

Newsletter

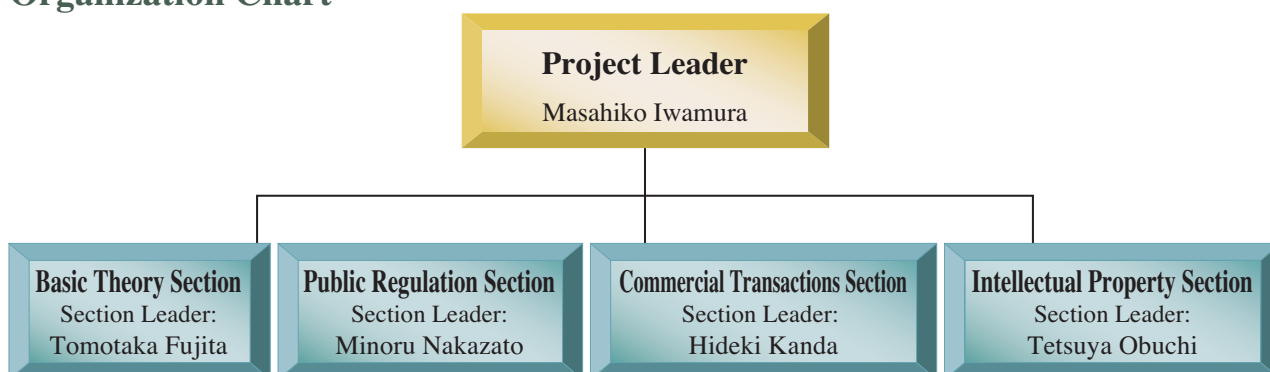
English Edition No.4 Academic Year 2011



Global Centers of Excellence Program Soft Law and the State-Market Relationship

1 Organization of Research and Education

Organization Chart



(Dated as of March 31, 2012)

Project Scholastic Member

Tomotaka Fujita (Section Leader): Graduate Schools for Law and Politics (“GSLP”)/Commercial Law Mizuho Hata: GSLP/Civil Procedure Ryuji Yamamoto: GSLP/Administrative Law Noriyuki Yanagawa: Graduate School of Economics/Contract Theory Toshihiro Matsumura: Institute of Social Science/ Industrial Organization Wataru Tanaka: Institute of Social Science/Commercial Law, Law and Economics Gen Goto: GSLP/Commercial Law	Minoru Nakazato (Section Leader): GSLP/ Tax Law Shinsaku Iwahara: GSLP/ Commercial Law Yoshihiro Masui: GSLP/ Tax Law Tadashi Shiraishi: GSLP/ Economic Law Keisuke Iida: GSLP/ International Political Economy	Hideki Kanda (Section Leader): GSLP/ Commercial Law Tomonobu Yamashita: GSLP/Commercial Law Hiroyasu Nakata: GSLP/ Civil Law Shoji Kawakami: GSLP/ Civil Law, Consumer Law Hiroyuki Kansaku: GSLP/ Commercial Law Takahito Kato: GSLP/ Commercial Law Keiichi Karatsu: Institute of Business Law and Comparative Law and Politics (IBC) / Corporate Law	Tetsuya Obuchi (Section Leader): GSLP/ Intellectual Property Law Daniel H. Foote: GSLP/ Sociology of Law Takashi Araki: GSLP/ Labor Law Hiroyuki Morita: GSLP/ Civil Law Kichimoto Asaka: GSLP/ Anglo-American Law Hiroyasu Ishikawa: Institute of Social Science/Civil Law
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Project Professor

Makoto Orihara: Trust Companies Association of Japan
Kenji Shimazaki: National Graduate Institute for Policy Studies
Hiroya Nakakubo: Graduate School of International Corporate Strategy, Hitotsubashi University

Project Researcher

Chikako Kanki: Graduate Schools for Law and Politics, The University of Tokyo
Takahiro Kobayashi: Tokyo Stock Exchange Regulation
Yuki Sawada: Graduate Schools for Law and Politics, The University of Tokyo
Shuichi Takahashi: Graduate Schools for Law and Politics, The University of Tokyo
Yuko Tsuchiya: Graduate Schools for Law and Politics, The University of Tokyo
Shiori Nishii: Graduate Schools for Law and Politics, The University of Tokyo
Hyo Sook Park: Graduate Schools for Law and Politics, The University of Tokyo

Maiko Fuchi: Graduate Schools for Law and Politics, The University of Tokyo
Yoko Manzawa: Japan Securities Research Institute
Keiko Yamamoto: Institute for Monetary and Economic Studies, Bank of Japan

Research Assistant

Doctorate Program, School of Legal and Political Studies, Graduate Schools for Law and Politics, The University of Tokyo
Andrea Ortolani: Comparative Law
Mari Ishikawa: Labor Law
Fang Wang: Commercial Law
Yang Shen: Intellectual Property Law
Xiao Tong Wen: Commercial Law
Jo Lan Chen: Commercial Law
Fumiko Narita: Labor Law
KyungYun Bae: Civil Law

2 Activities

GCOE International Internship Program

This program sends graduate students and other qualified young lawyers to foreign law firms and international organizations as a trainee or an intern. It also gives them opportunities to participate in international conferences or seminars. The followings are the activities in 2011.

Name	Term	Activity
Junya Ishii	June 20-24	Clifford Chance Tokyo
	August 1-19	Clifford Chance London
Mariko Takashima	July 25-29	Clifford Chance Tokyo
	August 1-19	Clifford Chance London
Sawako Nonaka	July 5-22	Davis Polk & Wardwell New York
Junichi Hashimoto	July 5-29	Holland & Knight New York
Yusuke Hatakeyama	July 4-29	Herbert Smith Brussels
Naoko Shimamura	July 11-29	Lenz & Staehelin Geneva
Chihiro Tamaki	July 10 - August 8	Reed Smith London
Keiko Uchida	July 25 - August 12	Freshfields Bruckhaus Deringer London
Taku Nemoto	July 4-29	Freshfields Bruckhaus Deringer Paris
Aiko Kizawa	July 18 - August 12	Freshfields Bruckhaus Deringer Hamburg
Junya Ohashi	July 16 - August 13	Freshfields Bruckhaus Deringer New York
Erino Yoneda	July 7-29	McDermott Will & Emery Brussels
Yuki Hattori	July 11-29	McDermott Will & Emery Paris
Yui Kosako	July 7- 29	The International Monetary Fund (IMF)
Akira Iizuka	July 11-29	Supreme Court of Delaware
Shotaro Ishizuka	June 20 - September 9	Hague Conference on Private International Law

Summer Vacation Scheme at Clifford Chance

Mariko Takashima



Thanks to GCOE program, I had a great opportunity to do internship at Clifford Chance Tokyo office and London office in the summer of 2011.

1. Tokyo Office

At the end of July, I did a week internship at Tokyo office. There, I was assigned various legal research and contract drafting. There are three departments including Capital Market, Finance and Corporate, but I didn't belong to any specific department and was given assignments from lawyers of all three departments. Their feedback gave me good insight about real legal practice. Not only that, I had opportunities to join some meetings (some of them were in English) and an English lesson. One of the attendants of the meeting was a trainee from London office, and he well explained his experience at London office, which was really helpful for me to get ready for the next three weeks.

2. London Office

(1) First week

From next week (from August 1st), my internship at London office had started. Welcome Breakfast and Welcome dinner were held on the first day, and I was amazed how many trainees there were - it was about forty. We were all called Vacation Scheme students. Half of them were from U.K. and joined the scheme in order to be employed by CC (They were taking job interviews during the scheme). On the other hand, the other half were from all over the Europe, including Germany, France, Spain, and Netherland. It seemed they aimed at becoming qualified lawyers in their own countries, but they came to CC London office just for experience.

In the morning, we had presentations about CC itself, IT training, and confidential duty. After lunch, I went to the floor of Asset Finance department (especially focusing on aircrafts), where I had been placed in the first week, and met my buddy (a young trainee right before the qualification as a lawyer) and supervisor. My seat was in the same room with my supervisor, so mainly he gave me assignments and the feedback for my products. One of the assignments was to check contracts regarding aircraft lease, pick up legal issues which the render and the borrower didn't agree on, and write the issues in a table diagram. It was really helpful to understand how things go on until renders and borrowers reach final agreements regarding aircraft lease. I had never studied about asset finance before, but I asked questions to my supervisor who was sitting next to me whenever I got confused, so it was not a problem.

Besides, we had two lunch presentations in this week - one was about litigation department, and the other was about real estate department. They were interesting because the presenters explained actual cases they had dealt with.

On Thursday, our buddies took us to the Globe (Shakespeare's theater) after work, and we enjoyed 'As You Like It'.

