

Japan: Law of Extradition

LAW OF EXTRADITION

(TENTATIVE TRANSLATION – Ministry of Justice)

(As of September.1.2005)

[Law No. 68 of 1953, as amended by Law No. 163 of 1954, Law No. 86 of 1964, Law No. 70 of 1978, Law No. 89 of 1993 and Law No. 84 of 2004]

(Definitions)

Article 1.

1. As used in this Law, "treaty of extradition" means a treaty concluded between Japan and a foreign country conceding the surrender of offenders.
2. As used in this Law, "requesting country" means a foreign country which has requested Japan to surrender an offender.
3. As used in this Law, "offense for which extradition is requested" means any offense which a requesting country mentions in its request for surrender of an offender as being an offense which the offender has committed.
4. As used in this Law, "fugitive" means a person against whom any measures in connection with a criminal case have been taken by a requesting country for an offense for which extradition is requested.

(Restrictions on extradition)

Article 2.

A fugitive shall not be surrendered in any of the following circumstances, provided that this shall not apply, in cases falling under items (3), (4), (8), or (9), when the treaty of extradition provides otherwise:

- (1) When the offense for which extradition is requested is a political offense;
- (2) When the request for extradition is deemed to have been made with a view to trying or punishing the fugitive for a political offense which he has committed;
- (3) When the offense for which extradition is requested is not punishable by death, or by imprisonment for life or for a maximum term of three years or more by the laws, regulations or ordinances of the requesting country;
- (4) When the act constituting the offense for which extradition is requested would not be punishable under the laws, regulations or ordinances of Japan by death or by imprisonment for life or for a maximum term of three years or more if the act were committed in Japan;
- (5) When it is deemed that under the laws, regulations or ordinances of Japan it would be impossible to impose or to execute punishment upon the fugitive, if the act constituting the offense for which extradition is requested were committed in Japan, or if the trial therefor were held in a court of Japan;

- (6) Except in the case of a fugitive who has been convicted of an offense for which extradition is requested by a court of the requesting country, when there is no probable cause to suspect that the fugitive has committed the act which constitutes an offense for which extradition is requested;
- (7) When a criminal prosecution based on the act constituting an offense for which extradition is requested is pending in a Japanese court, or when a judgment in such a case has become final;
- (8) When a criminal prosecution for an offense committed by the fugitive other than the offense for which extradition is requested is pending in a Japanese court, or when the fugitive has been sentenced to punishment by a Japanese court for such an offense and the execution of the sentence of the fugitive has not been completed or the sentence has yet to be non-executable;
- (9) When the fugitive is a Japanese national.

(Steps taken by the Minister of Foreign Affairs upon receipt of a request for surrender)

Article 3.

When a request for surrender of a fugitive is made, the Minister of Foreign Affairs shall, except in any of the following circumstances, forward to the Minister of Justice the written request or a certificate which the Minister of Foreign Affairs has prepared stating that the request for extradition has been made, together with the related documents:

- (1) When, in the case of a request which has been made pursuant to a treaty of extradition, it is deemed that the form of the request is not consistent with the requirements of the treaty of extradition;
- (2) When, in the case of a request which has not been made pursuant to a treaty of extradition, the requesting country has not assured that it would honor a request of the same kind made by Japan.

(Steps taken by the Minister of Justice)

Article 4.

1. Upon receiving the documents concerning a request for extradition from the Minister of Foreign Affairs as provided for in Article 3, the Minister of Justice shall, except in any of the following circumstances, forward the related documents to the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and order to apply to the Tokyo High Court for examination as to whether the case is one in which the fugitive can be surrendered:

- (1) When it is deemed to be clearly not a case in which the fugitive can be surrendered;
- (2) In the case of a treaty of extradition which provides that the determination as to whether the fugitive shall be surrendered is left to the discretion of Japan in a case falling under item (8) or (9) of Article 2, when the case clearly falls under one of these items and it is deemed to be inappropriate to surrender the fugitive;
- (3) In addition to cases falling under item (2) above, when a case falls under a provision of a treaty of extradition which leaves the determination as to whether the fugitive shall be surrendered to the discretion of Japan and it is deemed to be inappropriate to surrender the fugitive;
- (4) In the case of a request for surrender which is not made pursuant to a treaty of extradition, when it is deemed to be inappropriate to surrender the fugitive.

2. Before the Minister of Justice makes a finding as provided for in item (3) or (4) of paragraph 1 above, the Minister of Justice shall consult with the Minister of Foreign Affairs.

