

Interim Report

Study Council for Promoting Translation of Japanese Laws and Regulations into
Foreign Languages

September 30, 2005

1. Introduction

The "Study Council for Promoting Translation of Japanese Laws and Regulations into Foreign Languages" (hereinafter referred to as the "Study Council") was established under the "Liaison Conference of the Relevant Ministries and Agencies for Developing the Foundation for Promoting Translation of Japanese Laws and Regulations into Foreign Languages" (hereinafter referred to as the "Liaison Conference"), which was set up in the Cabinet Secretariat based on the "Future Promotion of Justice System Reform" (adopted by the Office for Promotion of Justice System Reform on November 26, 2004). The Study Council's mission is to make comprehensive and wide-ranging studies on matters concerning development of the foundation for promoting translation of Japanese laws and regulations into foreign languages.

Since its first meeting on February 2, 2005, the Study Council has held five meetings to date. In these meetings, it discussed: (i) the basic principles of translation; (ii) how translation should be promoted (the laws and regulations to be translated and the method of translation); (iii) development of a framework for facilitating access to the translations of laws and regulations; and (iv) development of a framework for continuous maintenance of the translations, such as responding to legal amendments. At the same time, the Study Council also held interviews through the secretariat (Office for Promotion of Justice System Reform in the Cabinet Secretariat) with external experts who are in a position to use the foreign language translations of laws and regulations. Furthermore, it established a "working group" consisting of scholars and practicing lawyers for conducting expert study on the specific individual items concerning development of the foundation for promoting translation of laws and regulations into foreign languages. The working group is currently compiling a standard bilingual dictionary (see 3(3) of this report) and translating some of the laws and regulations (see 4(2) of this report) with the cooperation of a research group including the Graduate School of Information Science, Nagoya University as well as relevant ministries and agencies.

The Study Council was required to make an interim report covering the status of progress of the working group to the Liaison Conference in around September 2005. Accordingly, it hereby summarizes the broad direction that has been agreed upon and the perspectives and the direction of study for the future discussions into an interim report based on the results of study to date. By submitting this report to the Liaison Conference and making the report public, the Study Council intends to seek opinions and requests widely from various quarters.

2. Direction for promoting translation of Japanese laws and regulations into foreign languages

(1) Needs for translation of Japanese laws and regulations into foreign languages

It is extremely important for Japanese laws and regulations to be easily and correctly understood in the ever-globalizing world. Repeated indications have been made in the past on the high level of necessity for producing foreign language translations (particularly English translations) of Japanese laws and regulations especially from the viewpoint of facilitating international trade, promoting foreign investment in Japan, and promoting support for legal system development in developing countries. In other words, amidst the ongoing globalization of economic activities, it is extremely meaningful, from the viewpoint of strengthening Japan's international competitiveness, to have the Japanese legal system widely used as the governing law or such in international transactions involving Japanese companies, and thereby to facilitate the conduct of international transactions by Japanese companies. As an effort to develop the foundation for it, it is essential to achieve a correct understanding of the Japanese legal system in the international community. Moreover, in order to promote foreign investment in Japan, which is positioned as an important national strategy for Japanese economic development, higher transparency must be achieved in the Japanese legal system, such as the details of laws and regulations. Meanwhile, support the development of legal systems in developing countries, which leads to enhancing the partnerships with the supported countries and demonstrates to the world Japan's international contribution, also serves Japan's own national interests. However, such efforts cannot be implemented in a facilitated manner unless Japan's principal laws and regulations are made available in a form easily understandable by the supported countries. In addition, the need to produce translations of Japanese laws and regulations in foreign languages has been pointed out also from the viewpoint of enhancing international understanding of Japan and increasing convenience of life for foreign residents in Japan.

(2) Current status and challenges (need for development of the foundation)

In order to respond to the needs mentioned above in (1), foreign language translations must be promptly produced for the highly needed laws and regulations including basic laws, laws related to intellectual property, laws related to the economy,

laws related to administrative procedures, and laws related to labor (English translations should be produced first, and translations in other languages should be made subject to future study). In particular, basic laws such as the Civil Code and the Commercial Code contain extensive, basic legal terminology and serve as the foundation for other laws and regulations. Therefore, translations of a particularly high quality must be produced as early as possible.

