

(Provisional translation by MOFA)

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

May 20, 2011
Cabinet Approval

Recognizing the need to protect the interest of children suffered the effects such as breakups of international marriages that are increasing in number in recent years, the Cabinet confirms that preparations will be made toward concluding the Convention on the Civil Aspects of International Child Abduction (hereinafter referred to as “the Convention”).

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

The legislation will be drafted based on 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 the drafting of legislation to implement the Convention

May 19, 2011
Meeting of Relevant Ministers

The following contents will be included in the legislation to be drafted for the implementation of the Convention. Due consideration will be paid from a legislative perspective concerning concrete wording of provisions.

● Functions of the Central Authority

1. The Central Authority is to be established in the Ministry of Foreign Affairs.
2. The Central Authority is to 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 request the relevant Ministries and Agencies to provide materials, information and other forms of cooperation.
4. The Central Authority is to perform necessary functions in response to applications for assistance for the access to a child.
5. The provisions pertaining to the return of a child are, based on the provisions of the Convention, to be applied only to cases that occur 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 are to 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 state of the 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 state of the habitual residence.

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

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

(4) Blanket clause

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