(2) Second week

This week, I moved to Capital Market department and met new supervisor and buddy. I noticed that each

department had different work styles. It was usual in Asset Finance department to start work at 9 p.m., but in Capital Market department the start time was 9:30. The main research I was given in this week was to examine the right of secured party under Financial Collateral Agreement at the time of enforcement of security. It was challenging for me who knew nothing about security system of U.K. I started from studying security system (For example, there are four kinds of security in U.K., and each of them are different from security under Japanese law.) and searched appropriate information on the web regarding Financial Collateral agreement. It seemed official legal websites contain enough information to know new statutes in U.K. When the research finished, my supervisor suggested me to study credit-linked note and give a presentation about it for my own study. The system of credit-linked note is very complicated even in Japanese, so studying it in English was all the harder and deepened my understanding. During free time, I listened to some presentations on CC's intranet according to my interest. Especially, a presentation titled "CC's presence in Asia" was thought-provoking for me because I understood how less attention European law firms pay to Japan compared to other Asian countries nowadays.

As same as first week, we had two presentations after lunch. One was about Corporate department, and we were given several case studies to discuss with other students in a same group. I was impressed that European students were very active in discussion.

This week was the final week for other vacation scheme students, so there were lots of social events. We had a closing dinner on Thursday night, a closing lunch and leaving drinks on Friday. Besides these official events, one of vacation scheme students from U.K. invited foreign students to her house for dinner. I felt one of the greatest things of the Vacation Scheme is that we can make good foreign friends, who have different background but similar future dream, only for two weeks.

(3) Third week

Next, I moved to Corporate Finance department. My room was larger this time, and I was sitting not only with my new supervisor but also with my new buddy. There, I was given an assignment to check engagement letters between audit companies, which were in charge of due diligence regarding Private Equity, and its customer companies. I didn't know anything about engagement letters, but I managed to do it by frequently asking for good advice from the junior associate who gave me the assignment. I spent most of the time in this week for the research, but I had two other researches. One was to examine minority shareholders' right under Cyprus Company law, and the other was to pick up related literature regarding what happens to a closed company under deadlock situation (the situation which the owners are unable to make any decision.). These two researches were really hard because I couldn't spend so much time for them and had trouble with online access to U.K major legal literature from my PC (I asked for help to a librarian, but in the end she recommended me to use a PC in a library.).

In this week, I joined Free Law Session voluntarily. Free Law Session is free legal consultation service. It was a good opportunity for me to know the social gap existing in the city and the importance of the pro-bono activity.

3. End

The experience at CC office gave me strong impression of how global the law firm is and how the lawyers work there. It would be really difficult for Japanese law firms to be like CC because our language is not English and Japanese law system is not as prevalent as U.K. law system. When Japanese law firms work globally, there should be lots of things to learn about how to operate an organization and people from these global law firms.

I really appreciate people at CC office (both Tokyo and London) and members of GCOE program for giving me such lifetime experience. I will do my best to make the most of the experience in my future career.

Internship in Holland & Knight New York Office

Junichi Hashimoto

1. My interest in maritime law

When I was in law school, I participated in Professor Fujita's seminar which focused on international carriage by sea. In this seminar, students made a research and analysis on the new UN Convention on Contracts for the International Carriage for Goods Wholly or Partly by Sea known as "Rotterdam Rules" and other legal aspects of international trade. This seminar stimulated my strong interest in maritime law and I wished to study more about law and practice in this field.

This is why I applied for the internship to Holland & Knight New York Office with a hope to visit a major law firm which focus on maritime law and international trade law.

2. Work

I belonged to the maritime team during my internship. Most of my works were related to maritime law, but in addition I also worked for lawyers focusing on other areas of law.

The followings are the summary of my works.

(1) Reading the book "Admiralty"

Before the start of my internship, I had never studied US maritime law. That is why Mr. Hohenstein recommended me to read the book "Admiralty", which explains fundamental matters on US maritime law.

Mr. Hohenstein spared me 1 hour from 4:00 pm everyday to answer my questions about this book, so I made it a rule to read 1 chapter everyday and have at least 3 questions. At this question time, Mr. Hohenstein told me a lot of interesting stories about the old cases and his past career. I was looking forward to listening to his stories.

(2) Cargo claim case

Mr. Nolan assigned me to make comments on the documents his team made for a cargo claim case.

In this case, a food company sued a large shipping company claiming that goods were damaged during the carriage because of the defect of the freezing devices on the vessel. Holland & Knight represented this shipping company.

This case had many legal issues, but one of the important issues was whether state court had the jurisdiction. Under the US Constitution, federal District Courts have exclusive jurisdiction over causes of admiralty and maritime matters. However, The Judiciary Act of 1789 includes "the saving to suitor's clause", which allows a party to pursue a remedy for a maritime claim in a state court. A party may pursue an in personam maritime claim in an ordinary civil action to seek a common-law remedy with the right to a jury trial.

We discussed this matter to avoid the state court trial with jury.

(3) Comparison of US financial law and Japanese FIEL

Mr. McLennan gave me an assignment to write an article about the comparison of US and Japanese financial law on the registration regulation of investment funds.

In Japan, "Financial Instruments and Exchange Law (FIEL)" became effective on September 30, 2007. Under the FIEL, interests in so called "collective investment schemes", self-offerings and self-management have also become subject to regulations. Any party who is involved in a financial instruments business is required to register with the authorities.

However, there are certain exemptions to the registration requirement under the FIEL. My first assignment was to research these exemptions.

After this first assignment, Mr. McLennan gave me the second assignment to research US financial law on the

registration regulation of investment advisers, especially “Dodd-Frank Wall Street Reform and Consumer Protection Act”. On June 22nd, 2011, the Securities and Exchange Commission (SEC) adopted rules that require advisers to hedge funds and other private funds to register with the SEC, establish new exemptions from SEC registration and reporting requirements for certain advisers. My assignment was to research these regulations and write an article about the comparison of the registration regulation exemptions between Japanese FIEL and Dodd-Frank Wall Street Reform and Consumer Protection Act.

It was difficult to compare these exemptions as the fundamental system of regulations on securities and collective investment scheme was not the same between Japanese FIEL and US financial law.

(4) Researching Japanese newspaper article in relation to copyright law litigation

Ms. Foster, who is in Boston office, gave me an assignment to find Japanese newspaper article about the activities of a major music band in Japan. The members of this music band sued a music company for the royalty infringement damages. Holland & Knight represented these music band members. Japanese newspaper articles were needed to prove their success in Japan.

I felt happy to be able to help them by my Japanese speaking ability.

3. Life

(1) Friends

During my internship, there were 2 other international internship students (one was from Germany and the other was from UK) and 4 law school internship students.

We often had lunch together (the office cafeteria’s foods were really good!) and talked about our daily life and our future. As is also true in Japan recently, they said that it was really difficult for law school students to find jobs. It seems that those who were accepted as summer intern would relatively easily get offers from the law firm, but they said that there were still a lot of steps before the final decision of employment.

They asked me a lot of questions about Japanese judicial system and cultures. They were surprised to know the fact that Japanese bar exam’s pass rate was under 30%. Throughout these conversations with them, I felt that we are more or less feeling same kind of expectation and fear to our future.

I was impressed to know that many people were really interested in the 3.11 big earthquake in Japan, especially the accidents of nuclear power plants. I thought I should have learned more so that I could tell them precise details they wanted to know.

(2) Lawyers

During my internship, I had a lot of opportunities to talk with lawyers in New York office. When I had free time, I often asked lawyers to lunch to talk with them. Some lawyers invited me to their home after work.

On the second weekend of my internship, Mr. Tenev (the chief of international internship program) invited me and other international student to Princeton. We enjoyed opera and visited many famous places with Mr. Tenev and his family. Princeton was really a beautiful city. I’d like to visit there again one day in the future.

(3) Sightseeing

On weekends, I visited many famous places (Metropolitan museum, Central Park, the Statue of Liberty, and so on) and enjoyed Broadway shows. This was my first visit to foreign countries, so everything was new to me. I was happy to enjoy foreign culture first hand.

4. Gratitude to Holland & Knight New York Office

As lawyers and staffs in Holland & Knight New York were really kind and helpful, I felt comfortable during my 4-week internship. I express my heartfelt gratitude to Holland & Knight New York Office for giving me such a great opportunity.

GCOE International Internship at Lenz & Staehelin

Naoko Shimamura

In the summer 2011, I found myself feeling a sense of ease while hearing different languages spoken on crowded second-class train bound for Geneva.

The variety of languages being spoken and the diverse people around me was creating a strangely liberating atmosphere, which reminded me that I had finally made it to Europe.

I was going to join the Geneva office of Lenz & Staehelin, one of the leading business law firms in Switzerland, on a three-week GCOE internship program.

This internship would provide me with valuable experience in the following aspects.

First, the program allowed me to discover Switzerland and its unique legal system.

Geneva, where I stayed, is the second largest populated city in Switzerland after Zurich, and is the most populous city of the French-speaking part of Switzerland. It is known as a global city thanks to the presence of numerous international organizations.

For all its importance, the city is small enough to walk around in a day. Many foreigners live and work there and you can communicate in English anywhere in the city.