Conventionally, Japanese laws and regulations have been translated under the individual efforts of the relevant ministries and agencies or the private sector, and a certain level has been achieved. Nevertheless, a number of problems have been pointed out. For example, translations responding to the latest amendments of highly needed laws and regulations have not been produced sufficiently; even when translations exist, there is lack of consistency in the terms and expressions used, causing unnecessary misunderstandings; and the translations of laws and regulations are not easily accessible. The government should promptly promote development of the foundation as follows in order that consistent and reliable English translations will be produced for highly needed laws and regulations and so that the translations will become easily accessible.

3. Basic principles of translation (formulation of translation rules)

(1) Basic concept

In order to ensure that consistent and reliable English translations of laws and regulations are produced in a continuous manner, the government should formulate translation rules consisting of: (i) the basic approach to translation (see (2) of this section); and (ii) a standard bilingual dictionary containing side-by-side Japanese-English translations of key terms and expressions (see (3) of this section). At the same time, it should take measures to ensure that translations are made in compliance with these translation rules, as indicated in (4) of this section.

The translation rules should basically be used as the guidelines to be referred to by the relevant ministries and agencies as well as private organizations when making translations. Even when these organizations make translations in compliance with the translation rules, the translations should not be deemed as the official translations (since the legal force pertains to the original law or regulation, the translation should be positioned as a reference material to help understand the law or regulation). Furthermore, when making a translation, the positioning of the translation should be clearly indicated, including the fact that it complies with the translation rules and that it is not the official translation.

(2) Basic approach to translation

In light of the needs for foreign language translations of laws and regulations as indicated in 2(1) of this report, laws and regulations should be translated into English by assuming persons who have certain knowledge of Anglo-American law but no knowledge of Japanese law and Japanese language (for example, legal practitioners and corporate workers) as users and efforts should be made to make the translations accurate and understandable to enable such users to understand the purport of the original legal text.

As for the relationship between accuracy and understandability, emphasis should be placed on understandability while maintaining the accuracy of the translation, and efforts should be made to make the translations easy to understand for native speakers of English (natural and easy-to-read English translations). Specifically, the individual terms and expressions should be translated, in principle, precisely according to the standard bilingual dictionary, on the premise that, as mentioned in (3) of this section, English terms and expressions that give native English speakers the impression closest to the concept of Japanese law have been selected in the standard bilingual dictionary, while efforts should be made to make the whole sentence natural and easy-to-read as English by supplementing the subject or object that is omitted in the original text, as required.

(3) Standard bilingual dictionary

The standard bilingual dictionary should contain side-by-side translations not only of individual legal terminology, but also of matters related to the format of laws and regulations as well as general expressions. It should broadly cover key terms and expressions without limitation to specific fields, with a focus on basic terms and expressions that are repeatedly used in typical substantive laws and procedural laws in the fields of civil, criminal, and administrative affairs. In addition, the arrangement of the contents and the layout should be sufficiently worked out from the viewpoint of ease of use. The side-by-side translation for each item should basically indicate a single, most appropriate corresponding term or expression for each term or expression from the standpoint of making translations that are consistent as a whole. When it is considered to be exceptionally appropriate to use different corresponding terms or expressions for a single term or expression depending on the context, multiple options should be indicated while clearly stating the standards for their usage. In addition, each item should attach examples of usage and annotations whenever possible to help

users' understanding.

When selecting the corresponding individual terms and expressions, those that give native English speakers the impression closest to the concept of Japanese law (not only close in concept, but also easy to understand) should be adopted. For example, since Japanese law has its roots in continental law, Latin-derived terms sometimes have a meaning close to the concept of Japanese law (for example, "hypothec" for *teit ken* [mortgage] and "assign" for *j to* [transfer]), but the degree of recognition of such terms among native English speakers needs to be taken into consideration. Meanwhile, it has been pointed out that direct indication of the Japanese term or expression in Roman characters (for example, *jokoku* and *kabushiki-kaisha*) makes it difficult for native English speakers to understand, so it should be avoided except when absolutely necessary. In a way, no term or expression would completely coincide with the concept of Japanese law, so supplemental explanation by annotations would be essential for an accurate understanding. Conversely, selecting expressions that are difficult to understand for native English speakers in an excessive effort to convey the accurate concept should be avoided. While conventional examples and trends of usage should be sufficiently taken into consideration in selecting the corresponding terms and expressions, past practice should be reviewed if necessary from the viewpoint of achieving consistency and understandability as a whole.

