

Current Status and Agenda for Law School Education in Conflict of Laws and International Business Transactions — International Business Law (Summary)

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Introduction

This paper is written on the basis of my report on “Education of International Private Law at the Law School and its Problem – International Trade Law” at 124th Conference of the Private International Law Association of Japan on 10th October 2011, which has been amended with due regard to the opinions expressed by other participants at the Conference and subsequent change in the circumstances.

1. Present education at the law school

(1) Position of International Trade Law

As a result of my survey it was found that international trade law is being taught at 54 or 55 law schools out of all 74 law schools in Japan. It is generally treated as one of the selective subjects in the category of advanced/developed fields, to which 2 credits are granted.

Also at some of the law schools, it is recommended to take this subject in the model curricula for those students who wish to become expert lawyers in the area of corporate affairs or international business laws.

(2) Content of the lecture

My syllabus substantially changed in 2009 when CISG (The United Nations Convention on Contracts for the International Sale of Goods) became effective to Japan, and since then CISG has become a domestic Japanese law applicable to the international sales instead of Civil/Commercial Code and as a result, has become the centre of the lecture of the international trade law.

I had a chance to see the syllabi of international trade law of 22 law schools thanks to the cooperation of my fellow lecturers and by my internet survey and I came to a conclusion that strong emphasis are put on the international sales law among those law schools and 5 or more times at 11 law schools. CISG is the main part of it.

(3) Method of the lecture

It is generally recommended that the 'Socrates method' which is the effective teaching method by using Q & A with students should be used at the lecture. But I feel it extremely difficult to apply it to the students at the international trade law because the level of students' understanding is generally not up to it. However, to avoid the lecture one way, I have been trying to teach in other ways involving the students as much as possible, by asking them about corresponding Japanese laws and letting them report relating cases.

2. Problems and remaining issues to be solved

(1) Content of the lecture of international trade law

International trade law is taught at the large number of law schools in Japan but as some critics say, there is a problem that the level and content of the lectures are various, depending on the lecturers.

But my said survey shows, since 2009 the content of the syllabi seems to have substantially aligned.

(2) Position of international trade law within the selective subject of International Related Law (Private Law Area) in the national bar examination

(a) Significance of the international trade law in general

As the international trade law is not always questioned in the bar examination every year and when questioned, on only limited area, it is possible for the students to misunderstand that they may deal with it without much preparation.

(b) CISG in the national bar examination

According to a report on the result of the first new bar examination in Korea (see at Page 1464 of IBL Vol 40 No. 9), the most popular selective subject among the applicants was international trade law, the scope of which was international private law and CISG. Compared with that of Japan, this is a very interesting news.

CISG is within the scope of the bar examination of the International Related Law (Private Law Area) but it is not clear whether or not substantive issues of CISG should be questioned in the bar examination.

(c) International uniform rules such as INCOTEMS or UCP

It is thought that these rules are outside the scope of the bar examination. But as they are extremely important in the international business laws and practice, these

rules should be covered in the bar examination.

(3) Number of registered students

It seems to be a general phenomenon that the number of students registered for the course of international trade law is far less than we had hoped. One of the reasons might be that the students are paying too much attentions to other subjects of the bar examination. As the international trade law is treated negligible in the bar examination, they do not want to spend much time for studying international trade law.

(4) Basic knowledge and skills to be taught at law schools

The 'Recommendations of the Judicial Reform Council - For a Judicial System to Support Japan in the 21st Century' recommended that the quality of lawyers in 21st century should be armed with knowledge of foreign laws, international point of view and foreign language ability as well as any other knowledge and skills. Based on that recommendation, the Provisional Report of the Committee for the New National Bar Examination suggested that the ideal lawyers to be qualified through national bar examination should maintain at the same standard. Those reports clarified that the law schools should properly respond to the public demand and expectations. As the Japanese industries, whether big or small, are under strong influence of the wider globalization, they expect good services from the lawyers in this area. Legal English, various basic skills such as interview or negotiation skills or basic Anglo-American laws should be taught at the law schools. But unfortunately there are only limited law schools in Japan to accommodate such requirements.

Conclusion

As reported above, education of international trade law at the law schools are posing some problems and issues to be solved. Firstly there is a problem that the level and content of the lecture may be various depending on the lecturers. But as mentioned above, the content seems to be aligned. Secondly as the education at law schools might be strongly influenced by the policy of the national bar examination, there seems to be a couple of problems as mentioned above relating to the international trade laws. Thirdly viewing from the external economic situation surrounding Japan, Japanese lawyers must respond to demand of their clients in the international business transactions. Therefore it is highly recommended that legal English and some basic skills should be taught as the compulsory subjects at the law school stage.