INVASIVE ALIEN SPECIES ACT

(Law No. 78 (June 2, 2004))

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CHAPTER 1: GENERAL PROVISIONS

(Purpose)

Article 1: This Law shall have the purpose of preventing Adverse Effects on Ecosystems caused by Invasive Alien Species (IAS) through regulating raising, planting, storing, carrying (hereinafter "Raising"), importing, or other handling of invasive alien species and through taking measures such as the mitigation of IAS by the national government and other entities, with the aim to help stabilize and improve national life through contributions to conservation of biodiversity, human safety and sound development of agriculture, forestry and fisheries.

(Definition)

Article 2: In this Law, "Invasive Alien Species" or "IAS" shall mean individuals (including eggs, seeds and others stipulated by the Cabinet Ordinance; limited to living ones) and their organs (limited to those which require measures such as regulations on Raising for preventing Adverse Effects on Ecosystems to be taken under this Law and which are stipulated by the Cabinet Ordinance (limited to living ones)) that are stipulated by the Cabinet

Ordinance to exist outside their original habitats as a result of introduction from overseas into our country (hereinafter "Alien Species") and that are recognized or feared to cause Adverse Effects on Ecosystems because of their different properties from organisms having original habitats in Japan (hereinafter "Indigenous Species").

2. In this Law "Adverse Effects on Ecosystems" shall mean adverse effects on ecosystems, human safety, or agriculture, forestry and fisheries.

3. When the competent ministers make a plan in enacting, amending or abolishing the ordinance of Paragraph 1, the ministers must consult academic experts on properties of living organisms about the draft plan.

(Basic Policy for Preventing Adverse Effects on Ecosystems Caused by Invasive Alien Species)

Article 3: The competent ministers shall prepare a draft of a basic policy for preventing Adverse Effects on Ecosystems caused by IAS upon consultation with the Central Environment Council and ask for a Cabinet decision on it.

2. The basic policy in the preceding paragraph (hereinafter "The Basic Policy") shall stipulate the following matters:

   i) The basic framework about the prevention of Adverse Effects on Ecosystems caused by IAS;

   ii) Principles concerning the selection of IAS;

   iii) Principles the handling of IAS;

   iv) Principles concerning the mitigation of IAS by the national government and other entities; and

   v) In addition to those mentioned in the preceding subparagraphs, important matters concerning the prevention of Adverse Effects on Ecosystems caused by IAS.

3. The competent ministers must, when the Cabinet decision on The Basic Policy stipulated under Paragraph 1 is made, announce it officially without delay.

4. The provisions of Paragraph 1 and the preceding paragraph shall be applied mutatis mutandis to a change of The Basic Policy.

CHAPTER 2: REGULATIONS ON HANDLING INVASIVE ALIEN SPECIES

(Prohibition of Raising)

Article 4: No approval shall be issued to Raising IAS otherwise than in accordance with the following cases:

i) When permission in Paragraph 1 of the next Article is obtained and Raising in connection with that permission is performed; or

ii) In the case of capture and other treatment for mitigation under the provisions of Chapter 3, or when there is an unavoidable reason stipulated in the Ministerial Ordinance.

(Permission for Raising)

Article 5: A person who wishes to perform Raising of IAS for the purpose of scientific research or any other purposes stipulated by the Ministerial Ordinance must obtain permission from the competent ministers.

2. A person who wishes to obtain permission in the preceding paragraph must submit an application for permission to the competent ministers as stipulated in the Ministerial Ordinance.

3. The competent ministers must not grant permission in Paragraph 1 in case there is a reason that falls under any of the following subparagraphs with respect to the Raising for which the application in the preceding paragraph is submitted:

i) The purpose of the Raising does not conform with one stipulated in Paragraph 1; or

ii) A person who is to perform Raising is recognized not to handle IAS properly because the person does not have a facility for the Raising which meets standards stipulated by the Ministerial Ordinance in accordance with the properties of IAS (hereinafter "Special Raising Facility") or for some other reasons.

4. In the case of granting permission in Paragraph 1, the competent ministers may attach conditions to the permission when they are recognized to be necessary for preventing Adverse Effects on Ecosystems caused by IAS,

within the limits of the necessity.

5. A permittee in Paragraph 1 must, when performing the permitted Raising, inspect the Special Raising Facility for the permitted IAS periodically, make it clear that the permission is granted for the IAS, and use other methods stipulated in the Ministerial Ordinance.