Lenz & Staehelin, especially known for its experience in international business law, counts for many multinational companies as its clients. Thus, a large part of practice is done in English in the Corporate and M&A team I was assigned to. The majority of lawyers and staff in the firm were Swiss, with a few foreign employees. There were some Swiss from the German-speaking part of the country but they had a perfect command of both French and English. At the office, Swiss talked to each other only in French and they used English mainly on the telephone with non-Swiss people or in writing documents. As for me, brought up only in such a particular language as Japanese, the multilingual environment I found myself in was pretty enviable.

What I found particular to Switzerland was a severe conflict between Anglo-Saxon discovery and domestic legal system, which I learnt about when I sat in on conference calls. Swiss banks are very strict when it comes to the confidentiality and secrets of their clients. Though the international trend of tightening money-laundering regulation leads to increased pressure for easing such strict bank secrecy, it remains an obstacle to discovery request. In addition, not only bank secrecy but also Swiss criminal law may prevent Swiss entities from responding to discovery requests: response even addressed to private entities may be sanctioned as an act in sake of foreign states, which exposes Swiss sovereignty to danger. I was surprised to see how strictly the information held within the private sector is controlled in terms of national interest.

Secondly, the internship provided me with an insight to ongoing harmonization of business law practice. The main task given to me was to review a variety of agreements: patent-license agreements, share transfer agreements etc. They

seemed to have chosen from an educational viewpoint those internationally harmonized types of agreements as assignments so that I could find similar clauses in them to those of contracts prepared in Japan. I felt the international standard has been well developed in business law area. It made me think about two things:

Firstly, the importance of catching up international standards. It is often said in Japan that the legal system, closely linked to social background, differs from one country to another, which I believe is only part of the truth. I have nothing against the idea; it's a must for Japanese-law lawyers to have solid knowledge about Japanese law. At the same time, getting familiar with international standards is essential for business lawyers who want to conduct activities across borders.

Secondly, what kept becoming obvious is the weakness of Japan's ability to set or put forward ideas on international standards. The problem is not only limited to the legal field simply because Japan is so accustomed to playing the game according to other people's rules. This puts Japan in a position where they follow and fail to see the disadvantages of such system. The more cross-border business develops, the fiercer the competition becomes among legal systems and practices. The legal system and lawyers is an indispensable infrastructure, which is one of criteria for business to choose a jurisdiction to conduct activities in. I think Japanese legal experts who have an outward mind-set can help Japan in becoming a jurisdiction more appealing to business.

Last but not least, I remember the warm attention I received from people of the firm in the course of the internship.

I am especially grateful for all the assistance and support given to me by Mr. Vermeil, partner of the Corporate and M&A team, and his associates, who gave me agreements to review, let me sit in on call-conferences, advised me to go attend high-profile trials etc.

Also, I enjoyed the presence of other trainees. Lenz & Staehelin runs two-month summer training programs for undergraduate students who are looking to aspire to be lawyers. While I stayed at the firm there were 10 trainees from Swiss universities. We got together for lunch and lectures designed for student trainees, while during office hours each trainee was seated separately in different teams as to enable us to work individually.

In the lectures, held two or three times a week, young attorneys talked about the cases they dealt with and gave advice to Swiss trainees in choosing areas to specialize in. Though those lectures were mainly for would-be Swiss lawyers, I found them helpful to know real concerns of young attorneys and law students in Switzerland.

As above, GCOE program allowed me to discover Switzerland, a totally new country for me, the experience made me consider the limits and potential of Japanese-law lawyers.

I would like to finish this report by acknowledging all the people who assisted me in doing this internship.



GCOE Program at Freshfields Bruckhaus Deringer LLP in London

Keiko Uchida

I. Freshfields Bruckhaus Deringer LLP in London

Thanks to the GCOE program and Freshfields Bruckhaus Deringer LLP (“the firm”), I have got a precious opportunity to experience the shadow work at the firm.

The firm is one of the leading global law firms in London and the world. The firm has many global branches around the world. The firm I experienced shadowing work is located in London near the “City”. The City is the biggest financial center in the world. The firm offers strong legal services to the financial circle. One of the lawyers at the firm showed me and other visitors (mainly students for their work experiences) an article about a mega merger between banks occurred a few year ago for which the firm offered legal service. However, not only the financials, the other legal service such as dispute resolution also seemed very active at the firm in these days.



II. High qualified teams in various legal fields

The London office is the biggest among branches. It holds many specialized teams such as corporate, finance, labor law, antitrust law, dispute resolution and so on. I could experience shadow work in a corporate team. I also had a precious opportunity to talk with a member of the antitrust law team. From the talk, the antitrust law team seems to be recognized as the top team in the field in London in recent years. I could see that the firm could offer top legal service not only for the financial field but also almost all the legal fields. Also, I could hear a talk about sports law. Different from antitrust law and other traditional law areas, sports law seems a new field. For such a new field, lawyers who have an interest on it seem to gather on each sports law case, if any, from various teams such as corporate and labor law and offer legal service for each case. I could see both the solidity and also flexibility of the firm could offer the high qualified legal service as a whole.

III. Shadow Work Program

Cross border funding

I had an opportunity to experience shadow work at the corporate team. I sat with a mentor whose main area is global funding.

Partners in the team write many detailed articles about legal service on various global funding structures. Such published articles are updated and fined in details. Articles and much useful information are in the database at the firm. They were very useful tools for the beginning of the shadow work. After reading some good articles which my mentor kindly picked them up for me, he gave me the actual documentations on several cross border transactions with different legal basis. I tried to read them through and marked questions. My mentor was kind enough to give me his time to answer questions every day.

The transactions which my mentor worked on were mainly for cross border transactions. The structures were varied in each transaction. The governing law also varied in each transaction such as using Jersey law and Delaware law. Also a role of a customer varied in each transaction such as an adviser and an originator. I could experience variety of structures on global funding.

Court tour

The firm kindly offered a court tour. A high court which we visited is located in “Temple”. It is a historical location and is like a small town itself. Temple holds a court and many offices for legal service including barristers’ offices. (As known, there are barristers and solicitors in U.K.).

We watched a case in the court. Before the tour, a lawyer from a corporate team offered us some related documentations to the case and even explained the basic information and arguing points.

Talks on many legal fields

The firm offered us many small talks from many teams at the firm. We had the contented first week by the talks. Especially, the following talks were very interesting.

i) FIDG (financial institution division group) Learning

Four lawyers reported their recent cases.

- ① Professional contacts/experts database
- ② Germany: clients and cases
- ③ Recent joint hearing in the cross-border insolvency
- ④ Corporate Criminality

One of them came from a German branch, and talked about the important changes in the German corporate law. The information exchange among branches especially within Europe seemed very active at the firm. Lawyers asked many questions even to the German cases which were foreign to them.

ii) Talk on Sports Law

A lawyer from an corporate team explained us about the case of validity of dismissal of a player. The main concern seemed from the area of the labor law in the case. However, the governing law seemed to be a big problem. He also introduced us an international organization for sports’ matter. He also asked us some questions about the London 2012 Olympic and Paralympic Games problem since the firm is offering legal service for the Olympic organization. The issue seemed new and challenging if applied to the U.K. law.

IV. What I learned most from the opportunity

What is law? I had thought that law was domestic. However, the firm seems to act mainly for cross border cases using various laws based around the world. The experience of the GCOE program taught me that law is a basic common tool of the society and business across the world. It seemed essential to study and know the difference and details of each domestic law to offer high qualified legal service. However, it also seemed very important to study through one domestic law deeply to have a common sense of legal basis. This GCOE program and the firm suggested me the direction of my further study of law for my future. At the end, I would like to express my deep appreciation to the GCOE program and the firm for providing me such a precious opportunity.

Report of the GCOE training program at Freshfields Bruckhaus Delinger LLP(New York)

Junya Ohashi

Overview

Thanks to Freshfields Bruckhaus Delinger LLP and the University of Tokyo School of Law, I had the precious opportunity of working at a New York office of the law firm as a GCOE special trainee from 16th July to 13th August 2011. I would like to report on my experience of this program as follows.

My Assignment

The main assignment which I was given by my mentors was research and preparation of a presentation about impacts on investment resulting from the Great East Japan Earthquake. More specifically, the subject of the presentation was, what kind of effects on foreign investment toward Japan are estimated to result from damages to supply chains in the Tohoku area by the earthquake and tsunami.

It seemed that this subject was a little bit vague for me, so the first thing I did was have interviews with my mentors. In these opportunities, I asked them about what they would like to know from my presentation. As a result, I could find that they would like to know what kind of amendments to laws were made after the earthquake. In particular, they were interested in learning about legal amendments which give foreign investors some incentives to invest in Japanese companies. Therefore, I decided to create a presentation to satisfy this requirement.

