

# **Act on the Civil Jurisdiction of Japan with respect to a Foreign State, etc.**

(Act No. 24 of April 24, 2009)

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## **Chapter I General Provisions**

### (Purpose)

Article 1 This Act establishes the scope of the civil jurisdiction (meaning the jurisdiction other than the one pertaining to criminal matters; the same shall apply in Article 4) of Japan with respect to a foreign state, etc. jurisdiction and the special provisions of civil court proceedings pertaining to a Foreign State, etc.

### (Definitions)

Article 2 In this Act, a "Foreign State, etc." shall mean the entities listed in the following items (hereinafter referred to as a "State, etc."), excluding Japan and any entity which pertains to Japan:

- (i) A State and the governmental institutions thereof;
- (ii) A state within a federal states and any other administrative divisions of a State equivalent thereto having the authority to exercise sovereign power;
- (iii) In addition to what is listed in the preceding two items, entities that are granted the authority to exercise sovereign power (limited to cases in which said power is exercised.);
- (iv) A representative of an entity listed in the previous three items acting based on its qualifications.

### (Relationships with the privileges or immunities based on treaties, etc.)

Article 3 The provisions of this Act shall not affect the privileges or immunities enjoyed by a Foreign State, etc. based on treaties or the established

international law.

## **Chapter II Scope of Jurisdiction with respect to a Foreign State, etc.**

### **Section 1 Principle of Immunity**

Article 4 A Foreign State, etc., except as otherwise provided by this Act, shall be immune from jurisdiction (meaning the civil jurisdiction of Japan; the same shall apply hereinafter).

### **Section 2 Cases of Non-Immunity from Judicial Proceedings**

(Consent of a Foreign State, etc.)

Article 5 (1) In cases where consent to submission to jurisdiction concerning a specific matter or case has been given expressly by any of the following methods, a Foreign State, etc. shall not be immune from jurisdiction concerning the proceedings related to said specific matter or case among the litigation proceedings or any other proceedings in court (excluding temporary restraining orders and civil execution procedures with respect to property held by a Foreign State, etc., hereinafter referred to as "Judicial Proceedings" in this Section):

- (i) Treaties or any other international agreements;
- (ii) Written contracts;
- (iii) Statements made in said Judicial Proceedings or written notices to the court or the other party.

(2) The consent of a Foreign State, etc. to apply the laws of Japan to specific matter or case shall not be construed as the consent described in the preceding paragraph.

(Constructive Consent)

Article 6 (1) In cases where a Foreign State, etc. carries out any of the acts listed below, it shall be deemed that the consent set forth in paragraph (1) of the preceding Article has been given:

- (i) The filing of an action or any other petition for commencement of some other Judicial Proceeding;
- (ii) Intervention in a Judicial Proceedings (excluding one whose object is to claim immunity from jurisdiction);
- (iii) An oral argument or a statement on the merits of a Judicial Proceeding without making any objection.

(2) The provisions set forth in items (ii) and (iii) of the preceding paragraph shall not apply in cases where there are any compelling reasons that it could not be known that facts constituting grounds for immunity from jurisdiction existed

before said Foreign State etc. carried out any of the listed acts, and where said reasons are promptly proven after said facts become known.

- (3) The nonappearance of a Foreign State, etc. and the appearance of a representative of the Foreign State, etc. as a witness on the date for oral arguments or the date of other Judicial Proceedings shall not be interpreted as the consent set forth in paragraph (1) of the preceding Article.

Article 7 (1) In cases where a Foreign State, etc. has filed an action or has intervened in an action as a party, when a counterclaim has been filed, this shall be deemed to constitute consent as set forth in Article 5 paragraph (1) with respect to said counterclaim.

- (2) The filing of a counterclaim by a Foreign State, etc. in an action in which said Foreign State, etc. is the defendant shall be deemed to constitute consent as set forth in Article 5, paragraph (1) with respect to said action.

(Commercial Transactions)

Article 8 (1) A Foreign State, etc. shall not be immune from jurisdiction with respect to Judicial Proceedings regarding commercial transactions (meaning contracts or transactions relating to the civil or commercial buying and selling of commodities, procurement of services, lending of money, or other matters (excluding labor contracts.); the same shall apply in the following paragraph and Article 16) between said Foreign State, etc. and a citizen of a State other than said Foreign State, etc. (for those other than a State, the State to which they belong, hereinafter the same shall apply in this paragraph) or a judicial person or any other entity established based on the laws and regulations of the State or the State, etc. which belongs to the State.