(Detention of fugitive)

Article 5.

1. Upon receiving an order from the Minister of Justice as provided for in paragraph 1 of Article 4, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall, except when the fugitive is detained under a permit of provisional detention or except when the detention of the fugitive under a permit of provisional detention is suspended, cause a public prosecutor of the Tokyo High Public Prosecutors Office to detain the fugitive under a permit of detention which shall have 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 deems that there is no apprehension that the fugitive will escape.
2. A permit of detention provided for in paragraph 1 above may be issued upon request of a public prosecutor of the Tokyo High Public Prosecutors Office.
3. The permit of detention shall contain the full name of the fugitive, the name of the offense for which extradition is requested, the name of the requesting country, the effective period of the permit, a statement that after the expiration of the effective period no detention may be commenced and the permit must be returned, and the date of issue of the permit, and shall bear the name and seal of the issuing judge.

Article 6.

1. A public prosecutor of the Tokyo High Public Prosecutors Office may cause a public prosecutor's assistant officer, a police officer, or a maritime safety officer or maritime safety sub-officer of the Maritime Safety Agency (hereinafter referred to as "public prosecutor's assistant officer, etc.") to take the fugitive into custody under the permit of detention provided for in Article 5.
2. When a fugitive is taken into custody under a permit of detention, the permit shall be shown to the fugitive.
3. When a public prosecutor's assistant officer, etc. takes a fugitive into custody under a permit of detention, 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 (Law No. 131 of 1948) shall apply mutatis mutandis to custody under a permit of detention.

Article 7

1. When a public prosecutor of the Tokyo High Public Prosecutors Office takes a fugitive into custody under a permit of detention, or receives a fugitive taken into custody under a permit of detention, the public prosecutor shall investigate the fugitive's identity immediately.
2. The public prosecutor of the Tokyo High Public Prosecutors Office, after establishing the identity of the fugitive, shall immediately inform the fugitive of the grounds for custody, designate the prison in which the fugitive is to be detained, and shall promptly and directly send the fugitive to that prison. In this 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, when an order from the Minister of Justice provided for in paragraph 1 of Article 4 is made, shall, except when the whereabouts of the fugitive are unknown, promptly apply to the Tokyo High Court for an examination as to whether the case is one in which the fugitive can be surrendered. This application for examination shall be made within twenty-four

hours after the public prosecutor of the Tokyo High Public Prosecutors Office takes the fugitive into custody under a permit of detention or receives the fugitive who was taken into custody under a permit of detention.

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 forward to the fugitive a certified copy of the written application which is provided for in paragraph 2 above.

(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 permit of detention, 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 in a case in which a decision is rendered in accordance with paragraph 1, item (1) or (2) 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 inquiry by an expert, and order interpretation or translation. In this case, the provisions of Chapters XI through XIII of Book I of the Code of Criminal Procedure and those of the laws, regulations and ordinances concerning expenses relating to criminal proceedings shall apply *mutatis mutandis*, insofar as their application does not conflict 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:

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

(2) When the case is one in which the fugitive cannot be surrendered, its decision to that effect;

(3) When the case is one in which the fugitive can be surrendered, its decision to that effect.

2. The decision provided for in paragraph 1 above shall take effect when a public prosecutor of the Tokyo High Public Prosecutors Office is notified as to its substance.

3. When the Tokyo High Court renders its decision as provided for in paragraph 1 above, the Tokyo High Court shall promptly serve a certified copy of the written decision to a public prosecutor of the Tokyo High Public Prosecutors Office and the fugitive respectively and return to the public prosecutor the related documents which the public prosecutor submitted.

(Rescission of the order for 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 withdraws its request for extradition, or when the case has come under item (2) of Article 3, the Minister of Foreign Affairs shall immediately notify the Minister of Justice to that effect.
2. When, after the Minister of Justice has issued the order provided for in paragraph 1 of Article 4, the Minister of Justice receives from the Minister of Foreign Affairs the notification provided for in paragraph 1 above, or the case has fallen under any of the items of paragraph 1 of Article 4, the Minister of Justice shall immediately rescind the order and at the same time notify the fugitive to whom a certified copy of the application for examination provided for in paragraph 3 of Article 8 has been forwarded to that effect.
3. When an order for an application for examination is rescinded after the application for examination has been made, a public prosecutor of the Tokyo High Public Prosecutors Office shall promptly withdraw the application for examination.