In my preparatory process, I dealt with revisions of the Law on Special Measures for Industrial Revitalization and Guidelines to Application of the Antimonopoly Act Concerning Review of Business Combinations by the Japan Fair Trade Commission, because these law amendments were intended to attract foreign investment by promoting competitiveness of Japanese enterprises. However, it was very difficult for me to introduce these amendments in English because these rules were too complicated to understand even in Japanese. Furthermore, it was the first time for me to make a presentation not only in English but even in Japanese. Therefore, I sought out my mentors for advice as often as possible, and I made revisions to my presentation on those occasions. In addition, my mentors accepted my request to review a rehearsal of my presentation. In spite of these previous arrangements, I had to stay up all night to cement the outline of my presentation in my head the day before the presentation.

On the day of the presentation, many lawyers from the corporate team and the finance team assembled in the room where I made the presentation. But it was not so hard for me to speak calmly because there was a friendly atmosphere created by my mentors and my roommate, and I had prepared hard for that day. Therefore, it seems that my presentation was not so bad, considering it was my first-ever presentation. Everyone in the room listened to me earnestly and asked me many questions about the presentation, so I was very satisfied.

In this way, I learned from this experience that it is not impossible for me to express my views to foreign people through careful preparation, a lot of gestures, and a strong motivation, although I do not have any experience living abroad and my spoken English is not so fluent. This experience gave me much confidence in communicating with foreign people in English. Therefore, I hope I will be able to make use of this experience in my future employment.

Environment

First, the prominent feature of my working environment was that there were many people with diverse nationalities and backgrounds. The reason is that it was a branch office of a large international law firm. Thanks to that, I learned a lot about the legal systems, culture, and ways of speaking English of different countries. This was very fortunate for me because I would like to work internationally in the future.

Second, in my office, I worked with a young associate lawyer. This was also a great experience for me because I could learn how to make phone calls and draft correspondence, and I could learn about the lifestyle of an American lawyer by observing his daily work behavior and asking him directly. I have some experience working as a summer associate in a Japanese law firm, so it was interesting for me to observe the difference of business style between American lawyers and Japanese lawyers.

Third, a lot of people in my office engaged in public-interest activities in a positive manner. In addition, there were a variety of unique contents of these activities, for example, supplying career experience toward high school or junior high school students, providing legal services toward international organizations, and providing support for employment of homeless people in New York. This was very impressive for me because I had never heard of a Japanese law firm which is as keen as my office in undertaking pro bono activities. It seemed that there was a belief that engaging in public-interest activity is a duty as a lawyer or employee of the law firm. I think this attitude is worthy of emulating, so in the future I hope to engage in public-interest activity, as did the people in my office.

Conclusion and Acknowledgement

I feel that I achieved a great deal from this program. First, I learned that it is possible for me to express my opinion without an extremely high level of linguistic skill if I contrive ways to speak and prepare for a presentation. Second, I found that there are not only problems but also advantages if Japanese people hope to work internationally. Third, I made many friends from different nationalities and backgrounds in and out of my office. I hope I will make a contribution to improving the international competitiveness of Japan by using these valuable achievements.

Finally, I would like to thank the lawyers and staffs at Freshfields New York office. There are many people from whom I received advice and assistance, but I would like to extend special thanks to Mr. Paul Humphreys and Mr. Raymond Daddy, who were my mentors; to Mr. Benjamin Bechstedt, who was my roommate; and to Mr. Julian Pritchard and Mr. Timothy Wilkins, who were friendly toward Japan and devoted much attention to me.

In addition, I would like to express my sincere gratitude to members of GCOE and the University of Tokyo. Professors Masahiko Iwamura, Hideki Kanda, Tomotaka Fujita, and Ms. Noriko Koaze of GCOE gave me the chance to attend such a valuable program, and Professor Daniel H. Foote gave me motivation to work internationally by teaching me in depth regarding international negotiation and gave me much helpful advice about my participation in this program. I strongly hope this wonderful program will be continued.



Report of the GCOE Internship Program in McDermott Will & Emery LLP, Brussels

Erino Yoneda

I. Introduction

I got a chance to work as an intern in McDermott Will & Emery LLP (“MWE”) Brussels office from July 7th to July 29th. Brussels office is located in a four stories building with good atmosphere in a residential area. There are approximately 10 lawyers with different nationalities and they are all nice and friendly. During my internship, Mr. van Weert was my mentor and he gave me some assignments. Ms. Muto , an Japanese lawyer also helped me a lot. Thanks to them, I spent exciting time in Brussels.

II. Works

Almost all cases I was involved in were related to antitrust law because the EU Competition Commission which covers prohibition rules set out in the Treaty of Functioning of the EU is located in Brussels. Below I introduce some of my works and life during my internship.

(1) Attendance to office meetings and study sessions

There were three kinds of office meetings in Brussels office and I was allowed to participate in all of them.

First was a meeting held on alternate Tuesdays lunch time. In this meeting, each lawyer reported cases they had and all lawyers shared their works going on. It seemed that everyone placed importance on communication with colleagues and they were very active.

Second was a teleconference held on every other Tuesdays lunch time. MWE’s Competition/Antitrust lawyers all over the world gathered and exchanged their opinions. There were lawyers in the United States, France, Italy and



Belgium. I had had an experience working as an intern in a big law firm in Tokyo but this was my first time watching an international meeting between lawyers who belonged to the same law firm. It was really exciting that many lawyers had common knowledge about the world practices of antitrust law.

Third was a meeting held on every Thursday morning. Junior lawyers served as chairpersons and made announcements of legal revisions and notable recent court cases. I thought it was good for young lawyers to have compulsory opportunities to make presentations regularly because for that they had to always fix their eyes on news about antitrust law.

I also attended some study sessions using a teleconference system. For example, I attended a legal drafting session for junior lawyers. It was lectured by one of the American MWE lawyers who had a lot of experiences of antitrust lawsuits. It was much worth

taking because I could learn basic skills on legal drafting in English and meanwhile I found some differences between the legal drafting in English and that in Japanese.

(2) Research about Japanese antitrust law

I made some drafts of articles my mentor was going to write. That kind of assignments consisted of most of my work. He chose themes which related to Japanese law and system for me. For instance, one of this was “Comparison between EU merger control and Japanese merger control”. It seemed that he facilitated I learn EU antitrust law because I knew next to nothing about EU antitrust law when I started my internship so that I couldn’t get engaged cases under way soon. He lent me some books which helped my research. I also went to library and used the internet. My mentor was kind enough to answer my questions and discuss whenever I have something I can’t understand. Throughout this work, I learned basic knowledge about EU antitrust law and the difference between EU antitrust law and that of Japan.

(3) Visit to Paris office and Palais de Justice

My mentor gave me a chance to visit Paris office of MWE. There was also an intern so I sat next to her and worked together in the morning. Then I had lunch with lawyers of Paris office and introduced myself to Paris people. In the afternoon we went to the court called Palais de Justice, in English, Palace of Justice and observed a criminal case. At first I was surprised to see the gorgeous interior of the court because that of Japanese court is very simple. It was interesting to find with my own two eyes that the seating of related person in French criminal trial was rather different from Japan. The prosecutor and the accused didn’t sit face-to-face. I was also amazed that the judge talked a lot and was aggressive. I was really lucky that I could take a look at activities of legal professions not only in Belgium but also in France.

III. My impression

What surprised me most during my internship was a global work environment surrounding Belgium lawyers. In Competition/Antitrust cases, sometimes the EU Competition Commission releases documents only in French or Spanish so competition lawyers have to learn not only English but also some other EU official languages to work smoothly. I thought it was really challenging if Japanese who can’t speak many languages want to be active in Belgium.

I was also amazed to see my colleagues often go on business trips to other countries lightly and usually meet their clients in person. One of my colleagues told me that was because in competition area, it was important to know enough about client companies since it was hard for lawyers to grasp concrete image of industry in question without a look. In Japan, even though a client is a foreign company, it isn’t easy to do the same thing because European countries or American countries are so far from Japan.

Indeed, I could have valuable experience to know global lawyers out of Japan owing to the GCOE program. Work styles and life styles of Belgium business lawyers are different from Japanese in many ways and these were vivid for me. I could also find mind of legal professions which Belgian and Japanese had in common. Thank you very much for everyone who helped me work at MWE Brussels office.

Report on Internship at McDermott Will & Emery Paris

Yuki Hattori

Introduction

As an intern from the GCOE program, I had an opportunity to work at Paris office of McDermott Will & Emery (“McDermott Paris”) for 3 weeks in the summer of 2011. McDermott Will & Emery is one of the major international law firms, based in Chicago, United States, with many foreign offices all over the world. Its Paris office was newly opened in May 2011 with strengths in corporate, competition and tax laws. My assignments during the internship were mainly related to competition law. In this report, I would like to describe some of my assignments and what I learned from my experiences.