The Study Council has established a working group and is currently compiling the standard bilingual dictionary based on the above concept. To date, the corresponding terms and expressions have been automatically extracted from existing translation data provided by the relevant ministries and agencies by using a computer system developed by a research group including the Graduate School of Information Science, Nagoya University, and they have been sorted out based on the expert knowledge of the relevant ministries and agencies. After conducting further study in a working group consisting of scholars and attorneys at law, the Study Council plans to present a concrete draft of the standard bilingual dictionary in its final report.

(4) Ensuring compliance with the translation rules

In order to promote translation in compliance with the above translation rules and thereby ensure that consistent and reliable English translations of Japanese laws and regulations will be produced in a continuous manner, the translation rules should be published for free access, and the relevant ministries and agencies should comply with the translation rules when producing English translations of Japanese laws and

regulations. As discussed in 4(2) of this report, if the relevant ministries and agencies translate the principal laws and regulations in compliance with the translation rules, the translation rules are likely to become respected also by the private sector as a de facto standard. Naturally, however, the translation rules need to have high quality that deserves respect, in the first place.

Even when English translations of Japanese laws and regulations are produced in compliance with the translation rules, there could be cases where it would seem more appropriate to select a corresponding term or expression different from that in the standard bilingual dictionary for individual terms or expressions for the purpose of securing accuracy and naturalness. In such a case, the fact that a different corresponding term has been used and the reason for it should be indicated by annotation, in principle. At the same time, consideration should be made of whether or not the standard bilingual dictionary should be revised based on the status of such selection of other corresponding term or expression, as discussed in Section 6 of this report.

There may be a view that some public certification system should be established for ensuring compliance with the translation rules. However, from the viewpoint of extensively and promptly producing foreign language translations of laws and regulations, there would be a problem in establishing a framework for certifying one by one the large number of translations produced by the government and the private sector. Although a risk of circulation of translations that profess to comply with the translation rules but actually do not comply whatsoever cannot be denied, the generally accessible translations produced by the private sector would likely to be mainly provided by specialized firms such as publishers and translation companies in the foreseeable future, due to the nature of translation of laws and regulations. Even if compliance becomes a problem, the problem is likely to become resolved to a considerable extent by market selection based on complaints from users and such. Therefore, introduction of a certification system should not be adopted immediately but should be made subject to future studies.

4. How translation should be promoted

(1) Basic concept

In order to continuously make consistent and reliable English translations of Japanese laws and regulations, the government not only must formulate translation rules, but it also must make independent efforts to produce English translations that comply with the translation rules for a certain scope of laws and regulations. In the

past, private sector efforts to translate Japanese laws and regulations into English made insufficient progress despite an existing need, due to problems including the profitability of the work. The formulation of translation rules by the government (see Section 3 of this report) would serve as a factor for promoting such efforts in the private sector, but it would not be sufficient by itself. The translations of highly needed important laws and regulations should be intensively produced at an early stage under the government initiative as part of development of the foundation, and, based on that, one should expect the advancement of private sector efforts.

Such production of translations by the government would not run contrary to the philosophy of "what can be done by the private sector should be left in its hands" as long as it supplements and encourages private sector efforts. Rather, the translations produced by the government in the above manner should be positioned as an infrastructure that enables Japan to respond to the globalized international community and strengthen its international competitiveness.

Meanwhile, there may be an argument that all the currently existing laws and regulations or those that are to be enacted in the future should be translated by the government at its own expense. However, it is not justifiable for the government to uniformly and perpetually translate all of the enormous number of laws and regulations at its expense without regard to the actual needs and the status of private sector efforts, from the viewpoint of appropriate role-sharing between the public and private sectors, the desirable relationship between benefits and expenses, reasonable allocation of limited resources, and the actual feasibility. Consequently, production of translations by the government should be conducted within a scope that befits the purpose of development of the foundation by selecting appropriate means.