- (2) The provision of the preceding paragraph shall not apply in the cases listed below:
- (i) Cases of commercial transactions between said Foreign State, etc. and a State, etc. other than said Foreign State, etc.;
  - (ii) Cases in which parties to said commercial transactions have expressly agreed otherwise.

(Labor Contracts)

Article 9 (1) A Foreign State, etc. shall not be immune from jurisdiction with respect to Judicial Proceedings regarding labor contracts between said Foreign State, etc. and an individual wherein all or part of the labor is, or is to be, provided in Japan.

- (2) The provision of the preceding paragraph shall not apply in the cases listed below:
- (i) Where said individual is one of the following persons:

- (a) A diplomat as provided in Article 1 (e) of the Vienna Convention on Diplomatic Relations;
- (b) A consular officer as provided in Article 1 (d) of the Vienna Convention on Consular Relations;
- (c) A diplomatic staff of a permanent missions or a special mission to an international organizations or a persons employed to represent said Foreign State, etc., (for those other than a State, the State to which they belong; hereinafter the same shall apply in this paragraph) at international conferences;
- (d) In addition to those persons listed in (a) through (c), persons enjoying diplomatic immunity.
- (ii) In addition to the cases listed in the preceding item, cases where said individual has been employed in order to perform duties pertaining to the security, diplomatic secrets, or other important interests of said Foreign State, etc.;
- (iii) An action or petition regarding the existence or nonexistence of the contract for the employment or re-employment of the individual (excluding those seeking compensation for damages.);
- (iv) An action or petition regarding the effect of a dismissal or other termination of the labor contracts (excluding those seeking compensation for damages) where the head of said Foreign State, etc., the head of its government, or its Minister of Foreign Affairs finds that there is a risk that Judicial Proceedings pertaining to said action or petition would harm the security interests of said Foreign State, etc.;
- (v) Cases where the individual is a citizen of said Foreign State, etc. at the time of the filing of the action or any other petition for commencement of Judicial Proceedings; provided however, that this shall not apply where said individual has the permanent residence in Japan;
- (vi) Cases where the parties to said labor contract have otherwise agreed in writing; provided however, that this shall not apply where the lack of jurisdiction over the action or petition regarding said labor contract by Japanese courts is contrary to public order from the viewpoint of protecting workers.

(Death or Injury of Persons or Loss, etc. of Tangible Objects)

Article 10 In cases where the death of or injury to a person or the loss of or damage to a tangible object resulted from an act for which it is claimed a Foreign State, etc., should take responsibility, if all or part of said act took place in Japan and the person who performed said act was in Japan at the time it was committed, said Foreign State, etc. shall not be immune from jurisdiction with respect to Judicial Proceedings in which monetary

compensation for the damage or loss resulting from said act is being sought.

(Rights and Interests, etc. Pertaining to Real Property)

Article 11 (1) A Foreign State, etc. shall not be immune from jurisdiction with respect to Judicial Proceedings regarding the matters listed below pertaining to real property in Japan:

(i) The rights or interests of said Foreign State, etc. or possession of or use by said Foreign State, etc.;

(ii) The obligations of said Foreign State, etc. arising from rights or interests of said Foreign State, etc. or the possession of or use by said Foreign State, etc.

(2) A Foreign State, etc. shall not be immune from jurisdiction with respect to Judicial Proceedings regarding rights or interests of said Foreign State, etc. arising due to inheritance or any other general succession, gifts, or acquisition of ownerless properties, concerning movables or real property.

(Rights and Interests Pertaining to the Administration or Disposition of Property in which the Court Participates)

Article 12 A Foreign State, etc. shall not be immune from jurisdiction with respect to Judicial Proceedings regarding the rights or interests of said Foreign State, etc. pertaining to the administration or disposition of trust property, property belonging to a bankruptcy estate, property of a company in liquidation, or any other property for which a Japanese court conducts supervision or any other participation.

(Intellectual Property Rights)

Article 13 A Foreign State, etc. shall not be immune from jurisdiction with respect to Judicial Proceedings regarding the matters listed below:

(i) The existence or nonexistence, effect, ownership, or contents of intellectual property rights (meaning rights established by the laws and regulations of Japan regarding intellectual property as provided for in the Intellectual Property Basic Act (Act No. 122 of 2002), Article 2, paragraph (1) or rights pertaining to interests legally protected under Japanese law; the same shall apply in the following item) that said Foreign State, etc., claims to hold;

(ii) Infringement of intellectual property rights allegedly caused by said Foreign State, etc. in Japan.