Research

Research conducted by McDermott Paris was not necessarily limited to pure legal issues. Especially in the field of competition law, lawyers need to be familiar with many aspects of their client’s business, including in which industry the client is doing business, its competitors and respective market share, and the structure of the contemplated transaction, in order to give effective advice. Along with other lawyers, I collected as much information as possible relating to some of their clients’ businesses. Since McDermott Paris has many Japanese clients, I was especially expected to find information which is only provided in Japanese website with no English translation. Naturally, most of such research tends to be time-sensitive, so I tried my best to collect as much relevant information as possible and also immediately report it in a concise memorandum.

Article on M&A

As M&A has been increasingly common to multinational companies, to take necessary measures to avoid risks of violating EU competition law has been one of major hurdles for the successful completion. In this regard, McDermott lawyers continuously write an article on the EU merger regulations and antitrust issues as an alert to their clients. When I was at McDermott Paris, they are writing an article about a potential competition law issue arising from obtaining minority stake in another company. I was assigned to collect and summarize several relevant cases and to make a draft of the article.

Preparation for Presentation

My assignment also related to preparation for presentation on EU competition law issues to be given to Japanese clients. To make such presentation useful for the clients, I was asked to communicate with them to know their particular interests and put Japanese translation on presentation materials prepared by McDermott lawyers. I found this kind of translational work interesting because in doing so I was able to learn then-current important issues on EU competition laws.

Visit to Brussels

In my last week with McDermott Paris, they offered me an opportunity to visit their Brussels office in order to meet their colleagues in Brussels and know their work. As Brussels is where both the EU Commission and WTO committees are located, lawyers in Brussels office are all specialized in EU competition, WTO or both. In addition to Brussels qualified lawyers, there are German and UK lawyers and they perform very important roles to develop the office's function as a center of EU competition and WTO areas. During my stay, they invited me to join their party and I was able to have a chat with them. They explained me about their daily jobs, and the international nature of their work stimulated me very much.

Working for an International Law Firm

Since McDermott is an international law firm, the lawyers deal with not only domestic but also cross-border matters every day. Lawyers and staffs whom I worked with were all French nationals, but they were all fluent in English. Every day at McDermott Paris, I strongly felt that communication in English is one of the imperative skills to work for an international law firm. And also, I realized that there is another important thing to work effectively as an international lawyer. That is to understand and to respect different culture. Like each country has its own culture, a company has its own culture which often reflects that of the company's home country. By observing McDermott lawyers, I learned that a good international lawyer always try to think that what kind of advice was most effective and how the advice would be delivered, taking into account such cultural differences.

My Days in Paris

McDermott Paris is located at an area of the 6th arrondissement (which is equivalent to "ku" in Tokyo). The Seine River is only five minutes' walk from the office and also there are many beautiful places in the neighborhood including the Orsey Museum and Saint-Germain-des-Prés. I rented an apartment in the 4th arrondissement which is across the Seine from the office. From the apartment, the office was about 20 minutes' bus ride. On the way to the office, I enjoyed the beautiful view of the central Paris like the Eiffel Tower and Louvre Museum. It did not take long for me to get accustomed to work in Paris since people at McDermott were so kind that I was quite welcomed to ask them not only about my assignments but also about very basic things from how to get public transportation to places to visit for weekends. In the office, I shared a room with a lawyer who belongs to a corporate division. So, although my assignments mostly related to competition law, I was able to observe what kind of issues McDermott corporate lawyers dealt with and how they worked as a team to answer client's request. My internship there was only for three weeks. But thanks to the hospitality of the people at McDermott Paris, I felt so comfortable at their office and learned a lot from my experiences.

Conclusion

Living and working in a foreign country as an intern might sound difficult for a Japanese law student, but from my own experience, I definitely think it is worth challenging. In my case, all the things that I saw and learned at McDermott Paris spurred me to make every effort to become a reliable international lawyer. I have no doubt that this experience would lead further challenges on my carrier.

Lastly, I would like to express my sincere gratitude to all the people both in McDermott Paris and Tokyo University School of Law for giving me this meaningful intern opportunity.

Internship at the Permanent Bureau of the Hague Conference on Private International Law

Shotaro Ishizuka

The Hague Conference on Private International Law and the Permanent Bureau



The Hague Conference on Private International Law (HCCH) is an international organization that works for the progressive unification of the rules of private international law. The HCCH has developed a number of Conventions, the Hague Conventions, in three fields: international protection of children, family and property relations; international legal co-operation and litigation; and international commercial and finance law. The origin of the HCCH dates back to 1893, and today it counts 72 members: 71 States and the European Union. The Permanent Bureau of the HCCH monitors and supports the operation of the Hague Conventions in collaboration with the members, parties to the Hague Conventions and related international organizations.

Tasks during My Internship

My major task was to prepare an article on the HCCH and its relevance in the Asia-Pacific Region. I also assisted with preparations for the 4th Asia-Pacific Conference. For example, I assisted in drafting correspondence to government officials in the region. In addition, I assisted the Website Manager to create a Japanese page of the HCCH website with links to official Japanese translations of the Hague Conventions. Furthermore, I drew up an organizational chart of the HCCH explaining the relationship between the various organs of the organization for future use on the HCCH website and for many other informational purposes. Finally, with the kind offer from the Deputy Secretary General to give a lecture to the interns at the HCCH on the Convention of 5 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary, I took the initiative to organize this lecture.

This work assignment was absolutely satisfactory. I had the opportunity to interview and question almost every legal officer at the Permanent Bureau in the process of writing the article and in doing so, was able to get to know more about their respective backgrounds and areas of expertise. They were very knowledgeable and I benefited greatly from my conversations with them. I am also gratified that there are tangible results of my work, such as the Japanese page of the HCCH website and the organizational chart of the HCCH.

Other Experiences

The interns at the HCCH were allowed to attend lectures given at the Hague Academy of International Law. I attended the lectures of the summer program of the Hague Academy with other interns. It was pleasant and highly beneficial to meet many talented students of many nationalities at the Hague Academy.

Since The Hague is the seat of many international organizations, I had chances to visit the Japanese officers at the International Criminal Court (ICC), the International Court of Justice (ICJ), the International Criminal Tribunal for the former Yugoslavia (ICTY), the Organization for the Prohibition of Chemical Weapons (OPCW) and the Special Tribunal for Lebanon (STL). It was interesting to compare the different functions and histories of each organization. I also had the good fortune to be able to attend hearings held at the ICC and the ICTY.

Valuable Aspects of My Internship

I feel the most valuable aspect of my internship was the conversations I had with the people I met in The Hague. I was very lucky to meet so many friendly and talented people in such a short period of time.

The exchanges I had with the students at the Hague Academy were very meaningful and fruitful. A Greek student told me about social and economic issues occurring in Greece while I told her about the aging problem in Japan. I learned about the bar exam in Switzerland from a Swiss student and, in turn, I told her about the bar exam in Japan. Through a conversation with a French student, I became aware of the new trends of the legal profession in France. I gave him information about the legal education reform and the increase in the number of lawyers in Japan.

The Japanese officers at the international organizations in The Hague kindly accepted my visit and told me about their careers and the organizations at which they work. Since the number of Japanese international civil servants is relatively small, this was a rare and valuable opportunity. They told me how they trained themselves and applied multiple times to international organizations despite preceding failures. I firmly believe that, if they wish, the younger generation should certainly make efforts to join international organizations. The officers told me that many talented people, without recognizing their competence and wrongly believing they are not qualified, give up before they even make a try.

The highly intelligent staffs at the HCCH taught me in depth about numerous Hague Conventions. For example, I asked various questions regarding the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction to a French officer who was in charge of the Convention. To each question, he answered very appropriately and concretely and I marveled at his wide range of knowledge. It was certainly a stimulating experience to talk with those effective and efficient officers.

The interns at the HCCH were the ones with whom I spent the largest amount of time. While we worked, dined, and traveled together, we had chances to exchange our ideas and stories. In my first week at the Permanent Bureau, I suggested to the interns to have an intern lunch together, and I remember how all the interns warmly accepted this suggestion. They were always friendly and helpful and they made my internship an experience that went far beyond my expectations. I am very sure that without the interns, I would not have enjoyed my internship as thoroughly as I did.

Final Remarks

I would like to express my sincere appreciation to everyone I met in The Hague. I would especially like to thank the GCOE office of the University of Tokyo and the staffs and the interns of the Permanent Bureau of the HCCH. The internship at the HCCH was undoubtedly a life changing experience.