(Release of fugitive)

Article 12.

When a decision is rendered in accordance with paragraph 1, item (1) or (2) of Article 10, or when an order for an application for examination is rescinded as provided for in Article 11, a public prosecutor of the Tokyo High Public Prosecutors Office shall immediately release the fugitive who is detained under a permit of detention.

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

Article 13.

When a public prosecutor of the Tokyo High Public Prosecutors Office is served with a certified copy of a written decision prepared as provided for in paragraph 3 of Article 10, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall promptly submit the certified copy and the related documents, with his/her opinion attached, to the Minister of Justice.

(Order of the Minister of Justice concerning extradition, etc.)

Article 14.

1. When the Minister of Justice deems it to be appropriate to surrender the fugitive, in the case of a decision rendered as provided for in paragraph 1, item (3) of Article 10, 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 deems it to be inappropriate to surrender the fugitive, the Minister shall immediately notify the Superintending Prosecutors of the Tokyo High Public Prosecutors Office and the fugitive to that effect, and at the same time order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to release the fugitive who is detained under a permit of detention.
2. When an order of release provided for in paragraph 1 above is made, or when an order of surrender provided for in paragraph 1 above is not made within ten days from the day on which a certified copy of the decision provided for in paragraph 1, item (3) of Article 10 was served as provided for in paragraph 3 of Article 10, a public prosecutor of the Tokyo High Public Prosecutors Office shall immediately release the fugitive who is detained under a permit of detention.
3. After making notification as provided for in paragraph 1 above that the surrender of the fugitive is deemed to be inappropriate, the Minister of Justice may not order the surrender of the fugitive with respect to the request for extradition concerned. Provided that this shall not apply when the treaty of extradition

provides otherwise than Article 2 with respect to cases falling under item (8), and the case has ceased to fall under item (8) of Article 2 after a notification was made that the surrender of the fugitive was deemed to be inappropriate because the case fell under item (8) of Article 2.

(Place and time limit of surrender)

Article 15.

The place where a fugitive is to be surrendered under the order of surrender provided for in paragraph 1 of Article 14 shall be the prison in which the fugitive is detained under a permit of detention; the time limit of the surrender shall be the thirtieth day as counted from the day after the day on which the order of surrender was issued. Provided that when the fugitive is not detained on the day on which the order of surrender is issued, the place of surrender shall be the prison in which the fugitive is to be detained under a notice of detention, or the prison in which the fugitive was detained prior to the suspension of detention, and the time limit of surrender shall be the thirtieth day as counted from the day after the day on which the fugitive is taken into custody under the notice of detention or the day on which he is taken into custody due to the revocation of the suspension of detention.

(Steps taken relating to surrender)

Article 16.

1. The order of surrender 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 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 name of the offense for which extradition is requested, the name of the requesting country, the place of surrender, the time limit of surrender, and the date of issue, and shall bear the name and seal of the Minister of Justice.

Article 17.

1. When the Superintending Prosecutor of the Tokyo High Public Prosecutors Office receives a notice of surrender from the Minister of Justice and the fugitive is detained under a permit of detention or such detention has been suspended, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall deliver the notice of surrender to the warden of the prison in which the fugitive is or was detained until the suspension of the detention and order the warden to surrender the fugitive.
2. Except in cases provided for 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, cause a public prosecutor of the Tokyo High Public Prosecutors Office to 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. When a fugitive taken into custody under a notice of detention is committed to the prison in which the fugitive is to be detained, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall

promptly deliver the notice of surrender to the warden of that prison, order the warden to surrender the fugitive, and report to that effect, and the date on which the fugitive was taken into custody, to the Minister of Justice.

Article 18.

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

Article 19.

1. Upon receiving the permit of custody provided for in paragraph 3 of Article 16, the Minister of Foreign Affairs shall immediately forward the same to the requesting country.
2. Upon receiving the notification provided for in Article 18, the Minister of Foreign Affairs shall immediately notify the requesting country of its contents.

Article 20.

1. After receiving the order to surrender a fugitive as provided for in paragraph 1 or 5 of Article 17, the warden of the prison shall surrender the fugitive to the authorities of the requesting country when those authorities show the permit of custody to the warden and request him/her to surrender the fugitive.
2. When the request for surrender provided for in paragraph 1 above is not made within the time limit of surrender, the warden of the prison shall release the fugitive and report to that effect to the Superintending Prosecutor of the Tokyo High Public Prosecutors Office.

