final date until which the outgoing sentenced person may be detained has been changed.

二 送出国移送犯罪について大赦、特赦若しくは政令による減刑又は送出国移送犯罪に係る確定裁判において言い渡された懲役若しくは禁錮について減刑若しくは刑の執行の免除があったとき。

(ii) Regarding the offense that is the premise of the outgoing transfer, when a

general pardon, special pardon or commutation by a Cabinet order is granted, or, regarding imprisonment with or without work rendered in a final and binding decision with regard to the offense that is the premise of the outgoing transfer, when commutation or remission of enforcement of the punishment is implemented.

第四章 雑則

Chapter IV Miscellaneous Provisions

(受入受刑者の送還)

(Extradition of the incoming sentenced person)

第三十九条 法務大臣は、第十三条の命令により裁判国から引渡しを受けた受入受刑者（第二十一条の規定により適用される刑法第二十八条又はこの法律第二十二条の規定により仮釈放中の者を除く。）について、受入移送犯罪に係る外国刑の確定裁判の再審の審判に出頭する場合その他やむを得ない事情があると認める場合において、裁判国からの要請があるときは、当該受入受刑者が収容されている刑事施設の長に対し、裁判国への引渡し（以下本条において「送還」という。）を命ずることができる。

Article 39 (1) The Minister of Justice may order the warden of the penal institution where an incoming sentenced person is detained to surrender the sentenced person to the sentencing state (hereinafter in this Article referred to as "extradition") if, regarding the incoming sentenced person (excluding any sentenced person who is on parole pursuant to Article 28 of the Penal Code applied by Article 21 of this act or pursuant to the provisions of Article 22 of this act) surrendered by the sentencing state pursuant to the order provided for in Article 13, the sentenced person is to appear for a retrial of the final and binding decision of foreign punishment with regard to the offense that is the premise of the incoming transfer, or other unavoidable circumstances are deemed to exist, and the sentencing state requests the surrender.

2 法務大臣は、前項の規定により送還の命令をしたときは、当該受入受刑者に書面でその旨を通知しなければならない。

(2) When the Minister of Justice has ordered the extradition set forth in the preceding paragraph, the Minister of Justice shall notify the incoming sentenced person in writing.

3 第一項の命令により送還をしたときは、受入移送犯罪に係る外国刑の確定裁判の執行の共助は終了するものとする。

(3) When the extradition is implemented pursuant to the order provided for in paragraph (1) above, the assistance in the enforcement of the final and binding decision of the foreign punishment with regard to the offense that is the premise of the incoming transfer shall be deemed to have been completed.

4 逃亡犯罪人引渡法第十六条第一項、第三項及び第四項、第十九条第一項、第二十条第一項並びに第二十一条の規定は、第一項の命令により送還をする場合について準用

する。この場合において、同法第十六条第一項中「第十四条第一項の規定による引渡の命令」とあり、及び同法第二十条第一項中「第十七条第一項又は第五項の規定による逃亡犯罪人の引渡の指揮」とあるのは「国際受刑者移送法第三十九条第一項の命令」と、同法第十六条第四項中「逃亡犯罪人の氏名、引渡犯罪名、請求国の名称、引渡の場所、引渡の期限及び発付の年月日」とあるのは「国際受刑者移送法第二条第九号の受入受刑者（以下「受入受刑者」という。）の氏名、年齢、同法第二条第七号の裁判国（以下「裁判国」という。）の名称、同法第二条第十一号の受入移送犯罪の名称、同法第二条第一号の外国刑の刑期、引渡日及び引渡しの場所」と、同法第十九条第一項中「第十六条第三項」とあるのは「国際受刑者移送法第三十九条第四項の規定により準用される逃亡犯罪人引渡法第十六条第三項」と、同法第十九条第一項、第二十条第一項及び第二十一条中「請求国」とあるのは「裁判国」と、同法第二十条第一項中「示して逃亡犯罪人の」とあるのは「示して受入受刑者の」と、「逃亡犯罪人を」とあるのは「受入受刑者を」と、同法第二十一条中「前条第一項」とあるのは「国際受刑者移送法第三十九条第四項の規定により準用される逃亡犯罪人引渡法第二十条第一項」と、「逃亡犯罪人」とあるのは「受入受刑者」と読み替えるものとする。