GCOE Soft Law Seminars

No	Date	Topic	Speaker
20	October 31, 2011	Resolving International Investment Disputes: From Soft to Hard Law?	Luke Nottage, Associate Professor, Sydney Law School

GCOE symposia

No	Date	Topic	Speaker
11	August 4, 2011	International Dimension of Modern Competition Law and Policy	See, page 20 for detail
12	September 16, 2011	5th Annual BESETO Conference	See, page 21 for detail
13	November 21-22, 2011	The Rotterdam Rules in Asia-Pacific Region	See, page 22 and 26 for detail
14	December 9, 2011	Corporate Governance: EU and Japan	See, page 24 for detail
15	March 1, 2012	Statistical and Econometrical Analysis and the Law	See, page 25 for detail

The Eleventh Symposium

“International Dimension of Modern Competition Law and Policy”

August 4, 2011 13:30-17:20

Yayoi Auditorium Ichijo-Hall, The University of Tokyo

Moderator: Keiichi Karatsu, Professor, University of Tokyo

Opening: Hideki Kanda, Professor, University of Tokyo

Jacques Buhart, Partner, McDermott Will & Emery Paris and Brussels
“Recent developments in EU competition rules”

Andreas Fuchs, Professor, Osnabrück University
“The Transatlantic Gap in Price Squeeze Cases: Linkline Communications, Inc. v. Deutsche Telekom, TeliaSonera et al.”

Harry First, Professor, New York University School of Law
“Microsoft and the Globalization of Antitrust”

Michael P. A. Cohen, Partner, Paul Hastings Washington D.C.
“Global Competition Law: Really? Why?”

Kenju Watanabe, Partner, Paul Hastings Tokyo / New York
“Premerger Notifications and Takeovers of Public Companies - A Transactional Lawyer’s Perspective”

Tadashi Shiraishi, Professor, Graduate Schools for Law and Politics, University of Tokyo
“Effects on Domestic Purchasers: A Descriptive Theory for Competition Law on Cross-Border Cases”

Organizers:

Institute of Business Law and Comparative Law and Politics, Graduate Schools for Law and Politics, the University of Tokyo
Global Centers of Excellence Program “Soft Law and the State-Market Relationship”

Support: SHOJIHOMU Co., Ltd.

The Twelfth Symposium “5th Annual BESETO Conference”

September 16, 2011 10:20-17:30
Fukutake Learning Studio, The University of Tokyo

Welcome Speech

Session 1 “Recent Trend in Consumer Protection”

“Food safety and consumer protection in China”
Professor JIN Jinping (Peking University, Law School)

“The Legal Protection of Consumers: Interests in the Electronic Commerce”
Professor YANG Ming (Peking University, Law School)

“The Legislation of Consumer Law in the Framework of Chinese Civil Law Codification”
Professor XUE Jun (Peking University, Law School)

“Recent Developments of Consumer Law in Korea”
Professor LEE Bong Eui (Seoul National University, College of Law)

“An Overview of Recent Developments in Consumer Protection in Japan”
Professor OKINO Masami (The University of Tokyo, School of Law)

Session 2 “Recent Trend in Criminal Procedure”

“On the Theoretical Basis for Plea Bargaining System”
Professor WANG Jiancheng (Peking University, Law School)

“Trust and Confidence in the Judiciary: The Role of the Jury System”
Professor LEE Sang Won (Seoul National University, College of Law)

“New Citizen Participation System in Japan: The Saiban-in System and Its Operation”
Professor OHSAWA Yutaka (The University of Tokyo, School of Law)

Closing Speech

Organizers:
Graduate Schools for Law and Politics, the
University of Tokyo
Peking University Law School
Seoul National University College of Law

Cooperation: Global Centers of Excellence
Program “Soft Law and the State-Market
Relationship: Forming a Base for Education and
Research of Private Ordering”

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The Thirteenth Symposium “The Rotterdam Rules in Asia-Pacific Region”

November 21-22, 2011 9:30-18:00

KAIUN Club, Tokyo



Opening Remarks

Kenjiro Egashira, Professor, Waseda University

Session I: Introduction to the Rotterdam Rules

Fumiko Masuda, Associate Professor, Kyoto University

Luca Castellani, Legal Officer in the Secretariat of UNCITRAL

Stuart Beare, Vice-President of the British Maritime Law Association

Rafael Illescas, Professor, Carlos III University

Session II: Coverage and the Parties' Liabilities under the Rotterdam Rules

Takashi Hiraizumi, Professor, Chuo University

Michael Sturley, Fannie Coplin Regents Chair in Law, University of Texas at Austin

Tomotaka Fujita, Professor, the University of Tokyo

Hannu Honka, Professor, Åbo Akademi University, Finland

In Hyeon Kim, Professor, Korea University

Session III: Workshop on the Rotterdam Rules (1)

Masahiro Amemiya, Attorney at Law, Yoshida & Partners

Takehiko Tozuka, Attorney at Law, Okabe & Yamaguchi Law Office

Ohki Hirata, Partner at SAH & Co.

Tomotaka Fujita (Moderator)

Session IV: Aspects of Transport Regulated by the Rotterdam Rules

Souichirou Kozuka, Professor, Gakushuin University

Stephen Girvin, Professor and Vice Dean at the National University of Singapore

Dihuang Song, Partner of Wang Jing & Co., Shenzhen and Beijing, China

Gertjan Van der Ziel, Professor, Erasmus University at Rotterdam

Session V: The Rotterdam Rules and Asia-Pacific States

Souichirou Kozuka

Dihuang Song

Tomotaka Fujita

In Hyeon Kim

Stephen Girvin

Michael Sturley

Session VI: Rotterdam Rules and Industries

Noboru Kashiwagi, Professor, Chuo University, Law School

Tsuyoshi Hayasaka, Arbitrator of the Japan Shipping exchange, Inc.

Ohki Hirata, Partner at SAH & Co.

Shuji Yamaguchi, Attorney at Law, Partner of Okabe&Yamaguchi

Masaru Ishii, Cargo Recovery Manager, Tokio Marine and Nichido Fire Insurance Co., LTD

Session VII: Workshop on the Rotterdam Rules(2)

Akiyoshi Ikeyama, Attorney at Law, Abe & Sakata

Gen Goto, Associate Professor, the University of Tokyo

Manami Sasaoka, Lecturer, Ryutsu Keizai University

Tomotaka Fujita (Moderator)

Concluding Remarks

Seiichi Ochiai, Professor, Chuo University, Law School

Organized by

Japanese Maritime Law Association and University of Tokyo Global COE Program

Under the Auspices of

United Nations Commission on International Trade Law (UNCITRAL), Comité Maritime International (CMI)

Japanese Ministry of Justice, Japanese Ministry of Foreign Affairs, Japanese Ministry of Land, Infrastructure, Transport and Tourism, Institute of Maritime Law, Waseda University

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The Japanese Institute of International Business Law, Inc., Egusa Foundation for International Cooperation in the Social Sciences, Commercial Law Centre, Inc., Japan International Freight Forwarders Association, Inc., The Japan Shipping Exchange, Inc., Japan Maritime Center, The Japanese Shipowners' Association, The Japan Ship Owners' Mutual Protection & Indemnity Association, Nomura Foundation

The Fourteenth Symposium

“Corporate Governance: EU and Japan”

December 9, 2011 13:30-17:40
Tokyo Station Conference #503

Opening remarks

Hans-Dietmar Schweisgut, Ambassador of the European Union to Japan

Keynote Speeches:

Matthias Schmidt-Gerdt, Policy Officer, Corporate Governance and Social Responsibility, DG Internal Market and Services, EU Commission

“The EU corporate governance framework”

Hisashi Ono, Deputy Director-General, Planning and Coordination Bureau, Financial Services Agency in Japan

“Corporate governance framework in Japan”

Presentations:

moderator: Gérard Hertig, Professor, Department of Social Sciences, ETH Zürich, and ECGI

Marco Becht, Goldschmidt Professor of Corporate Governance, Solvay Brussels School (ULB), and ECGI

“Bank governance is different”

Naoyuki Yoshino, Professor of Economics, Keio University, and Chairman, FSA Financial Council, Japan

“Long term commitment and corporate governance -- based on Japanese experience”

Eddy Wymeersch, Professor of Law, University of Gent, and Chairman, ECGI

“New look at the debate about the Takeover Directive”

Hideki Kanda, Professor of Law, The University of Tokyo

“Legal aspects of corporate governance in Japan”

Closing remarks

Eddy Wymeersch

Organized by

ECGI (European Corporate Governance Institute)
Institute of Business Law and Comparative Law and
Politics, Graduate Schools for Law and Politics, the
University of Tokyo
Global Centers of Excellence Program “Soft Law
and the State-Market Relationship”

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The Fifteenth Symposium

“Statistical and Econometrical Analysis and the Law”

March 1, 2012 13:00-17:30
The University of Tokyo Law School #101

Chair: Professor Masahiko Iwamura, the University of Tokyo / GCOE Program Project Leader

Opening Remarks

Professor Masahiko Iwamura

The Development of “Soft Law Project”

Professor Tomotaka Fujita, the University of Tokyo / GCOE Project Scholastic Member

The Use of Econometrical Analysis in Litigation

Speaker: Professor Tomotaka Fujita

Comment: Associate Professor Manabu Matsunaka, Nagoya University

An empirical analysis of board structure of Japanese firms

Speaker: Associate Professor Takuji Saito, Kyoto Sangyo University

Comment: Associate Professor Wataru Tanaka, the University of Tokyo / GCOE Project Scholastic Member

Firm value and its stock price : What can we confirm through an event study analysis?