(Order for Measures to Permittees for Raising)

Article 6: When a permittee in Paragraph 1 of the preceding Article violates the provisions of Paragraph 5 of the same Article or does not meet conditions imposed under the provisions of Paragraph 4 of the same Article, the competent ministers may order to correct the methods of Raising the IAS or to take other necessary measures if they are recognized to be necessary for preventing Adverse Effects on Ecosystems caused by the IAS.

2. The competent ministers may cancel the permission in Paragraph 1 of the preceding Article in case the permittee violates the provisions of this Law or ordinances based on this Law, or disobeys proceedings imposed by this Law, resulting in the IAS being recognized as having or being likely to have Adverse Effects on Ecosystems.

(Prohibition of Import)

Article 7: IAS must not be imported. This does not apply, however, to the case where a permittee under Paragraph 1 of Article 5 imports IAS in connection with that permission.

(Prohibition of Transfers)

Article 8: Any actions relating transfers (hereinafter "Transfers") of IAS are not allowed. Nevertheless, this does not apply to the case where persons, who perform or intend to perform Raising of IAS in conformity with the provisions of Article 4, Subparagraph 1, shall conduct Transfers of the IAS between them, or to the cases stipulated by the Ministerial Ordinance.

(Prohibition of Releasing, Planting, or Sowing)

Article 9: IAS regarding Raising, import, or Transfers must not be released,

planted, or sowed outside the Special Raising Facility for the IAS.

(Collection of Reports and On-site Inspection)

Article 10: Within the limits required for the enforcement of this Law, the competent ministers may request a permittee under Paragraph 1 of Article 5 to submit reports on conditions of handling IAS and on other necessary matters, or may authorize staff members to enter facilities for the Raising of IAS, to inspect IAS, documents, and other properties, or to question relevant persons.

2. The staff members in the preceding paragraph must carry their identification papers and present them to relevant persons.

3. The authority under the provisions of Paragraph 1 shall not be construed as being permitted for the purpose of criminal investigation.

CHAPTER 3: MITIGATION OF INVASIVE ALIEN SPECIES

(Mitigation by the National Government)

Article 11: In case Adverse Effects on Ecosystems by IAS occur or are likely to occur, and if a need arises for preventing occurrence of the adverse effects, the competent ministers and heads of the pertinent administrative organs of the national government (hereinafter "the National Government") shall conduct mitigation under the provisions of this Chapter.

2. To perform mitigation under the provisions of the preceding paragraph, the National Government must, in accordance with the Ministerial Ordinance, stipulate the matters mentioned below and announce them officially in consultation with the prefectures concerned.

   i) The type of IAS to be subjected to the mitigation;

   ii) An area and a period for which the mitigation is performed; and

   iii) Details of the mitigation such as capture, collection, or killing (herein after "Capture") of the IAS and other pertinent matters; and

   iv) In addition to those mentioned in the preceding subparagraphs, matters stipulated in the Ministerial Ordinance.

(Exception from the Wildlife Protection and Hunting Law)

Article 12: To the Capture of IAS subjected to mitigation performed by the National Government under the provisions of Paragraph 1 of the preceding Article, the provisions of the Wildlife Protection and Hunting Law (Law No. 88 (2002)) shall not be applied.

(Entry into Land and other measures)

Article 13: Within the limits required for mitigation under the provisions of Article 11, Paragraph 1, the National Government may authorize its staff members to enter other persons' lands or water surfaces, to conduct Capture of IAS, or to cut down trees and bamboos which interfere with Capture of the IAS.

2. In the case of authorizing the staff members to act under provisions of the preceding paragraph, the National Government, in advance, must notify occupants of the lands or the water surfaces, or owners of the trees and bamboos about the acts, and give an opportunity to express their opinions.
3. The staff members in Paragraph 1 must carry their identification papers and present them to relevant persons.

(Compensation of Loss)

Article 14: To a person who suffers a loss as a result of an act under the provisions of Paragraph 1 of the preceding Article, the government shall compensate for a loss that is to incur normally.

2. A person who wishes to be given compensation under the provisions of the preceding paragraph needs to request it from the National Government.
3. The National Government must, when a request under the provisions of the preceding paragraph is received, decide the amount of compensation and notify it to the claimant.

(Filing of a Suit)

Article 15: A person who is dissatisfied with a decision made under the provisions of Paragraph 3 of the preceding Article may demand an increase of the amount to be given in compensation within six months from the date of

the receipt of the notice.