(Qualification as a Constituent Member of an Entity)

Article 14 (1) In cases where a Foreign State, etc. is a member or any other constituent member of a juridical person or any other entity that falls under any of the following items, it shall not be immune from jurisdiction with respect to Judicial Proceedings concerning qualification, or the rights or

obligations based on such qualification:

- (i) An entity that has members or other constituent members other than a State, etc., or an international organization;
  - (ii) An entity established based on the laws and regulations of Japan or that has its principal business office or other principal office in Japan.
- (2) The provision of the preceding paragraph shall not apply in cases where there is a written agreement between the parties to said Judicial Proceedings to the effect that said Foreign State, etc. shall have immunity from jurisdiction or in cases where the articles of incorporation, constitution, or any other similar regulations of said entity provide to that effect.

(Operation of Ships, etc.)

- Article 15 (1) A Foreign State, etc. which owns or operates a ship shall not be immune from jurisdiction with respect to Judicial Proceedings which relates to a dispute regarding the operation of that ship if, at the time the fact that causes said dispute arose, the ship was used for other than government non-commercial purposes.
- (2) The provision of the preceding paragraph shall not apply in cases where said ship is a warship or a naval auxiliary.
- (3) A Foreign State, etc. which owns or operates a ship shall not be immune from jurisdiction with respect to Judicial Proceedings which relates to a dispute regarding the carriage of cargo on board that ship if, at the time the fact that causes said dispute arose, the ship was used for other than government non-commercial purposes.
- (4) The provision of the preceding paragraph shall not apply in cases where said freight was being carried on board a warship or a naval auxiliary or in cases where a State etc. owns said cargo and said cargo is used or intended for use exclusively for government non-commercial purposes.

(Arbitration Agreements)

Article 16 A Foreign State, etc., with respect to the written arbitration agreements relating to commercial transactions between said Foreign State, etc. and a citizen of a State other than said Foreign State, etc. (for those other than a State, the State to which they belong; hereinafter the same shall apply in this Article) or a judicial person or any other entity established based on the laws and regulations of the State or the State, etc. which belongs to the State, shall not be immune from jurisdiction with respect to Judicial Proceedings concerning the existence or nonexistence or effect of said arbitration agreements or arbitration proceedings based on said arbitration agreements; provided however, this shall not apply in cases where the parties have agreed otherwise in writing.

**Section 3 Cases of Non-Immunity from Proceedings of Execution of  
Temporary Restraining Orders and Civil Execution Procedures against  
Property of a Foreign State, etc.**

(Consent of a Foreign State, etc.)

Article 17 (1) In cases where consent to an execution of a temporary restraining order or a civil execution against the property held by a Foreign State, etc., has been given expressly by any of the following methods, the Foreign State, etc. shall not be immune from jurisdiction with regard to the proceedings of said execution of temporary restraining order or said civil execution procedure:

- (i) Treaties or any other international agreements;
  - (ii) Agreements concerning arbitration;
  - (iii) Written contracts;
  - (iv) Statements made during the course of said proceedings of the execution of the temporary restraining order or the civil execution, or written notices to the court or the other party (in the case of notices to the other party, limited to notices made subsequent to the occurrence of the dispute pertaining to the relationship of rights that was the cause of the petition for said execution of temporary restraining order or said civil execution).
- (2) In cases where specific property is designated to enable achievement of the purpose of an execution of a temporary restraining order or a civil execution, or provided as security, a Foreign State, etc. shall not be immune from jurisdiction with respect to proceedings of said execution of temporary restraining order or said civil execution against said property.
- (3) A consent under Article 5, paragraph (1) shall not be construed as being a consent under paragraph (1) of this Article.

(Property Used for a Specific Purpose)

Article 18 (1) A Foreign State, etc. shall not be immune from jurisdiction with respect to proceedings of a civil execution procedures against the property held by said Foreign State, etc. that is in use or intended for use by said Foreign State, etc. exclusively for other than government non-commercial purposes.

- (2) The property a Foreign State, etc. holds listed below shall not be included in the property of the preceding paragraph:
- (i) Property which is used or intended for use in the performance of the functions of the diplomatic mission, consular posts, special missions, missions to international organizations or delegations to organs of international organizations or to international conferences;
  - (ii) Property of a military character or used or intended for use in the performance of military functions;

- (iii) Property listed below that is not being sold and is not intended to be sold:
  - (a) Cultural heritage pertaining to said Foreign State, etc.;
  - (b) Official documents or any other records administered by said Foreign State, etc.;
  - (c) Exhibits that have scientific, cultural, or historical significance.
- (3) The provision of the preceding paragraph shall not preclude the application of the provisions of paragraph (1) and paragraph (2) of the preceding Article.