Speaker: Professor Noriyuki Yanagawa, the University of Tokyo / GCOE Project Scholastic Member and

Associate Professor Sumio Hirose, Shinshu University

Comment: Associate Professor Kotaro Inoue, Keio University

Conclusion

Professor Hideki Kanda, University of Tokyo / GCOE Project Scholastic Member

Closing Remarks

Professor Masahiko Iwamura

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The Rotterdam Rules in the Asia-Pacific Region

Luca Castellani (Legal Officer at the United Nations Commission on International Trade Law) and others

An international symposium on the Rotterdam Rules in the Asia-Pacific region, which was jointly sponsored by this program and the Japanese Maritime Law Association, was held at the Kaiun Club on November 21 and 22, 2011.

The objective of the symposium was to deepen the Japanese people's understanding of the Rotterdam Rules. The Rules, officially called, "the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea," were adopted at the UN General Assembly in 2008 to replace the conventional international rules regarding the carriage of goods by sea, such as the Hague-Visby Rules and the Hague Rules. In light of the fact that the governments, industries, and academics of the countries in the Asia-Pacific region, including Japan, had not thoroughly deliberated the Rules, the symposium invited the experts involved in the writing of the Rules as well as internationally-acclaimed researchers, legal experts, and others in industries related to the carriage of goods by sea. The Rules were formed through the discussions at the United Nations Commission on International Trade Law (UNCITRAL) and were based on the draft written by the Comité Maritime International (CMI), an international group of experts on maritime law from many countries. The exact formation process of the Rules is interesting from the point of view of this program.

Session I of the symposium, "Introduction to the Rotterdam Rules," started with a presentation entitled "the Role of UNCITRAL and the Current Status of the Rules," by Mr. Luca Castellani, the legal officer of the secretariat of UNCITRAL, who was in charge of the Working Group III (Transport Law) that had deliberated the draft of the Rotterdam Rules. Mr. Castellani discussed the activities of UNCITRAL in promoting the adaptation of the Rules. Then Mr. Stuart Beare, a lawyer and the chairperson of the CMI International Subcommittee on Issues of Transport Law, which prepared the CMI draft for the discussion at UNCITRAL, presented "the Need for Change and the Role of the CMI." Mr. Beare explained the changes in the practical operations, including those caused by the widespread use of containers and the progress in seafaring technology. At the end of the session, Professor Rafael Illescas of Carlos III University made a presentation entitled, "the Basic Elements and Features of the Rotterdam Rules." Professor Illescas was the representative of the Spanish government regarding the Working Group III of UNCITRAL and had served as chairperson of both the Working Group and the general assembly of UNCITRAL.

Session II, "The Coverage and the Parties' Liabilities under the Rotterdam Rules," explained the central part of the Rotterdam Rules. First, Professor Michael Sturley of the University of Texas at Austin made a presentation called "the Scope of Application and Freedom of Contract." Professor Sturley was a reporter on the CMI International Subcommittee on Issues of Transport Law and the senior adviser to the delegation of the American government on the Working Group III of UNCITRAL. Professor Sturley discussed the scope of applications of the Rules and the contractual modifications in volume contracts to the parties' liabilities prescribed in the Rotterdam Rules. Professor Tomotaka Fujita then made a presentation entitled "the Period of Responsibility and Multimodal Aspects." Professor Fujita was the representative of the Japanese government on the Working Group III of UNCITRAL. He is also the Section Leader of the Basic Theory Section of this program. Professor Fujita explained certain characteristics of the Rotterdam Rules, including the period of the "door-to-door" responsibility period of the carrier and the possibility of its contractual modification, the rules regarding the coordination with other international conventions, which might conflict with the Rotterdam Rules in multimodal carriage contracts and the rules regarding the maritime performing parties and the performing parties, such as actual carriers. This presentation was followed by presentation by Professor Hannu Honka of Åbo Akademi, the representative of the Finnish government on the Working Group III of UNCITRAL, and then by Professor In Hyeon Kim of Korea University, the representative of the Korean government on the same Working Group. Professor Honka's presentation was entitled "Obligations and Liabilities of the Carrier," and Professor Kim presented a paper on the "Obligations and Liabilities of the Shipper." Both Professor Honka and Professor Kim discussed mainly the points revised by the Rotterdam Rules.

At the end of the first and the second day, "Session III: Workshop on the Rotterdam Rules (1)" and "Session VII: Workshop on the Rotterdam Rules (2)" were held, respectively. In these workshops, the participants asked questions to

the speakers in the other sessions who had been greatly involved in preparing the draft of the Rotterdam Rules. The questions dealt with the application and interpretation of the Rotterdam Rules in cases that could happen in the practice. The discussions in the workshop was very productive. The speakers, who answered the questions from the participants, first clarified the problems dealt by the Rotterdam Rules and the problems governed by the laws applicable and not dealt by the Rotterdam Rules. The speakers then sometimes presented clear single conclusions based on the process of preparing the draft of the Rules, and in other times when the issue was open to interpretation, presented more than one possible conclusion.

At the beginning of the second day, in “Session IV: Aspects of Transport Regulated by the Rotterdam Rules,” four speakers made presentations. First, Professor Stephen Girvin of the National University of Singapore presented “Transport Documents and Electronic Transport Records.” Professor Girvin’s presentation was followed by that of Mr. Dihuang Song, a lawyer who had represented the Chinese government on the Working Group III of UNCITRAL. He discussed the “Right of Control and Transfer of Rights.” Then Professor Gertjan van der Ziel of Erasmus University, who was the chief representative of the Dutch government on the Working Group III of UNCITRAL, presented “Delivery of the Goods.”

Session V, “the Rotterdam Rules and Asia-Pacific States,” raised the issue of how each government in the Asia-Pacific region was trying to deal with the Rules. Professor Fujita (Japan), Professor Kim (Korea), and Professor Girvin (Singapore) stated that their governments had not reached a conclusion regarding this issue, and were watching developments in other countries. On the other hand, Professor Sturley (the United States) reported that the US government and industries were eager to ratify the Rules as soon as possible. Moreover, he said that the Rules were going to undergo opinion inquiries among government organizations before being sent to the President in February 2012 and then deliberated in the Senate.

Session VI, “The Rotterdam Rules and Industries,” began with a presentation by Mr. Tsuyoshi Hayasaka, who was a former officer in charge of legal matters at Kawasaki Kisen Kaisha, Ltd. In his presentation, “The Rotterdam Rules: the Carriers’ Perspective,” Mr. Hayasaka pointed out that although the Rotterdam Rules included items that imposed restrictions on carriers, including the abolition of the navigational fault exemption, national and regional legislations under consideration in Europe and the United States were stricter than the Hague-Visby Rules. Mr. Hayasaka also explained the possible merits and demerits of the Rules for carriers from the viewpoint of practical business. Following Mr. Hayasaka, Mr. Ohki Hirata, a lawyer, presented “the Rotterdam Rules: the Cargo Interests’ Perspective.” Mr. Hirata raised the issue of an indemnity claim by a cargo owner regarding damage to the cargo happened during a sea carriage, and compared the differences in a case under the Hague-Visby Rules and under the Rotterdam Rules. He pointed out that, because of the abolishment of navigational fault exemption, there would be a major change in allocation of burden of proofs in lawsuits. Mr. Shuji Yamaguchi, a lawyer, then presented “The Rotterdam Rules: the Freight Forwarders’ Perspective.” Mr. Yamaguchi stated that in cases in which the Rotterdam Rules were applied to the contract between the freight forwarder and the cargo owner, but the Hague-Visby Rules were applied to the contract between the freight forwarder and the actual carrier, the claim for compensation against the actual carrier by the forwarder who had paid for damages to the cargo owner might be restricted. Mr. Yamaguchi pointed out that because of this possible restriction, it was necessary to be careful about how to divide the period of contract. The final presentation was made by Mr. Masaru Ishii, who was in charge of the claim for compensation of cargos at Tokio Marine & Nichido Fire Insurance Co., Ltd. In his presentation, “The Rotterdam Rules from the Insurers’ Perspective,” Mr. Ishii pointed out that the abolishment of navigational fault exemption could affect the carriers’ claim for the assessed contributions to general average and the defrayment of salvage fee.