2. With regard to the complaint under the preceding paragraph, the government shall be the defendant.

(Liability of a Causer)

Article 16: In case the need to carry out mitigation under the provisions of Paragraph 1 of Article 11 arises and there is a person who has performed an act causing it, the government may make the person bear the whole or part of expenses within the limits necessary to carry out the mitigation.

(Methods of Collecting Expenses Imposed)

Article 17: When intending to make a person bear expenses under the provisions of the preceding Article, the National Government must fix the amount of expenses intended to make the person bear (hereinafter "Expenses Imposed" in this Article) and the deadline for their payment, and order the payment, as stipulated by the Ministerial Ordinance.

2. If there is a person who does not pay Expenses Imposed by the deadline under the preceding paragraph, the National Government must urge the person to pay by designating a new deadline in a reminder, as stipulated in the Ministerial Ordinance.

3. When the payment is urged under the provisions of the preceding paragraph, the National Government may collect arrearages in an amount calculated by multiplying the Expenses Imposed by a rate of 14.5% or less per annum for the number of days from the date following the deadline for payment in Paragraph 1 to the date of completion of the payment of the Expenses Imposed or to the date preceding the attachment of property for collecting the Expenses Imposed, as stipulated by the Ministerial Ordinance.

4. When a person who is urged to pay under the provisions of Paragraph 2 does not pay the Expenses Imposed and the arrearages of the Expenses Imposed stipulated by the preceding paragraph (hereinafter "Arrearages" in this Article) by a deadline designated by a reminder in Paragraph 2, the National Government may collect the Expenses Imposed and the Arrearages in accordance with cases of disposition for failure to pay national taxes. In

this case, the order of the preferential right on the Expenses Imposed and the Arrearages shall come next to national taxes and local taxes.

5. The Arrearages shall come prior to the Expenses Imposed.

(Mitigation by Others than the National Government)

Article 18: On mitigation of IAS which is intended by a local public entity and conforms with matters announced officially under the provisions of Paragraph 2 of Article 11, the local pubic entity may obtain confirmation to that effect from the competent ministers, as stipulated in the Ministerial Ordinance.

2. A person other than the government and local public entities may obtain the competent ministers' acknowledgement, as stipulated by the Ministerial Ordinance, on the mitigation of IAS planned by the person to the effect that the person is capable of performing it properly and reliably and that the mitigation conforms with matters announced officially under the provisions of Paragraph 2 of Article 11.

3. When the competent ministers give confirmation under Paragraph 1 or acknowledgement under the preceding paragraph, that fact must be announced officially as stipulated in the Ministerial Ordinance. The same applies to cases where these confirmation and acknowledgement are cancelled under the provisions of Paragraph 2 or 3 of Article 20.

4. The provisions of Article 12 shall be applied mutatis mutandis to mitigation which is performed by a local public entity under the confirmation in Paragraph 1 and mitigation which is performed by a person other than the government and local public entities under the acknowledgement in Paragraph 2, and the provisions of Article 13 to the preceding Article shall be applied mutatis mutandis to local public entities taking charge of affairs related to the mitigation under the confirmation in Paragraph 1.

Article 19: The competent ministers may request a person who obtains the acknowledgement in Paragraph 2 of the preceding Article and performs mitigation to submit reports on how the mitigation is performed and on other necessary matters.

Article 20: When a person who obtains the confirmation under Article 18,

Paragraph 1 or the acknowledgement in Paragraph 2 of the same Article suspends the mitigation or becomes unable to perform the mitigation in conformity with matters announced officially under the provisions of Article 11, Paragraph 2, the person must notify the effect to the competent ministers.

2. When notified under the provisions of the preceding paragraph, the competent ministers shall cancel the case's confirmation under Paragraph 1 of Article 18 or its acknowledgement under Paragraph 2 of the same Article.

3. When it is recognized that mitigation on which acknowledgement under Paragraph 2 of Article 18 is given is not performed in conformity with matters announced officially under the provisions of Article 11, Paragraph 2, or that a person, who performs the mitigation, becomes unable to carry out the mitigation properly and reliably, omits submitting reports stipulated in the preceding Article, or submits a false report, the competent ministers may cancel the acknowledgement.

CHAPTER 4: UNCATEGORIZED ALIEN SPECIES

(Notification of Import)

Article 21: As stipulated in the Ministerial Ordinance, a person who intends to import uncategorized alien species (which mean Alien Species stipulated in the Ministerial Ordinance as being suspected to have likelihood of causing Adverse Effects on Ecosystems due to properties different from those of Indigenous Species (limited to living ones). Hereinafter the same definition applies.) must previously notify the competent ministers of the type of the uncategorized alien species (or "UAS") and other matters stipulated in the Ministerial Ordinance.