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

Article 21.

Upon receiving a fugitive surrendered 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 the public prosecutor deems it to be necessary, suspend the detention of a fugitive detained under a permit of detention, placing the fugitive in the custody of his/her relative or some other person, or otherwise restricting the residence of the fugitive.
2. A public prosecutor of the Tokyo High Public Prosecutors Office may, at any time the prosecutor deems it to be necessary, revoke the suspension of detention. When a notice of surrender is delivered to the Superintending Prosecutor of the Tokyo High Public Prosecutors Office from the Minister of Justice as provided for in paragraph 1 of Article 17, a public prosecutor of the Tokyo High Public Prosecutors Office shall revoke the suspension of detention.
3. When a public prosecutor of the Tokyo High Public Prosecutors Office revokes the suspension of detention as provided for in paragraph 2 above, the public prosecutor may cause a public prosecutor's assistant officer, etc. to take the fugitive into custody.

4. Custody under paragraph 3 above shall be carried out by bringing the fugitive to the prison in which the fugitive is to be detained after showing to the fugitive a certified copy of the permit of detention 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.

5. Notwithstanding the provisions of paragraph 4 above, when the executing official is not in possession of the documents provided for in paragraph 4 above and thus cannot show them to the fugitive, the executing official may, in an urgent case, bring the fugitive to the prison in which the fugitive is to be detained after telling the fugitive that the suspension of detention has been revoked, provided that the documents shall be shown to the fugitive as promptly as is practicable.

6. When the suspension of detention is revoked as provided for in the latter part of paragraph 2 above and the fugitive is committed to the prison in which the fugitive is to be detained, the Superintending Prosecutor of the Tokyo High Public Prosecutors Office shall promptly report to that effect, and the date on which the fugitive was taken into custody, to the Minister of Justice.

7. In any of the following circumstances, a detention which has been suspended shall lose its validity:

- (1) When a certified copy of the decision of the court provided for in paragraph 1, item (1) or (2) of Article 10 is served upon the fugitive;
- (2) When the notification provided for in paragraph 2 of Article 11 is given to the fugitive;
- (3) When the fugitive is notified by the Minister of Justice as provided for in paragraph 1 of Article 14, that the surrender of the fugitive is deemed to be inappropriate.

(Request concerning provisional detention, etc.)

Article 23.

1. When the Minister of Foreign Affairs receives a request pursuant to a treaty of extradition from a contracting country for the provisional detention of an offender whose surrender by Japan may be requested under the treaty of extradition, for an offense (for which the contracting country may request the offender's surrender by Japan under the treaty of extradition), the Minister of Foreign Affairs shall, except in any of the following circumstances, forward to the Minister of Justice a certificate stating that the request for provisional detention has been made, together with the related documents:

- (1) When there has been 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;
- (2) When there has been 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 is not made pursuant to a treaty of extradition, 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.

(Steps taken concerning provisional detention)

Article 24

When the Minister of Justice receives the documents provided for in Article 23 and deems it to be appropriate to provisionally detain the offender concerned, the Minister shall 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, cause a public prosecutor of the Tokyo High Public Prosecutors Office to detain the offender conceded under a permit of provisional detention 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 permit of provisional detention.

Article 26

1. When the Minister of Justice, after receiving from the Minister of Foreign Affairs, as provided for in Article 3, the documents concerning a request for the surrender of an offender who is detained under a permit of provisional detention, does not issue the order provided for in paragraph 1 of Article 4 because the case falls under any of the items contained in that paragraph, the Minister of Justice shall notify the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and the offender concerned to that effect and order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to release the offender concerned.
2. When an order of release provided for in paragraph 1 above is issued, a public prosecutor of the Tokyo High Public Prosecutors Office shall immediately release the offender concerned.

Article 27

1. When the Superintending Prosecutor of the Tokyo High Public Prosecutors Office receives an order from the Minister of Justice as provided for in paragraph 1 of Article 4 concerning an offender for whom a permit of provisional detention has been issued, the Superintending prosecutor shall immediately cause a public prosecutor of the Tokyo High Public Prosecutors Office to notify the offender concerned that the request for surrender has been made.
2. The notification provided for in paragraph 1 above shall be carried out by communicating to the warden of the prison if the offender concerned is detained under a permit of provisional detention, or by forwarding a written notification to the offender concerned if the offender is not detained.
3. When the notification provided for in paragraph 1 above is made to an offender who is detained under a permit of provisional detention, such detention shall be deemed to be detention under a permit of detention; 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 has taken the fugitive into custody under a permit of detention at the time of this notification.

