

Preparations for concluding the  
Convention on the Civil Aspects of International Child Abduction

May 20, 2011  
Cabinet Approval  
[Provisional translation]

The decision has been made to proceed with preparations for concluding the Convention on the Civil Aspects of International Child Abduction (hereinafter, “Convention”), in the recognition of the need to protect the best interest of children affected by breakups of international marriages that are increasing in number in recent years.

For this purpose, legislation necessary for the implementation of the Convention shall be drafted, and relevant Ministries and Agencies shall provide their cooperation as needed.

In drafting the legislation, due attention shall be paid to the understanding of the Meeting of Relevant Ministers as attached.

## **Convention on the Civil Aspects of International Child Abduction**

### **Understanding of the Meeting of Relevant Ministers Regarding drafting legislation to implement the Convention**

May 19, 2011

Meeting of Relevant Ministers

The following contents shall be included in drafting legislation for the implementation of the Convention. Specific wording of provisions shall be considered also in light of pertinent legal issues.

#### **● Functions of the Central Authority**

1. The Central Authority shall be established in the Ministry of Foreign Affairs.
2. The Central Authority shall perform the following functions in response to applications for assistance for the return of a child:
  - (1) Discovering the whereabouts of the child,
  - (2) Taking necessary measures for preventing abuse and other harm to the child,
  - (3) Providing advice for the voluntary return of the child or for resolution of the issues between the parties concerned, and
  - (4) Providing necessary information on Japanese legal system, including its judicial procedures.
3. When deemed necessary, the Central Authority for the performance of the functions in item 2 above, may require the heads of relevant Ministries and Agencies to provide materials, information, and other forms of cooperation.
4. The Central Authority shall undertake necessary measures in response to applications for assistance for access to a child.
5. Provisions pertaining to the return of a child shall, based on provisions of the Convention, apply solely to cases that arise after the Convention has entered into force for Japan.

#### **● Procedures Pertaining to Orders for the Return of a Child**

1. Court procedures pertaining to orders for the return of a child shall be newly established.

2. Grounds for refusal to return a child

(1) Acts of violence, etc. against the child

Where the child has suffered acts of violence or equivalent harm to his/her mind and body (violence, etc.) from the applicant, and it is feared that the child will be subject to further violence, etc. after returning to the country of habitual residence.

(2) Acts of violence, etc. against the spouse/partner

Where a spouse/partner has suffered acts of violence, etc. from the applicant in the home where the child was previously residing in such a manner as to cause serious psychological harm to the child, and it is feared that the spouse/partner will be again subject to such violence, etc. after returning with the child to the country of habitual residence.

(3) Inability of the spouse/partner to return with the child to the country of habitual residence, etc.

Where the spouse/partner is unable to take custody of the child in the country of habitual residence due to such factors as inability to enter the country, risk of arrest or criminal prosecution, and difficulty in maintaining livelihood after returning to the country of habitual residence, and where it is contrary to the interests of the child for persons other than the spouse/partner to take custody of the child in the country of habitual residence.

(4) Blanket clause

In all other cases where there is a grave risk that the return of the child to the country of habitual residence would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.