(4) The provisions of paragraphs (1), (3) and (4) of Article 16, paragraph (1) of Article 19, paragraph (1) of Article 20 and Article 21 of the Act of Extradition shall be applied *mutatis mutandis* to the implementation of extradition pursuant to the order provided for in paragraph (1) above. The following terms shall be deemed to be replaced as follows: "the order of surrender provided for in paragraph (1) of Article 14" in paragraph (1) of Article 16 in the same act and the "direction for surrender of a fugitive as provided for in paragraph (1) or (5) of Article 17" in paragraph (1) of Article 20 in the same act shall be deemed to be replaced with "the order provided for in paragraph (1) of Article 39 of the Act on the Transnational Transfer of Sentenced Persons"; "the full name of the fugitive, the name of the offense for which extradition is requested, the name of the requesting state, the place of surrender, the time limit of surrender and the date of issue" in paragraph (4) of Article 16 in the same act shall be deemed to be replaced with "the full name and age of the incoming sentenced person as defined in item (ix) of Article 2 of the Act on the Transnational Transfer of Sentenced Persons (hereinafter referred to as the "incoming sentenced person"), the name of the sentencing state as defined in item (vii) of Article 2 of the same act (hereinafter referred to as the "sentencing state"), the name of the offense that is the premise of the incoming transfer as defined in item (xi) of Article 2 of the same act, the term of the foreign punishment imposed, and the date and place of surrender"; "paragraph (3) of Article 16" in paragraph (1) of Article 19 in the same act shall be deemed to be replaced with "paragraph (3) of Article 16 of the Act of Extradition applied *mutatis mutandis* by the provisions of paragraph (4) of Article 39 of the Act on the Transnational Transfer of Sentenced Persons"; "the requesting state" in paragraph (1) of Article 19, paragraph (1) of Article 20, and Article 21 in the same act shall be deemed to

be replaced with "the sentencing state"; "the fugitive" in paragraph (1) of Article 20 in the same act shall be deemed to be replaced with "the incoming sentenced person"; "paragraph (1) of Article 20" and "the fugitive" in Article 21 in the same act shall be deemed to be replaced with "paragraph (1) of Article 20 of the Act of Extradition applied mutatis mutandis by the provisions of paragraph (4) of Article 39 of the Act on the Transnational Transfer of Sentenced Persons" and the "incoming sentenced person", respectively.

(執行国における拘禁等の取扱い)

(Detention in the administering state)

第四十条 第三十四条第二項の命令により執行国に引渡しをした者であつて、次に掲げるものについて、日本国において送付移送犯罪に係る確定裁判において言い渡された懲役又は禁錮の執行をするときは、執行国において当該確定裁判の執行の共助としての拘禁をしたとされる期間については、当該懲役又は禁錮の執行を受け終えたものとする。

Article 40 Regarding a sentenced person prescribed below who was surrendered to an administering state pursuant to an order provided for in paragraph (2) of Article 34, and upon whom imprisonment with or without work imposed in a final and binding decision with regard to the offense that is the premise of the outgoing transfer is to be enforced in Japan, the term during which the sentenced person has been detained as assistance pursuant to the final and binding decision in the administering state shall be deemed to have been served as the enforcement of imprisonment with or without work.

一 送付移送犯罪に係る懲役又は禁錮の確定裁判の再審の審判に出頭するため、執行国から引渡しを受けた者

(i) A sentenced person who is surrendered from the administering state in order to appear for a retrial of the final and binding decision of imprisonment with or without work with regard to the offense that is the premise of the outgoing transfer.

二 逃走その他の事由により執行国による送付移送犯罪に係る懲役又は禁錮の確定裁判の執行の共助としての拘禁、保護観察その他これに相当する措置を行うことができなくなった者

(ii) A sentenced person who is not under detention, probation or other equivalent measure in relation to assistance in the enforcement of a final and binding decision of imprisonment with or without work with regard to the offense that is the premise of the outgoing transfer in the administering state, due to the sentenced person's escape from custody or other causes.

(刑法第五条ただし書の特則)

(Special provision on the proviso in Article 5 of the Penal Code)

第四十一条 第十三条の命令により裁判国から引渡しを受けた日本国民等を、その引渡

し後に公訴が提起された受入移送犯罪に係る事件について刑に処するときは、刑法第五十条ただし書の規定にかかわらず、その刑の執行を免除するものとする。

Article 41 When a Japanese national, etc. surrendered by a sentencing state pursuant to an order provided for in Article 13 is sentenced to punishment in a criminal case with regard to the offense that is the premise of the incoming transfer for which the national was prosecuted after surrender, the enforcement of that punishment shall be remitted notwithstanding the provisions of the proviso in Article 5 of the Penal Code.

(逃走罪等の特則)

(Special provision on escape from custody)

第四十二条 第十六条の規定により刑事施設に拘置された受入受刑者については、裁判の執行により拘禁された既決の者とみなして、刑法第九十七条若しくは第九十八条又は第百二条（第九十七条又は第九十八条の未遂罪に係る部分に限る。）の規定を適用する。

Article 42 An incoming sentenced person who is held in a penal institution as provided in Article 16 is deemed to be a sentenced inmate detained pursuant to a decision, and the provisions of Article 97 and Article 98, and Article 102 (limited to the parts in Article 97 and Article 98 regarding an attempted offense) of the Penal Code shall apply.