(2) Details of the production of translations by the government

Translation of laws and regulations for development of the foundation as discussed in (1) of this section needs to be conducted at an early stage in an intensive and organized manner. In order to securely perform this translation work, the government should formulate a translation development program for the three years from fiscal 2006 through fiscal 2008, and take necessary measures so that translations complying with the translation rules mentioned in Section 3 of this report would be produced according to the program.

It would be reasonable for the ministries and agencies in charge of the respective laws and regulations to take the responsibility for producing the translations, both from the standpoint of using their expert knowledge on the laws and regulations

under their charge and from the standpoint of sharing the work in a rational manner. The relevant ministries and agencies should make effort to produce translations that not only comply with the translation rules, but also are of high quality meeting the needs of users, in producing translations according to the above program. One idea would be to make full use of the efforts of the independent administrative corporations and government-affiliated organizations under charge of the respective ministries and agencies (if these corporations and organizations are able to produce translations in compliance with the translation rules and provide users with easy access to the translations, the respective ministries and agencies would not be required to prepare redundant translations of the same laws and regulations). Whether or not the individual translations should be produced by the government at its own expense would need to be examined individualistically in the budgetary process of each fiscal year, but the relevant ministries and agencies should make the utmost effort to promote production of the translations according to the program, and the Cabinet Secretariat in charge of overall coordination should engage in the required coordination work such as providing necessary information. Furthermore, in order to make sure that translations are produced according to the above program, the government should continue to hold meetings of the Liaison Conference about once a year even from fiscal 2006 onward to follow up on the status of production of translations and make public the results. The Liaison Conference could also revise the details of the translation development program as required based on the follow-up results.

It is also necessary to precisely reflect user needs in the above-mentioned translation development program. Based on the idea that an effective way to concretely and substantively reflect users needs would be to gather opinions by mentioning the specific names of the laws and regulations, the Study Council requested the relevant ministries and agencies to submit plans containing the candidate laws and regulations to be translated during the above-mentioned three-year period and the time schedule for their translation. The Study Council summarized the responses from the ministries and agencies (Appendix 1), and is currently holding discussions based on it. This list was quickly prepared only to show the candidate laws and regulations, the translation of which the respective ministries and agencies are considering, to provide a basis for discussions, and the actual laws and regulations to be translated must be examined more closely based on the role sharing between the public and private sectors among other factors. However, the list is published at this time so that the above program can be formulated in the future according to the

significance of promoting translation of laws and regulations into English and specific user needs, while seeking opinions and requests from various quarters.

Furthermore, the Study Council plans to have the working group translate 14 laws (Appendix 2) for which there is particularly high need for translation and would serve as the foundation for various fields within fiscal 2005, separate from the above program to verify the usability of the standard bilingual dictionary and to reflect feedback on the findings in its contents. These translations will be published along with the final report for public use.

(3) Promotion of translation after development of the foundation by the government

Once the foundation for translating laws and regulations is developed by the government and the translation rules become established as the de facto standard, efforts by the private sector are likely to make progress thereafter. Therefore, with regard to the promotion of translation after fiscal 2008 when the translation development program ends, expectations should basically be placed on the private sector to produce translations that comply with the translation rules.

The produced translations would become meaningless if they are left as they are without responding to later amendments, and such responses to amendments can be made in a more rational manner by using the knowledge at the time of producing the original translation. Therefore, when laws and regulations that were translated by the relevant ministries and agencies in compliance with the translation rules according to the translation development program are amended, it may be more appropriate for the respective ministries and agencies to produce translations that correspond to the amendments (however, this does not apply if translations are to be made by the private sector; moreover, in the case of a comprehensive amendment, the below-mentioned practice for a new law or regulation could be applied). If a new law or regulation is legislated, the ministry or agency in charge should consider an appropriate measure accordingly based on the user needs and the status of translation conducted by the private sector, while in principle using private sector efforts.

5. Development of a framework for facilitating access to translations of laws and regulations

(1) Basic concept

As mentioned in 2(2) of this report, it has been pointed out that English translations of Japanese laws and regulations are not easily accessible even if the

translations exist. The specific problems include the difficulty of knowing whether or not a translation exists in the first place, inconvenient access on the Internet, and lack of necessary information such as whether the translation corresponds to the latest law or regulation.

