

# 国家戦略特区における新たな措置に係る提案募集

① 提案者の氏名または団体名

The American Chamber of Commerce in Japan  
Gaiben Kyokai (Foreign Lawyers Association of Japan)

② 提案名

Globalization of Business Supported by Bengoshi and Japan-Experienced  
Gaiben Working Together

③ 事業の実施場所

a. (Within the currently designated National Strategic Special Zones (six areas)) and b. (Other areas)

④ 具体的な事業の実施場所

Each National Strategic Special Zone, but particularly cities with an international focus, like Fukuoka, Tokyo, Osaka, Nagoya, and Okinawa.

⑤ 具体的な事業の実施内容

To show the positive contributions to increase the volume of international transactions, professional support to Japanese companies and globalization of business and society that can be made by foreign attorneys with experience in Japan, and by international legal entity offices staffed by bengoshi and gaiben working as equal participants in the legal entity.

⑥ ⑤の事業の実施を不可能又は困難とさせている根拠法令等

Gaiben Act: Article 10, paragraph 1, item 1, and Article 10, paragraph 2. states a requirement for 3 years of home country law experience in order to apply to be a Gaiben. Item 1 allows the experience to also be obtained in a foreign country, if the office in the foreign country where the person works handles home country law and the person is engaged in home country law practice in that office. However, Article 10, paragraph 2 allows only one year of the three years practice requirement to be met by working as a lawyer in Japan. Gaiben Hojin Act (Article X, Paragraph Y; presently unknown) Prohibits formation of a Hojin by Gaiben and Bengoshi jointly.

⑦ ⑤の事業の実施を不可能又は困難とさせている規制等の内容

※ ⑥による現行の規制が具体的にどのように障害となっているか記述してください。

Gaiben Act Article 10, paragraph 1, item 1, states the requirement for 3 years home country law experience in order to apply to be a Gaiben. Item 1 allows the experience to also be obtained in a foreign country, if the office in the foreign country where the person works handles home country law and the person is engaged in home country law practice in that office. However, Article 10, paragraph 2, specifically prohibits or disqualifies experience in Japan, even if it satisfies Article 10, paragraph 1, item 1.

The result is that foreign lawyers with an interest in practicing their home country law in Japan cannot obtain credit for home country law experience in Japan from their work with internationally experienced bengoshi and home country lawyers and must spend 2 years in their home country or some other foreign country doing other legal practice that may be less relevant to a practice in Japan and to service to Japanese clients or to contributing to the growth of an internationalized Japanese economy.

Only a law firm operating a Hojin may form a branch in another city. Gaiben Hojin Act prohibits gaiben and bengoshi, typically operating in the gaikokuho kyodo jigyo structure (commonly known as a Type B gaiben office) from jointly establishing a hojin and is discriminatory and anti-international. Type A gaiben offices, which employ gaiben, however, will be entitled to do so, as 100% bengoshi firms have been able to do for several years. The result is that gaiben and bengoshi who wish to form a hojin to offer an international practice in more than one location in Japan (eg, Osaka and Tokyo) cannot do so. The Act does not contribute to the globalization of Japan because it does not allow the expansion of law offices jointly operated by bengoshi and gaiben international legal professionals who can contribute to globalization in Japan to do so on the same basis that 100% bengoshi-operated firms may.

⑧ ⑥・⑦に対する規制・制度改革のために提案する新たな措置の内容

※ ⑥の規制等の廃止だけでなく、規制等の内容の具体的な変更や、新しい規制・制度の提案などを含みますが、できるだけ具体的に記述してください。

Gaiben Act should be amended to delete Article 10, paragraph 2, or to delete the words "or the extent of one year in total, so that all appropriate experience of a foreign lawyer in Japan can be effectively utilized.

Gaiben Hojin Act should be amended to reflect both type A and type B hojin choices, with type B specifically allowing equal participation by bengoshi and gaiben and being the most desirable. This was the specific recommendation of the Foreign Lawyer System Study Group Report to the Prime Minister of 2009.

⑨ ⑧の措置をした場合に想定される経済的社会的効果等

1. The number of gaiben with relevant experience in Japan able to help Japanese and foreign clients will increase by the change to the Gaiben Act. Gaiben will be able to start their careers in Japan without the disruption of a mid-career reassignment, and Japanese clients will be served consistently by the same team members without disruption.

2. The change to type B for the Gaiben Hojin Act will increase the number of collaborative legal practices with bengoshi and gaiben working together, and will increase the availability of cross-border legal services by experienced bengoshi and gaiben both in Tokyo and in the other Tokku.

The results of the above will be that foreign lawyers who have committed their careers to a practice in Japan and specifically aimed to concentrate on cross-border work for internationalizing Japanese companies during the early years of their careers will not be lost to the Japanese legal market by having to search for other experience outside Japan. Gaiben and bengoshi who have the same goals of providing sophisticated cross-border legal services in Japan will be able to form Hojin and provide such international transactional services in not only the 6 Tokku, but also in other locations in Japan – including smaller locations.

Both committed gaiben and equally mixed and greatly experienced bengoshi and gaiben working together under a Hojin structure will be able to contribute in a positive manner to the growth of new business areas, encouraging startups, assisting innovation and the export of new and innovative technology that is born in Japan. With the increase of foreign workers in the Japanese economy and expansion of opportunities in the workplace for men, women, and foreigners in Japan, internationally experienced bengoshi, together with gaiben who are familiar with Japanese language, customs and business practices, will be better able to support Japanese clients in their international expansion.

以上