(Judgment)

Article 22: When a notification stipulated under the preceding Article is received, the competent ministers must judge whether or not the UAS in the notification has the likelihood of causing Adverse Effects on Ecosystems due to its properties different from those of Indigenous Species, and inform the result to the person who has submitted the notification within six months

from the date of the receipt of the notice.

(Restrictions on Import)

Article 23: A person who intends to import UAS must not import the UAS before receiving the information under the preceding Article to the effect that the UAS is free from the likelihood of causing Adverse Effects on Ecosystems due to its properties different from those of Indigenous Species.

(Uncategorized Alien Species relevant to Exporters Abroad)

Article 24: A person who wishes to export UAS to Japan is able to previously notify, as stipulated in the Ministerial Ordinance, the competent ministers of the type of the UAS and other matters stipulated in the Ministerial Ordinance.

2. The provisions of Article 22 shall apply mutatis mutandis to the notification stipulated in the preceding paragraph.

CHAPTER 5: MISCELLANEOUS PROVISIONS

(Attachment of a Certificate for Import)

Article 25: Other organisms (limited to living ones) than those stipulated in the Ministerial Ordinance as being easily confirmable that they do not fall under the category of IAS nor UAS must not be imported unless certificates issued by foreign government agencies proving the types of the organisms or stipulated in the Ministerial Ordinance are attached to the organisms.

2. An organism requiring the attachment of a certificate in the preceding paragraph must not be imported through any other place than a port or an airport stipulated in the Ministerial Ordinance.

(Personnel Engaging in Control)

Article 26: The competent ministers may authorize those of staff members who meet requirements stipulated by the Cabinet Ordinance to exercise a part of authorities stipulated in Paragraph 1 of Article 6 or Paragraph 1 or Article 10.

2. Staff members who exercise the part of authorities of the competent

ministers under the provisions of the preceding paragraph (in the next paragraph, "Controllers for IAS' Adverse Effects Prevention") must carry their identification papers and present them to relevant persons when such authorities are to be exercised.

3. In addition to those stipulated in the preceding two paragraphs, matters necessary in relation to the Controllers for IAS' Adverse Effects Prevention shall be stipulated by the Cabinet Ordinance.

(Measures for Amplification of Scientific Knowledge)

Article 27: For the sake of amplification of scientific knowledge about Adverse Effects on Ecosystems caused by Alien Species and the prevention thereof, the government must endeavor to collect, arrange and analyze information, promote study, and take other necessary measures relevant to the knowledge.

(Promotion of Public Understanding)

Article 28: About mitigating IAS and other matters involved with Alien Species, the government must endeavor to deepen public understanding through measures such as educational activities and public relation activities.

(The Competent Ministers and the Ministerial Ordinance)

Article 29: The competent minister in this Act shall be the Minister of the Environment. Nevertheless, for matters related to the prevention of adverse effects on agriculture, forestry and fisheries, the Minister of the Environment and the Minister of Agriculture, Forestry and Fisheries shall be the competent ministers.

2. The Ministerial Ordinance in this Act shall be an order issued by the competent ministers.

(Interim Measures)

Article 30: In case an order is established, amended or abolished under the provisions of this Act, needed interim measures (including interim measures on penal provisions) may be stipulated by the order to the degree judged reasonably necessary for the establishment, amendment or abolition thereof.

(Delegation to the Ministerial Ordinance)

Article 31: Besides those stipulated in this Act, procedures for the implementation of this Act and other matters necessary for the enforcement of this Act shall be stipulated by the Ministerial Ordinance.

CHAPTER 6: PENAL PROVISIONS

Article 32: A person who falls under any of the following subparagraphs shall be punished by imprisonment for any period not exceeding three years or a fine not exceeding three million yen, or a combination of these two.

i) A person who has performed Raising of IAS with the aim to sell or distribute in violation of the provisions of Article 4;

ii) A person who has obtained permission in Paragraph 1 of Article 5 by a deception or other unlawful means;

iii) A person who has disobeyed an order under the provisions of Article 6, Paragraph 1;

iv) A person who has violated the provisions of Article 7 or Article 9; or

v) A person who has sold or distributed IAS in violation of the provisions of Article 8.