In order to resolve these problems, development of a user-friendly access framework should be considered, such as making the translations of laws and regulations searchable and usable in a centralized manner as much as possible and creating a system that allows users to check the necessary information such as the status of response to legal amendments. This effort would also comply with the Japan's policy to introduce information and communications technology to administrative information (provision of user-oriented, highly transparent, efficient and safe administrative services). Similar to the translations of laws and regulations, sufficient access should be provided to the translation rules mentioned in Section 3 of this report for public use.

(2) Development of an access framework using the Internet, etc.

In order to ensure centralized access to the translations of laws and regulations today, use of the Internet would be essential. Thus, the Internet should be actively used in the access framework to be developed.

For the foreseeable future, the translations produced by the relevant ministries and agencies in compliance with the translation rules (the side-by-side translation data including the data of the original law or regulation) could be accumulated on a government agency's website (rules for the provision of side-by-side translation data from the relevant ministries and agencies to the website managing body must be established), and they could be published for free access along with the translation rules by clarifying their status of correspondence to legal amendments. It is desirable for this website to widely publish also translations produced by government-affiliated organizations as long as the rights in the translations have been appropriately dealt with, and if there are translations for which rights have not been dealt with, the website should at least disclose information on the existence of such translations. Furthermore, when there already exist translations produced by the relevant ministries and agencies that are not compliant with the translation rules, the website could provide hyperlinks to those translations by making a clear statement to the effect. This website could provide user-friendly searches by arranging the accumulated side-by-side translation data in the order of the Japanese syllabary, and in alphabetical order, and by field of law, and could have a system for gathering users' opinions such

as an electronic opinion box.

When the framework mentioned in Section 6 of this report has been set up, consideration should be made to establish a dedicated website for the framework for storing the translations (side-by-side translation data) compliant with the translation rules, publishing the translations along with the translation rules, and providing even more functional, full-fledge search functions.

At the same time, use of means other than the Internet, such as paper media, should also be considered for widely diffusing the translation rules and the translations compliant with them.

6. Maintenance of the translation rules, etc.

The translation rules mentioned in Section 2 of this report need to be revised even after their formulation based on newly produced translations and users' opinions. In addition, the access framework using the Internet and paper media, discussed in Section 5 of this report, also requires continuous maintenance and administration work. Thus, it is necessary to consider a framework for conducting such continuous work.

In this respect, the most important point would be to ensure the permanence of the undertaking. The translation rules, which take enormous time and labor to formulate, would eventually become unusable if they are left as they are without being revised, and the produced translations would become inaccessible if the website is not maintained and administrated properly. In this manner, unless the permanence of the undertaking is ensured, the achievement of the entire project may become a waste.

The possible undertaking organization would be a government agency, an independent administrative corporation, or a private organization, but the Study Council has yet to have sufficient discussions on which choice would be more appropriate. It plans to conduct intensive study on the necessary frameworks based on the above viewpoints by the time of the final report.

7. Closing remarks toward the final report

As discussed in the beginning, the Study Council has compiled the study results to date, and by reporting them to the Liaison Conference and making them public, it hopes to gain opinions and demands widely from various quarters. The Study Council intends to further advance its analyses and work by referring to the gathered opinions and demands, and to present a solid final report and work results.

This report includes proposals of concrete measures such as the framework for production of translations by the government for the period from fiscal 2006 through fiscal 2008. The Study Council hopes that these measures would be taken care of promptly by conducting the necessary government decision-making at the Liaison Conference, without waiting for the final report.

After this, the Study Council will conduct more in-depth study on the remaining discussion points and challenges while considering the opinions and demands from various quarters in relation to this report, and proceed with the creation of the standard bilingual dictionary and actual translation of some of the laws and regulations. In its final report, it will submit to the Liaison Conference a vision on how the foundation for promoting translation of laws and regulations into foreign languages should be developed as well as substantial work results. To this end, the Study Council asks for the broad understanding and continued cooperation and support of all quarters for the promotion of translation of laws and regulations into foreign languages.

(Appendices)

Appendix 1: Basis for the discussions for formulating the translation development program (list of responses from the ministries and agencies in charge of laws and regulations) (draft)

Appendix 2: List of laws and regulations to be translated by the working group

- List of Liaison Conference members
- List of Study Council members
- List of working group members
- List of meetings of Liaison Conference and Study Council