Approximately 300 people participated in this two-day symposium. I believe that this symposium greatly improved the understanding of the Rotterdam Rules in Japan. As some participants pointed out in their presentations, it is now possible that, when the attempt of unification by the Rotterdam Rules fails, some countries and regions will introduce its own legislations. Therefore, it is expected that those concerned will fully understand the contents of the Rotterdam Rules and will discuss the need to ratify them.

by Associate Professor Gen Goto, the University of Tokyo / GCOE Project Scholastic Member

International Exchange

<Visitors from Overseas>

Name	Term	Activity
Michael P. A. Cohen, Partner, Paul Hastings Washington D.C.	August 4, 2011	Presentation “Global Competition Law: Really? Why?” at the eleventh symposium
Harry First, Professor, New York University School of Law	August 4, 2011	Presentation “Microsoft and the Globalization of Antitrust” at the eleventh symposium
Andreas Fuchs, Professor, Osnabruck University	August 4, 2011	Presentation “The Transatlantic Gap in Price Squeeze Cases: Linkline Communications, Inc. v. Deutsche Telekom, TeliaSonera et al.” at the eleventh symposium
Jacques Buhart, Partner, McDermott Will & Emery Paris and Brussels	August 4, 2011	Presentation “Recent developments in EU competition rules” at the eleventh symposium
RHO Hyeok Joon, Associate Professor, Seoul National University, College of Law	September 16, 2011	Comments at the twelfth symposium
LEE Bong Eui, Professor, Seoul National University, College of Law	September 16, 2011	Presentation “Recent Developments of Consumer Law in Korea” at the twelfth symposium
LEE Sang Won, Professor, Seoul National University, College of Law	September 16, 2011	Presentation “Trust and Confidence in the Judiciary: The Role of the Jury System” at the twelfth symposium
HAN Ki Jeong, Vice Dean, Seoul National University, College of Law	September 16, 2011	Comments at the twelfth symposium
CHONG Jong Sup, Dean, Seoul National University, College of Law	September 16, 2011	Comments at the twelfth symposium
YANG Ming, Associate Professor, Peking University, Law School	September 16, 2011	Presentation “The Legal Protection of Consumers: Interests in the Electronic Commerce” at the twelfth symposium
XUE Jun, Associate Professor, Peking University, Law School	September 16, 2011	Presentation “The Legislation of Consumer Law in the Framework of Chinese Civil Law Codification” at the twelfth symposium
JIN Jinping, Associate Professor, Peking University, Law School	September 16, 2011	Presentation “Food safety and consumer protection in China” at the twelfth symposium
WANG Jiancheng, Vice Dean, Peking University, Law School	September 16, 2011	Presentation “On the Theoretical Basis for Plea Bargaining System” at the twelfth symposium
Luke Nottage, Associate Professor, Sydney Law School	October 31, 2011	Lecture: “Resolving International Investment Disputes: From Soft to Hard Law?” at the twentieth meeting of the GCOE Soft Law Seminar

Gertjan Van der Ziel, Professor at the Erasmus University, Rotterdam	November 21-22, 2011	Presentation: "Delivery of the Goods" at the thirteenth symposium
Dihuang Song, Partner of Wang Jing & Co., Shenzhen and Beijing, China	November 21-22, 2011	Presentation: "The Right of Control and Transfer of Rights" at the thirteenth symposium
Stephen Girvin, Professor and Vice Dean at the National University of Singapore	November 21-22, 2011	Presentation: "Transport Documents and Electronic Transport Records" at the thirteenth symposium
In Hyeon Kim, Professor at the School of Law, Korea University	November 21-22, 2011	Presentation: "Obligation and Liabilities of the Shipper" at the thirteenth symposium
Hannu Honka, Professor at the Åbo Akademi University, Finland	November 21-22, 2011	Presentation: "Obligation and Liabilities of the Carrier" at the thirteenth symposium
Michael Sturley, Professor at the University of Texas at Austin	November 21-22, 2011	Presentation: "Scope of Application and Freedom of Contract" at the thirteenth symposium
Rafael Illescas, Professor at the Carlos III University, Madrid	November 21-22, 2011	Presentation: "Basic Elements and Features of the Rotterdam Rules" at the thirteenth symposium
Stuart Beare, Vice-President of the British Maritime Law Association	November 21-22, 2011	Presentation: "The Need for Change and the Role of the CMI" at the thirteenth symposium
Luca Castellani, Legal Officer in the Secretariat of the UNCITRAL	November 21-22, 2011	Presentation: "The Role of UNCITRAL and the Current Status of the Rules" at the thirteenth symposium
Dr. Louise Floyd, Senior Lecturer, James Cook University, Australia	November 25, 2011	Lecture: "New Developments in Australian Labour Law - QANTAS; the Demise of Prime Minister Rudd and Beyond" at the tenth meeting of the Study Group on Social Law and Soft Law
Eddy Wymeersch, Professor of Law, University of Gent, and Chairman, ECGI	December 9, 2011	Presentation: "New look at the debate about the Takeover Directive" at the Fourteenth Symposium
Marco Becht, Goldschmidt Professor of Corporate Governance, Solvay Brussels School (ULB), and ECGI	December 9, 2011	Presentation: "Bank governance is different" at the Fourteenth Symposium
Gérard Hertig, Professor, Department of Social Sciences, ETH Zurich, and ECGI	December 9, 2011	Moderator for the Fourteenth Symposium
Matthias Schmidt-Gerds, Policy Officer, Corporate Governance and Social Responsibility, DG Internal Market and Services, EU Commission	December 9, 2011	Keynote Speech: "The EU corporate governance framework" at the Fourteenth Symposium
Antoine Lyon-Caen, Professor, Université Paris Ouest Nanterre La Défense	February 24, 2012	Lecture at the eleventh meeting of the Study Group on Social Law and Soft Law

Soft Law Journal

“Soft Law Journal” has been issued by the 21st Century COE Program “Soft Law and the State-Market Relationship: Forming a Base for Strategic Research and Education in Business Law” since January 2005. It was taken over by Global COE (Centers of Excellence) Program “Soft Law and the State-Market Relationship: Forming a Base for Education and Research of Private Ordering” from vol. 12.

No.18 2011

<Symposium>

Convergence of International Norms: Creating Norms without Hard Law

“The Development of ‘Soft Law Project’”	Tomotaka FUJITA
“Convergence of accounting standards”	Atsushi KOGASAKA
“Convergence of accounting standards: Comment on Kogasaka”	Keiichi KARATSU
“OECD’s Project on Enhancing Tax Risk Management: Convergence of Tax Administration Framework?”	Masao YOSHIMURA
“Convergence of Tax Administration Framework?: Comment on Yoshimura”	Yoshihiro MASUI
“The Convergence in Corporate Governance Rules”	Takahito KATO
“The Convergence in Corporate Governance Rules: Comment on Kato”	Tomotaka FUJITA
Concluding Remarks	Hideki KANDA

No.19 2012

<Article>

“Game Theory and Legal Analysis of Negotiating Workout Arrangements”	Keiko YAMAMOTO
“The Utilization of Econometric Models in the Shareholders’ Appraisal Remedy Case in re INTELLIGENCE, LTD. ”	Akihito ISHIZUKA

<Symposium Contribution>

“The Electric Power Industry and Competition Law in Japan”	Tadashi SHIRAISHI
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<Book Review>

“Bernard Wolfman, Deborah H. Schenk, and Diane Ring, Ethical Problems in Federal Tax Practice, 4th Edition (Aspen Publishers, 2008)”	Yoshihiro MASUI
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<Conversazione>

“Interim Proposal concerning Revision of Companies Act December 2011 (Counselor’s Office, Civil Affairs Bureau, Ministry of Justice)”	Tomotaka FUJITA, and others
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UT Soft Law Review

Global COE Program began to publish “UT Soft Law Review” disseminate its research results and contribute to a development of international research exchanges.

No.4 2012

5th Annual BESETO Conference

Session 1 “Recent Trend in Consumer Protection”

“Recent Developments of Consumer Law in Korea”

Professor LEE Bong Eui (Seoul National University, College of Law)

“An Overview of Recent Developments in Consumer Protection in Japan”

Professor OKINO Masami (The University of Tokyo, School of Law)

Session 2 “Recent Trend in Criminal Procedure”

“Trust and Confidence in the Judiciary: The Role of the Jury System”

Professor LEE Sang Won (Seoul National University, College of Law)

“New Citizen Participation System in Japan: The Saiban-in System and Its Operation”

Professor OHSAWA Yutaka (The University of Tokyo, School of Law)



GCOE Soft Law Discussion Paper Series

This center distributes each research paper as a “Discussion Paper,” written either by each project member or each researcher outside our university. The “Discussion Paper” is available in hardcopy form and for download from our web site (<http://www.gcoe.j.u-tokyo.ac.jp/outcome/paper.html>).

No	Author	Title
GCOESOFTLAW 2011-1	Keiko YAMAMOTO	Game Theory and Legal Analysis of Negotiating Workout Arrangements
GCOESOFTLAW 2011-2	Akihito ISHIZUKA	The Utilization of Econometric Models in the Shareholders’ Appraisal Remedy Case in re INTELLIGENCE, LTD.
GCOESOFTLAW 2011-3	Tadashi SHIRAIISHI	The Electric Power Industry and Competition Law in Japan
GCOESOFTLAW 2011-4	Yoshihiro MASUI	<Book Review> Bernard Wolfman, Deborah H. Schenk, and Diane Ring, Ethical Problems in Federal Tax Practice, 4th Edition (Aspen Publishers, 2008)



March 31, 2012

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