On Launching the Japanese Yearbook of International Law

Shigeru Oda
President, International Law Association of Japan

ARTICLES

Reconceptualization of the International Rule of Law in a Globalizing World

Hisashi Owada

THE LAW OF THE SEA: ENDURING PRINCIPLES AND CONTEMPORARY CHALLENGES

Challenging the Fundamental Principle of the Freedom of the High Seas and the Flag State Principle Expressed by Recent Non-flag State Measures on the High Seas

Atsuko Kanehara

International Measures to Combat Illegal, Unreported and Unregulated (IUU) Fishing and Japan

Moritaka Hayashi

Piracy Jure Gentium Revisited —For Japan’s Future Contribution—

Akio Morita

Japan-China Dispute Over Maritime Boundary Delimitation —From a Japanese Perspective—

Shigeki Sakamoto

Legal Issues Concerning the East China Sea Delimitation —A Chinese Perspective on the Sino-Japanese the East China Sea Dispute—

Haiwen Zhang

The Settlement of Disputes Before the International Tribunal for the Law of the Sea —A Progressive Development of International Law or Relying on Traditional Mechanisms?—

Rüdiger Wolfrum

The Basic Act on Ocean Policy and Japan’s Agendas for Legislative Improvement

Naoya Okuwaki
CONTENTS

DIVERGENCE AND UNIFICATION OF CHOICE OF LAW RULES FROM A GLOBAL PERSPECTIVE

Comparative Analysis of Recent Developments in Private International Law in Japan and Europe from a Japanese Perspective................. Toshiyuki Kono 217

The New Japanese Private International Law Act from a European Perspective ................................................................. Peter Mankowski 241

An American Perspective on the New Japanese Act on General Rules for Application of Laws........................................ Ronald A. Brand and Tabitha Fish 298

A Comparative Law Analysis on Some Recent Developments in the Conflict of Law Rules of Contract in Japan and China....................... HUANG Renting 314

On the Korean Private International Law................................. Moonsook Kim 327

Harmonization and Diversification of Contract Conflicts ................................................................. Yosibaki Nomura 341

ACCESSION OF JAPAN TO THE INTERNATIONAL CRIMINAL COURT

Japan’s Accession to the ICC Statute and the ICC Cooperation Law ................................................................. Kyo Aral, Akira Mayama and Osamu Yosbida 359

Participation in the ICC and the National Criminal Law of Japan .................................................................................. Kanako Takayama 384

Japan’s Entry to the International Criminal Court and the Legal Challenges It Faced ................................................................. Yasushi Masaki 409

SPECIAL LECTURE

International Court of Justice: Its Myth and Reality...................... Shigeru Oda 427

JAPANESE DIGEST OF INTERNATIONAL LAW

The 88th Hosbinmaru Case and the 53rd Tomimaru Case: Application to the International Tribunal for the Law of the Sea by Japan for Prompt Release ................................................................. Junichi Hosono and Junko Iwaishi 438
CONTENTS


Japan’s Retaliatory Action Against the United States’ Continued Dumping and Subsidy Offset Act of 2000 (Byrd Amendment) ................. Junji Nakagawa 454
   World Trade Organization — Dispute Settlement Procedure — Compensation and Suspension of Concessions or Other Obligations as Temporary Measures Available in the Event That the Recommendations and Rulings Are Not Implemented within a Reasonable Period of Time — Principles and Procedures to Be Applied by the Complaining Party in Considering What Concessions or Other Obligations to Suspend — The Level of the Suspension of Concessions or Other Obligations Authorized by the Dispute Settlement Body — Arbitration to Determine the Level of Such Suspension — Domestic Procedure for the Suspension of Concessions or Other Obligations

Recent Legislative and Administrative Measures Against Human Trafficking in Japan ................................................................. SHIN Hae-Bong 471

CASES AND ISSUES IN JAPANESE PRIVATE INTERNATIONAL LAW

State Immunity from Civil Jurisdiction .............................................. Dai Yokomizo 485

BOOK REVIEWS


America Kokusaishibo no Kiso Riron [Basic Theory on American Private International Law], by Hiroshi Matsuoka. Osaka: Osaka University Press, 2007. ................................................................. Yoshihisa Hayakawa 500


