

II. Overview of the Research

In order to examine the research further, the members of this working group embarked on developing a comparison list of the legal systems of each country and studied the necessity of the establishment of the International Consumer Advisory Network (ICA-Net) in ASEAN and the East Asian region this year.

1. Outline

1.1. The First Workshop

The first workshop was held on November 26-27, 2009 at NEC Cooperation in Tokyo. All members except for one attended the workshop.

In session one, “Review of achievement in 2008,” Mr. Anada reported the e-commerce related laws and regulations of each member country based on the research findings of last year. The list of e-commerce related laws and regulations of each country was also handed out to all the attendees. Next, in “Current status of e-commerce and legal and other systems in Asia,” ERIA members were briefly updated on issues such as the state of their e-commerce market and progress with infrastructure building. New members from the Philippines and South Korea reported the state of e-commerce, legal systems and complaint handling systems. In session two “Cross-border problems and significance of ICA-Net,” the EC Network of Japan reported the summary, significance and challenges of eight cases handled by Consumer Advisory Liaison Offices (CALOs) of ICA-Net and the trends of cross-border complaints that Japanese consumers encountered. Followed by the reports of cross-border disputes, the results of research in Europe were introduced as pioneering efforts from Mr. Hayakawa. At the end of session two, the members continued to discuss operational rules of ICA-Net and how to handle personal/business information properly when handling complaints.

On Day 2, the members further exchanged their views regarding the type of framework that should be created for ICA-Net and the code of conduct for CALO in session three.

The following is the program of the first workshop.

<Agenda of the first workshop>

(Day 1: Thursday, 26 November)

- 9:30 - 9:50 Welcome and introduction
Greeting from Prof. Shujiro Urata, ERIA
Greeting from Mr. Kenjiro Suzuki, METI, Japan
Greeting from Prof. Tsuneo Matsumoto, the leader of working group (WG), Introduction of members
- 9:50 - 12:30 Session 1: Current status of e-commerce and legal & other systems in Asia
- 9:50 - 10:20 Review of achievement in 2008
by Mr. Ko Anada, Japanese member of WG
- 10:20 - 10:50 Trend of e-commerce market and legal systems in Korea
by Prof. Moonchul Chang, Korean member of WG
- 10:50 - 11:20 Trend of e-commerce market and legal systems in the Philippines
by Ms. Maria Lourdes A. Yaptinchay, Filipino member of WG
- 11:20 - 11:30 Coffee break
- 11:30 - 11:40 Update of e-commerce market and legal systems in Japan
by Mr. Michikazu Chihara, consultant of WG
- 11:40 - 11:50 Update of e-commerce market and legal systems in Malaysia
by Muhammad Sha'ani b. Abdullah, Malaysian member of WG
- 11:50 - 12:00 Update of e-commerce market and legal systems in Vietnam
by Dr. Nguyen Manh Quyen, Vietnamese member of WG
- 12:00 - 13:30 Luncheon
- 13:30 - 14:00 Update of Consumer International's efforts
by Ms. Indrani Thuraisingha, member of WG
- 14:00 - 17:10 Session 2: Cross-border problems and significance of ICA-Net
- 14:00 - 14:50 Review of ICA-Net and case report
by Ms. Yuko Tonomura, EC Network, the researcher of WG
- 14:50 - 15:30 Report of cross-border problems
by each member of WG or observer
- 15:30 - 15:50 Coffee break
- 15:50 - 16:10 Report of discussion with GBDe and Europe

by Prof. Yoshihisa Hayakawa, Japanese member of WG

- 16:10 - 17:10 Free discussion
- Operation rules of ICA-Net
 - Management of personal information
 - Ways to utilize ICA-Net
 - Information sharing and case report among members

(Day 2: Friday, 27 November)

- 9:30 - 11:50 Session 3: Toward realization of ICA-Net
- Review of Session 2
- Free discussion
- Difficulty in establishing a framework in each country
 - Role of the government
 - Cooperation with non-Asian countries
 - Action plan
 - Draft of policy recommendation
- 11:50 - 13:00 Luncheon

1.2. The Second Workshop

The second workshop was held on January 20-21 at the ERIA Seminar room in Jakarta, Indonesia. All members except for two attended the workshop. Prof. Hayakawa, a vice chair of the working group, chaired the workshop. In the morning session, “Comparison of e-commerce law system in each country,” Mr. Anada, a Japanese member, gave an update on the list made at the first workshop. Also each member presented their response to the questionnaire which was assigned prior to the meeting. Next, a member representing Consumers International (CI) expressed its expectations for ICA-Net. In the afternoon session, the members confirmed the significant role of ICA-Net and discussed the details of the agreements and the code of conduct for CALO including appropriate ways of handling personal information and disclosing trade secrets in reference to the documents provided by the European Commission (EC). This discussion extended to the next day. Under great leadership of the vice leader, the members actively discussed the feasibility of a fully-fledged

operation of ICA-Net and appropriate agreement for CALO.

