

**THE  
JAPANESE ANNUAL  
OF  
INTERNATIONAL LAW**

**No. 43  
2000**

THE INTERNATIONAL LAW ASSOCIATION OF JAPAN

THE JAPANESE ANNUAL OF INTERNATIONAL LAW

No. 43 (2000)

CONTENTS

In Memoriam

Dr. Sueo Ikehara (1919-2000).....	<i>Yasuo Ishimoto</i>	1
-----------------------------------	-----------------------	---

Articles

The Convention for the Pacific Settlement of International Disputes in Historical Perspective — In Commemoration of the Centennial of the First Hague Peace Conference —.....	<i>Ko Nakamura</i>	3
---	--------------------	---

Measures to Ensure Compliance with the Montreal Ozone Protocol — New Institutionalized Reaction to Non-Compliance —.....	<i>Tomohito Usuki</i>	19
--	-----------------------	----

Post-War Compensation Cases, Japanese Courts and International Law .....	<i>Masahiro Igarashi</i>	45
--	--------------------------	----

Notes

New Japanese Legislation on Cross-Border Insolvency — As Compared with the UNCITRAL Model Law.....	<i>Kazuhiko Yamamoto</i>	83
--	--------------------------	----

Implementation of Multilateral Environmental Agreements in Japan Through Domestic Environmental Legislation.....	<i>Hisakazu Kato</i>	117
--	----------------------	-----

The Japanese Digest of International Law

The Taepodong Missile Incident and the Responses Thereto (1998-1999) .....	<i>Kazuhiro Nakatani and Akio Morita</i>	150
<i>Missile Launching above the State Territory — Protests — Countermeasures (Retorsions and/or Reprisals) — Threat or Use of Force and Self-Defense — Absence of Prior Notification and ICAO/IMO Rules — Limitation upon the Freedom of the High Seas</i>		

Book Reviews .....		163
--------------------	--	-----

Judicial Decisions in Japan.....		188
----------------------------------	--	-----

## I. Public International Law

Supreme Court, November 30, 1999 .....	188
<i>Articles 1 and 2 of the Law on the Territorial Sea and the Contiguous Zones — Law for Regulation of Fishing Operations by Foreign Nationals — Exercise of Adjudicatory Jurisdiction over an Illegal Act Committed in an Area Newly Included in the Territorial Sea by Article 2 (1) of Its Enforcement Order — Article 4 (1) of the Japanese-South Korean Fisheries Agreement (Showa 40, Treaty 26)</i>	
Osaka High Court, September 25, 1998 .....	190
<i>Article 2 (1) of the Nationality Law — Articles 2 (1), 24 (1), and 24 (3) of the International Covenant on Civil and Political Rights — Articles 2 and 7 of the Convention on the Rights of the Child — the Acquisition of Japanese Nationality by a Child Born to a Japanese Father and a Filipina Mother on the Grounds of the Retrospective Effect of Acknowledgment</i>	
Tokyo District Court, June 17, 1999 .....	192
<i>Article 3 of the Convention Respecting the Laws and Customs of War on Land — Article 31 of the Convention on the Law of Treaties — Claim for Compensation for Damages Resulting from Invalidation of Military Payment Certificate Issued by the Japanese Military</i>	
Hamamatsu Branch of Shizuoka District Court, October 12, 1999 .....	194
<i>Article 709 of the Civil Law — Articles 2 (1) (d) and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination — Direct Applicability of the Convention to Private Relationships</i>	

## II. Private International Law

Supreme Court, January 27, 2000 .....	197
<i>Succession to Immovables — Choice-of-law Rules to Answer an Incidental Question — The Legitimacy or the Illegitimacy of a Successor</i>	
Osaka High Court, February 26, 1999 .....	201
<i>Shipbuilding Contract — Guarantee — Letter of Guarantee Guaranteeing Refund of Advance Payments Made by Panamanian Company to Japanese Shipbuilding Company — Letter of Guarantee Issued by Japanese Bank — Letter of Guarantee Providing for the Application of English Law — Whether It Is a Demand Guarantee under English Law</i>	

Tokyo High Court, January 27, 2000 .....	204
<i>Claim for Order of Destruction and Injunction Based on U.S. Patent Rights — Territoriality Principle — No Application of Choice of Law Rules — Claim for Money Damages Based on U.S. Patent Rights — Torts — Lex Loci Delicti</i>	
Tokyo High Court, March 16, 2000 .....	209
<i>Copyright on a Telefilm — The Issue of a Tort — International Jurisdiction to Adjudicate</i>	
Tokyo District Court, October 1, 1997 .....	212
<i>International Adjudicative Jurisdiction — Parties' Choice of Law Inferred from the Circumstances — Governing Law of International Employment Contract — Interpretation of German Law</i>	
Tokyo District Court, September 22, 1999 .....	216
<i>Claims for Compensation — Article 3 of the Hague Convention Respecting the Laws and Customs of War on Land 1907 — International Customary Law Concerning the Right of an Individual to Claim Compensation for Damages — Article 11 of the Horei (Application of Laws (General) Act) — Tort Claims against State Act (Supplementary Provision 6) — State Immunity</i>	
Mito Family Court, Tsuchiura Branch, February 15, 1999 .....	222
<i>Adoption — Governing Law and the Application of Safeguard Clause for the Protection of a Child</i>	
Chronological List of Treaties and Other International Agreements Concluded by Japan in 1999 .....	226

## Documents

## I. Treaties

## BANGLADESH

1. Agreement between Japan and the People's Republic of Bangladesh Concerning the Promotion and Protection of Investment ..... 229

## IAEA

2. Protocol Additional to the Agreement between the Government of Japan and the International Atomic Energy Agency in Implementation of Article III. 1 and 4 of the Treaty on the Non-Proliferation of Nuclear Weapons ..... 237

## KEDO

3. Agreement between the Government of Japan and the Korean Peninsula Energy Development Organization on the Provision of Financing for the Implementation of the Light-Water Reactor Project ..... 249

## REPUBLIC OF KOREA

4. Agreement on Fisheries between Japan and the Republic of Korea ..... 253
5. Convention between Japan and the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income ..... 262

## MALAYSIA

6. Agreement between the Government of Japan and the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income ..... 283

## QATAR

7. Agreement between Japan and the State of Qatar for Air Services ..... 304

## SWEDEN

8. Protocol Amending the Convention between Japan and Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income ..... 313

## UNITED STATES OF AMERICA

9. Agreement Amending the Agreement between the Government of Japan and the Government of the United States of America Concerning Reciprocal Provision of Logistic Support, Supplies and Services Between the Self-Defense Forces of Japan and the Armed Forces of the United States of America ..... 318
10. Agreement Between the Government of Japan and the Government of the United States of America Concerning Cooperation on Anticompetitive Activities ..... 321

## II. National Legislation

Summary of the Bill for the Law on Recognition and Assistance of a Foreign Insolvency Proceeding .....	331
Chronology of Japanese Foreign Affairs .....	341
Activities	
Activities of International Association of Japan .....	354
Activities of Related Academic Associations in Japan .....	356
List of Members .....	361