Article 28.

1. When the Minister of Foreign Affairs is notified by a foreign country which requested provisional detention that no request for surrender of the offender concerned will be made, after forwarding the documents provided for in Article 23, the Minister of Foreign Affairs shall immediately notify the Minister of Justice to that effect.
2. When the Minister of Justice receives the notification provided for in paragraph 1 above, he/she shall immediately notify the Superintending Prosecutor of the Tokyo High Public Prosecutors Office and the offender concerned to that effect, and at the same time shall order the Superintending Prosecutor of the Tokyo High Public Prosecutors Office to release the offender concerned.
3. When an order of release provided for in paragraph 2 above is issued, a public prosecutor of the Tokyo High Public Prosecutors Office shall immediately release the offender concerned.

Article 29.

When the warden of a prison does not receive, with respect to an offender who is detained under a permit of provisional detention, the notification provided for in paragraph 2 of Article 27 within two months (or within a period of less than two months if the treaty of extradition so provides) from the day on which the offender was taken into custody, the warden shall release the offender concerned and report to that effect 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 permit of provisional detention.
2. In the case of a detention under a permit of provisional detention which is suspended as provided for in paragraph 1 of Article 22, which 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 permit of provisional detention 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 permit of provisional detention which is suspended as provided for in paragraph 1 of Article 22, which has been applied mutatis mutandis pursuant to paragraph 1 above, the suspended detention under a permit of provisional detention shall lose its validity in any of the following circumstances:
 - (1) When the notification provided for in paragraph 1 of Article 26, or in paragraph 2 of Article 28 is made to the offender concerned;
 - (2) When the notification provided for in paragraph 1 of Article 27 is not made to the offender concerned within two months (or within a period of less than two months if the treaty of extradition so provides) from the day on which the offender concerned was taken into custody under a permit of provisional detention.

(Rules of the Supreme Court)

Article 31.

Besides the provisions of this Law, the necessary procedural rules concerning examinations by the Tokyo High Court and concerning the issuance of permits of detention or of provisional detention shall be determined by the Supreme Court.

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

Article 32.

Notwithstanding the provisions of the Law for the Establishment of Inferior Courts and their Territorial Jurisdiction (Law 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, which are undertaken pursuant to this Law.

(Request for extradition relating to an offense committed prior to the entry into force of a treaty of extradition)

Article 33.

When a new treaty of extradition is concluded between Japan and a foreign country, the provisions of this Law concerning a request for surrender pursuant to a treaty of extradition shall also apply to a request for surrender which is made after the entry into force of the treaty, for an offense committed prior to the entry into force of the treaty, except if there are provisions in the treaty to the effect that the contracting country may not request that Japan surrender an offender for an offense committed prior to the entry into force of the treaty concerned.

(Steps taken by the Minister of Justice concerning the approval of transportation of a person surrendered)

Article 34.

1. The Minister of Justice, upon a request made by a foreign country through the diplomatic channel, may give approval to transport through the territory of Japan a person surrendered to that country by another foreign country, except in any of the following circumstances:

- (1) When the act which has given rise to the extradition of the person with whom the request is concerned would not constitute an offense under Japanese laws, regulations or ordinances if the act were committed in Japan;
- (2) When the offense which has given rise to the extradition of the person with whom the request is 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 surrendered for a political offense;
- (3) When the request has not been made pursuant to a treaty of extradition and the person with whom the request is concerned 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.

(Exceptions for the application of the Administrative Procedure Law, etc.)

Article 35.

1. With respect to a disposition undertaken pursuant to this Law, the provisions of Chapter 3 of the Administrative Procedure Law (Law No. 88 of 1993) shall not apply.

2. With respect to a lawsuit (which means a lawsuit provided for in paragraph 1 of Article 3 of the Administrative Case Litigation Law (Law No. 139 of 1962)) concerning a disposition (which means a disposition provided for in paragraph 2 of Article 3) or a decision (which means a decision provided for in paragraph 3 of Article 3) undertaken pursuant to this Law, the provisions of paragraphs 4 and 5 of Article 12 of the Administrative Case Litigation Law (including where these paragraphs are applied *mutatis mutandis* pursuant to paragraph 1 of Article 38 of that law) shall not apply.