(受入移送に関する費用)

(Costs of an incoming transfer)

第四十三条 第十三条の命令により裁判国から受入受刑者の引渡しを受けた場合において、当該受入受刑者を裁判国から日本国に護送するために要した費用のうち、日本国が支出した受入受刑者に係る交通費は、受入受刑者の負担とする。ただし、法務大臣は、受入受刑者が貧困のためこれを完納することができないことが明らかであるときは、政令で定めるところにより、その全部又は一部を免除することができる。

Article 43 An incoming sentenced person surrendered by a sentencing state pursuant to an order provided for under Article 13 shall bear the costs of his or her transportation among the costs incurred in escorting the sentenced person to Japan. When it is evident that the incoming sentenced person is indigent and therefore unable to pay the full amount, the Minister of Justice may remit the whole or part of the costs pursuant to the provisions of a Cabinet order.

(出入国管理及び難民認定法等の特則)

(Special provision on the Immigration Control and Refugee Recognition Act)

第四十四条 特別永住者が第十三条の命令により本邦に上陸した場合には、当該特別永住者は、出入国管理及び難民認定法（昭和二十六年政令第三百十九号。以下「入管法」という。）第九条第一項の規定による上陸許可の証印を受けて上陸したものとみなす。

Article 44 (1) A special permanent resident landing in Japan pursuant to an order provided for in Article 13 shall be deemed to have landed in Japan upon receipt of the stamp of permission to land pursuant to the provisions of paragraph (1) of Article 9 of the Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951, hereinafter referred to as the "Immigration Control Act").

2 第三十四条第二項の命令により本邦から出国した送出国受刑者に対して入管法第四十七条第五項、第四十八条第九項又は第四十九条第六項の規定により退去強制令書が発付されていた場合には、当該送出国受刑者は、同法第五条第一項第五号の二、第九号及び第十号の適用については、当該退去強制令書により本邦からの退去を強制された者とみなす。この場合において、同法第五条第一項第九号中「退去した」とあるのは「出国した」と読み替えるものとする。

(2) When a written deportation order provided for in paragraph (5) of Article 47, paragraph (9) of Article 48 or paragraph (6) of Article 49 of the Immigration Control Act has been issued to an outgoing sentenced person who has left Japan pursuant to an order provided for in paragraph (2) of Article 34, he or she shall be deemed to have been deported from Japan by a written deportation order with regard to the application of items (v-2), (ix) and (x) of paragraph (1) of Article 5 of the Immigration Control Act. In this case, the "deportation" in item (ix) of paragraph (1) of Article 5 of the same act shall be deemed to be replaced with "departure".

(最高裁判所規則)

(Rules of the Supreme Court)

第四十五条 この法律に定めるもののほか、東京地方裁判所の審査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 45 In addition to those matters provided for in this act, necessary procedural rules concerning examination by the Tokyo District Court shall be prescribed by the Rules of the Supreme Court.

(通過護送の承認に関する法務大臣の措置)

(Actions by the Minister of Justice concerning approval for transit of a person through Japan)

第四十六条 法務大臣は、外国から外交機関を経由して、当該外国の官憲が、当該外国又は他の外国において外国刑の確定裁判を受けた者を、その執行の共助のために、日本国内を通過して護送することの承認の要請があったときは、次の各号のいずれかに該当する場合を除き、これを承認することができる。

Article 46 (1) The Minister of Justice, upon a request made by a foreign state through diplomatic channels, may give approval for transit through the territory of Japan, of a person to whom a final and binding decision of foreign punishment has been rendered in the foreign state or another foreign state, for

assistance in its enforcement except in either of the following circumstances:

一 当該外国刑の確定裁判により認められた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、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。

(i) When the conduct constituting the offense in the final and binding decision in the foreign state would not constitute an offense under Japanese laws and regulations if the conduct were committed in Japan;

二 当該外国刑の確定裁判を受けた者が日本国民であるとき。

(ii) When the person subject to the final and binding decision in the foreign state is a Japanese citizen.

2 法務大臣は、外国刑の確定裁判を受けた者について、条約に基づき、締約国から前項の承認の要請があったときは、同項各号のいずれかに該当する場合を除き、これを承認しなければならない。

(2) The Minister of Justice shall approve the transit of a person upon whom a final and binding decision of foreign punishment has been rendered when a request for approval as prescribed in the preceding paragraph is made by a member state based on Treaties, except in those cases stipulated in the items of the same paragraph.

3 法務大臣は、第一項の承認をするかどうかについてあらかじめ外務大臣と協議しなければならない。

(3) 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.

(施行細則)

(Detailed regulations for enforcement)

第四十七条 この法律に特別の規定があるものを除くほか、この法律の実施の手續その他その執行について必要な細則は、法務省令で定める。

Article 47 In addition to those matters provided for in this act, procedures for the enforcement of this act and other detailed regulations necessary for its enforcement shall be prescribed by a Ministry of Justice ordinance.

附 則 〔平成二十二年五月六日法律第二十九号〕 〔抄〕

Supplementary Provisions [Act No.29 of May 6, 2010] [Extract]