JUDICIAL DECISIONS IN JAPAN

I. Public International Law

Supreme Court, Judgment, March 27, 2007 ................................................................. 512


Supreme Court, Judgment, April 27, 2007 ................................................................. 518

Article 14(b) of the Treaty of Peace with Japan — Article 11 of the Treaty of Peace between Japan and the Republic of China — Paragraph 5 of the Joint Communiqué between Japan and the People’s Republic of China — The Right to Claim Compensation for Damages for People Brought to Japan Against Their Will and the Renunciation Clause in the Joint Communiqué

Tokyo District Court, Ruling, January 24, 2007 ................................................................. 533

State Immunity from Civil or Administrative Jurisdiction — Restrictive Theory of Immunity — Distinction between Acts jure imperii and Acts jure gestionis — Consent by a Foreign State to be Subjected to Dispositions by an Administrative Agency of the Forum State

Tokyo District Court, Judgment, February 2, 2007 ................................................................. 544

Article 1 A(2) of the Convention Relating to the Status of Refugees (1951) — Definition of the Term “being persecuted” — Persecution by Non-State Actors
II. Private International Law

Supreme Court, Judgment, March 23, 2007 ................................................................. 552
  Surrogate Pregnancy — Surrogate Mother — Effect of a Judgment of a Foreign Court — Recognition of a Foreign Court Judgment — Final Judgment of a Foreign Court — Public Policy Exception — Legal Status of Parent-Child Relationship

Tokyo High Court, Judgment, October 30, 2006 ....................................................... 556

Tokyo District Court, Interlocutory Judgment, March 20, 2007 .............................. 561
  International Jurisdiction — General and Special Forum — Fairness Between the Parties and Due and Prompt Administration of Justice — International Concurrent Litigation — lis pendens — Meaning of 'court' in Code of Civil Procedure Article 142 — Abuse of Rights, Good Faith

Osaka District Court, Judgment, March 29, 2007 ..................................................... 567
  International Adjudicatory Jurisdiction — Foreign Patent Rights — Applicable Law of Settlement Agreement

CHRONOLOGY OF JAPANESE FOREIGN AFFAIRS IN 2007 .................................. 570

CHRONOLOGICAL LIST OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS CONCLUDED BY JAPAN IN 2007 ................................................. 586

DOCUMENTS

I. Treaties

BELGIUM
1. Agreement Between Japan and the Kingdom of Belgium on Social Security ..... 591

CHILE
2. Agreement Between Japan and the Republic of Chile for a Strategic Economic Partnership .................................................................................................................. 603
EAEC
3. Agreement Between the Government of Japan and the European Atomic Energy Community for the Joint Implementation of the Broader Approach Activities in the Field of Fusion Energy Research....................................................... 619

FRANCE
4. Accord de sécurité sociale entre le Gouvernement du Japon et le Gouvernement de la République française.......................................................................................................................... 630
5. Avenant à la Convention entre le Gouvernement du Japon et le Gouvernement de la République française en vue d'éviter les doubles impositions et de prévenir l'évasion et la fraude fiscales en matière d'impôts sur le revenu.................................................................................................................................................. 642

REPUBLIC OF KOREA
6. Treaty Between Japan and the Republic of Korea on Mutual Legal Assistance in Criminal Matters................................................................................................................................. 661

MEXICO

SINGAPORE

THAILAND
9. Agreement Between Japan and the Kingdom of Thailand for an Economic Partnership............................................................................................................................................. 676

II. National Legislation

Basic Act on Ocean Policy.............................................................................................................. 731

III. Contemporary Practice and Opinion

The Views of the Government of Japan on the Interpretative Declaration Made by the Islamic Republic of Iran upon Its Accession to the International Convention Against the Taking of Hostages......................................................................................................................... 739
ACTIVITIES

I. Activities of the International Law Association of Japan .............................. 741

II. Activities of Related Academic Associations in Japan............................... 741

INSTRUCTIONS FOR SUBMISSIONS TO THE JAPANESE YEARBOOK OF
INTERNATIONAL LAW .................................................................................................. 748

TABLE OF CASES .......................................................................................................... 750

TABLE OF TREATIES AND OTHER INSTRUMENTS .................................................. 755