(Handling of Foreign Central Banks)

- Article 19 (1) The central bank of a State other than Japan or the financial authorities equivalent thereto (referred to as a "Foreign Central Bank, etc." in the following paragraph) shall be deemed to be a Foreign State, etc. for purposes of an execution of a temporary restraining order or a civil execution procedures against property held by the Foreign Central Bank, etc., even in cases where it does not fall within the requirements of Article 2, item (i) through item (iii), and the provisions of Article 4 and Article 17, paragraph (1) and paragraph (2) shall apply.
- (2) With respect to a Foreign Central Bank, etc., the provisions of paragraph (1) of the preceding Article shall not apply.

### **Chapter III Special Provisions for Civil Court Proceedings**

(Service of Complaints, etc.)

- Article 20 (1) The service of a complaint or any other similar document and a writ of summons for the first date of litigation proceedings or any other proceedings in court (hereinafter referred to as a "Complaint, etc." in this Article and paragraph (1) of the following Article) upon a Foreign State, etc. shall be carried out according to the methods listed below:
- (i) Methods prescribed by treaties or any other international agreements;
  - (ii) In cases where the methods listed in the preceding item do not exist, the methods listed in (a) or (b) below:
    - (a) Methods carried out through diplomatic channels;
    - (b) Any methods that said Foreign State, etc. will accept as a method of service (limited to those methods provided for in the Code of Civil Procedure (Act No. 109 of 1996)).
- (2) In cases where service has been carried out according to a method listed in item (ii) (a) of the preceding paragraph, service shall be deemed to have been effected when the body of said Foreign State, etc. (for those other than a State, the State to which they belong) corresponding to the Ministry of Foreign Affairs has received the Complaint, etc.
- (3) A Foreign State, etc. shall lose the right to state an objection concerning the



method of service of the Complaint, etc. when it has made an oral argument or a statement on the merits without making any objection.

- (4) In addition to what is provided under paragraph (1) and paragraph (2), necessary matters concerning the service of a Complaint, etc. upon a Foreign State, etc. shall be specified by the Rules of the Supreme Court.

(Special Provisions of the Code of Civil Procedure in Cases of Nonappearance of a Foreign State, etc.)

Article 21 (1) In cases where a Foreign State, etc. has failed to appear on the date for oral argument and has not submitted a written answer or any other brief, a judgment upholding a claim against said Foreign State, etc. cannot be rendered until four months have elapsed since the day the Complaint, etc. was served or the day on which the Complaint, etc. was deemed to have been served pursuant to the provisions of paragraph (2) of the preceding Article.

- (2) The provisions of paragraph (1) and paragraph (2) of the preceding Article shall apply mutatis mutandis to the service upon said Foreign State, etc., of the judgment document or the record under Article 254, paragraph (2) of the Code of Civil Procedure (referred to as "Judgment Document, etc." in the following paragraph and paragraph (4)) concerning the judgment provided for in the preceding paragraph.

- (3) In addition to what is provided for in the preceding paragraph, the necessary matters concerning the service of Judgment Document, etc. shall be specified by the Rules of Supreme Court.

- (4) Notwithstanding the provisions of the main clause of Article 285 of the Code of Civil Procedure (including cases where applied mutatis mutandis pursuant to Article 313 of the same Act (including cases where applied mutatis mutandis pursuant to Article 318 paragraph (5) of the same Act)) or of the main clause of Article 357 (including cases where applied mutatis mutandis pursuant to Article 367 paragraph (2) of the same Act) or the main clause of Article 378, paragraph (1), the filing of appeals or objections by a Foreign State, etc. to the judgment provided for in paragraph (1), must be done within an unextendable period of four months from the day the Judgment Document, etc. was served or the day service was deemed to have been effected pursuant to the provisions of paragraph (2) of the preceding Article as applied mutatis mutandis pursuant to paragraph (2).

(Exclusion from Application of Provisions Concerning Subpoenas and Non-penal Fines)

Article 22 The provisions of the Code of Civil Procedure or any other laws and regulations concerning subpoenas and non-penal fines due to failure to comply with an order to submit documents or any other article issued during Civil

Court Proceedings, a summons of a witness, or any other order during said Civil Court Proceedings shall not apply to a Foreign State, etc.