

Preface

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PREFACE

The evolution of the market-oriented economy and the increase in cross-border transactions have brought an urgent need for research and comparisons of judicial systems and the role of law in the development of Asian countries. Last year, in FY 2000, the Institute of Developing Economies, Japan External Trade Organization (IDE-JETRO) conducted legal researches in Asian countries with two main themes. The first theme was to figure out the role of law in social and economic development and the second was to survey the judicial systems and the ongoing reform process thereof. We organized joint research projects with research institutions in Asia and had a roundtable meeting entitled “Law, Development and Socio-Economic Change in Asia” in Manila. The outcome of the joint researches and the meeting was published in March 2001 as *IDE Asian Law Series No. 1-10*.

This year, in FY 2001, based on the last year’s achievement, we established two research committees: the Committee on “Law and Political Development in Asia” and the Committee on “Dispute Resolution Process in Asia”. The former committee focused on legal and institutional reforms following democratic movements in several Asian countries. Since late 1980s many Asian countries have experienced drastic political changes by the democratic movements with mass action, which have resulted in the reforms of political and administrative system for ensuring the transparency and accountability of the political and administrative process, human rights protection, and the participation of the people to those process. Such reforms are essential to create the stability of the democratic polity while law and legal institutions need to function effectively as designed for democracy. The latter committee conducted a comparative study on availability of the court system and out-of-court systems (namely Alternative Dispute Resolutions), with the purpose of determining underlying problems in the courts. As social and economic conditions drastically change, Asian countries face challenges to establish systems for fairly and effectively resolving the variety of disputes that arise increasingly in our societies. For dispute resolution, litigation in the court is not the only option. Mediation and arbitration proceedings outside the courts are important facilities as well. In order to capture the entire picture of dispute resolution systems, a comprehensive analysis of both the in- and out-of-court dispute resolution processes is essential.

To facilitate the committees’ activities, IDE organized joint research projects with research institutions in seven Asian countries, namely, China, India, Indonesia, Malaysia,

the Philippines, Thailand and Vietnam following the last year's projects. This year IDE sponsored a roundtable meeting entitled "Law, Development and Socio-Economic Change in Asia II" in Bangkok on November 19-20, 2001 to encourage the sharing of respective research findings on legal and institutional reforms following democratization movements as well as those on the availability of court systems and ADRs in Asian countries, and to promote research cooperation and scholarly exchanges among research counterparts. We wish to express our sincere gratitude to the members of the Central Intellectual Property and International Trade Court, and the Faculty of Law, Thammasat University, Thailand for their cordial cooperation in arranging the meeting. Participants in the meeting were committee members from Japan and researchers from the seven Asian countries. Stimulating discussions followed presentations by the respective researchers.

At the first day's meeting, titled "Dispute Resolution Process in Asia: Theory and Reality", we discussed the issue of dispute resolution systems, with special emphasis on ADR. The presentations were devoted to the background, objective and philosophy of developing an alternative dispute resolution system as well as specific features of ADR in each country. The sharing of basic information, experiences and philosophy on dispute resolution in different countries contributed to a further deeper findings of our comparative study on judicial systems and dispute resolution processes in Asia.

The second day's meeting, titled "Law and Political Development in Asia" was divided into two parts: one session was on Political and Administrative Reform in Asia, and the second session was on Ensuring the Rule of Law in Asia. The first discussed issues of democracy, decentralization of power and constitutional reviews. The second discussed issues of enforcement and the meanings of "rule of law". Critical discussions on "Law and Development" in the dimension of political development inspire reanalyzing the concept of rule of law and factors pertinent thereto in Asia.

This publication is the result of that two-day roundtable meeting, and is based on the papers submitted for the meeting and the record of discussions. The outcome of research conducted by the respective counterparts will also be published as *IDE Asian Law Series*. We believe that this work is unprecedented in its scope, and we hope that this publication will make a contribution as research material and for the further understanding of the legal issues we share.

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Institute of Developing Economies