Article 33: A person who falls under any of the following subparagraphs shall be punished by imprisonment for any period not exceeding one year or a fine not exceeding one million yen, or a combination of these two.

i) A person who has violated the provisions of Article 4 or Article 8 (excluding those who fall under Subparagraph 1 or Subparagraph 5 of the preceding Article);

ii) A person who has performed Raising of IAS against conditions attached under the provisions of Article 5, Paragraph 4; or

iii) A person who has violated the provisions of Article 23.

Article 34: A person who has violated the provisions of Paragraph 1 or Paragraph 2 of Article 25 shall be punished by a fine not exceeding five hundred thousand yen.

Article 35: A person shall be punished by a fine not exceeding three hundred

thousand yen who has not submitted reports or has submitted a false report under the provisions of Paragraph 1 of Article 10; or who has refused, disturbed or evaded an on-site inspection under the provisions of the same paragraph, or has not given a statement or has given a false statement in reply to a question asked at the on-site inspection.

Article 36: In case a representative of a corporation, or an agent, an employee or other operative of a corporation or a person commits an offense in Article 32 to the preceding Article in connection with the work of the corporation or the person, besides punishing the actual offender, the corporation is punished by a fine stipulated in an appropriate one of the following subparagraphs and the person is punished by a fine set forth in the main text of each appropriate Article.

i) Article 32: Punishment by a fine not exceeding one hundred million yen

ii) Article 33: Punishment by a fine not exceeding fifty million yen

iii) Article 34 or Article 35: Punishment by a fine set forth in the main text of each appropriate Article

SUPPLEMENTARY PROVISIONS

(Date of Enforcement)

Article 1: This Act shall be enforced from a date stipulated by the Cabinet Ordinance within the limits not exceeding one year from the date of promulgation. Nevertheless, the provisions of the next Article, Article 3 and Article 5 of Supplementary Provisions shall be enforced from the date of promulgation.

(Interim Measures)

Article 2: Even before the enforcement of this Act, the competent ministers may prepare a basic policy for preventing Adverse Effects on Ecosystems caused by IAS in accordance with cases in the provisions of Paragraph 1 and Paragraph 2 of Article 3 and ask for a Cabinet decision.

2. When the Cabinet decides on the basic policy in the preceding paragraph, the competent ministers must announce it officially without delay.

3. The basic policy set forth under the provisions of Paragraph 1 shall be taken as The Basic Policy stipulated under the provisions of Paragraph 1 and Paragraph 2 of Article 3 on the date of enforcement of this Act.

(Delegation to the Cabinet Ordinance)

Article 3: Besides those stipulated in the preceding Article, necessary interim measures concerning the enforcement of this Act shall be stipulated by the Cabinet Ordinance.

(Review)

Article 4: The government shall, after five years lapse from the enforcement of this Act, conduct a review concerning the state of enforcement of this Act and, when it is deemed necessary, shall devise requisite measures based on the results thereof.

(Partial Amendment of the Basic Environment Law)

Article 5: Part of the Basic Environment Law (Law No. 91 (1993)) shall be amended as follows:

Article 41, Paragraph 2, Subparagraph 3 shall be amended as follows:

iii) To deal with matters caused to pertain to their authorities by the Natural Park Law (Law No. 161 (1957)), the Farmland Soil Pollution Control Law (Law No. 139 (1970)), the Natural Environment Conservation Law (Law No. 85 (1972)), the Protection and Keeping of Animals Law (Law No. 105 (1973)), the Special Measures Law for Conservation of *Seto*-Inland Sea Environment (Law No. 110 (1973)), the Law concerning Compensation for Pollution Damage to Health (Law No. 111 (1973)), the Law for the Conservation of Endangered Species of Wild Fauna and Flora (Law No. 75 (1992)), the Special Measures Law on Dioxins (Law No. 105 (1999)), the Basic Law for Recycling-oriented Society Promotion (Law No. 110 (2000)), the Law concerning Recycling of Used Motor Cars (Law No. 87 (2002)), the Wildlife Protection and Hunting Law (Law No. 88 (2002)) and the Invasive Alien Species Act (Law No. (2004)).

REASONS FOR INTRODUCING THIS BILL

In order to prevent adverse effects on ecosystems, human safety, or agriculture, forestry and fisheries caused by Invasive Alien Species, raising, planting, storing or carrying, importing and other handling of IAS are prohibited with the exception of specified cases. At the same time, the mitigation of IAS by the government and other entities is promoted. Besides, it is necessary to restrict the import of Uncategorized Alien Species and to take other requisite measures. These are reasons for introducing this bill.