The following is the program of the second workshop.

<Agenda of the second workshop>

(Day 1: Wednesday, January 21)

- 9:30 - 12:30 Morning session
- 9:30 - 10:50 Welcome and introduction (review of the 1st workshop)
Moderated by Prof. Yoshihisa Hayakawa,
a vice leader of the working group
Comparison of e-commerce law system in each country
- General overview of each country's response to the questionnaire by Mr. Anada
 - Supplemental explanation from each country
 - Prof, Moonchul Chang, National Police University, Korea, (member)
 - Ms. Maria Lourdes A. Yaptinchay, E-commerce Office, Department of Trade and Industry, the Philippines (member)
 - Mr. Naoki Iguchi, Anderson Mori & Tomotsune, Japan (member)
- 10:50 - 11:10 Coffee break
- 11:10 - 12:30 Comparison of e-commerce law system in each country
- Supplemental explanation from each country
 - Mr. Muhammad Sha'ani b. Abdullah, NCCC, Malaysia (member)
 - Dr. Nguyen Manh Quyen, Ministry of Industry and Trade, Vietnam (member)
 - Finalization of contents of the research report and writing assignment
- 12:30 - 14:00 Luncheon
- 14:00 - 17:00 Afternoon session
- 14:00 - 15:20 ICA-Net
- Basic structure of ICA-Net by EC Network
 - Progress report of ICA-Net by EC Network
 - Consumer organization's expectations on ICA-Net

- by Ms. Indrani Thuraisingham, Consumers International (CI),
Malaysia (member)
- Draft of recommendation
- 15:20 - 15:40 Coffee break
- 15:40 - 16:50 ICA-Net
- Documents of ECC-Net
 - Draft outline of the research report
 - Current situation in each country and possibility of realization
- 16:50 - 17:00 Closing remarks by Prof. Yoshihisa Hayakawa,
a vice leader of the working group

(Day2: Friday, January 22)

- 9:30 - 9:40 Opening remarks Moderated by Prof. Yoshihisa Hayakawa,
a vice leader of the working group
- 10:30 - 10:50 Coffee break
- 10:50 - 12:00 Continuation of the session
- 12:00 - 13:00 Luncheon

2. Members

The selected experts who have known recent e-commerce developments, e-commerce related legal systems and consumer protection since the rise of the Information and Communication Technology in ASEAN and East Asian countries participated in the working group.

(1) Leader

The leader of this working group is Prof. Tsuneo Matsumoto of Hitotsubashi University Graduate School of Law in Japan.

His fields of specialization include the Civil Code, consumer law, and e-commerce. He has recently conducted research especially on consumer affairs, IT-related law, and corporate social responsibility.

He plays central roles in Japanese government committees in the field of consumer protection. In addition, he is familiar with the state of development and legal systems in Asian countries, since he has engaged in support activities for the establishment of legal systems in developing countries as a Japan International Cooperation Agency (JICA) expert. Prof. Matsumoto was also appointed as a chairperson of the Consumer Commission, a monitoring committee of the Consumer Affairs Agency of Japan in September, 2009.

(2) Members

The members of this working group are people in charge of consumer protection and e-commerce policy or specialists in international law in Japan, Malaysia, Singapore, the Philippines, South Korea and Vietnam.

<Japan>

- Prof. Yoshihisa Hayakawa, belonging to Rikkyo University in Japan
- Mr. Naoki Iguchi, a lawyer, belonging to Anderson, Mori, Tomotsune Law Office in Japan
- Mr. Ko Anada, a lawyer belonging to the Attorneys' corporation, Soga, Uriu and Itoga Law Office in Japan

<Malaysia>

- Ms. Indrani Thuraisingham, Head of Consumers International (CI) Kuala Lumpur Office in Malaysia
- Mr. Muhammad Sha'ani Abdullah, Chief Executive of the National Consumer Complaints Center (NCCC) in Malaysia

<The Philippines>

- Ms. Maria Lourdes A. Yaptinchay, Supervising Director of the E-Commerce Office, Department of Trade and Industry in the Philippines

<Singapore>

- Mr. Seah Seng Choon, Executive Director of the Consumer Association of Singapore (CASE) in Singapore

<South Korea>

- Prof. Moonchul Chang, belonging to National Police University in South Korea

<Vietnam>

- Dr. Nguyen Manh Quyen, Deputy Director General of Vietnam E-Commerce & Information Technology Agency (VECTA), Ministry of Industry and Trade (MOIT) in Vietnam

(3) Institute supporting the study

The EC Network supported this working group's research by gathering information to inform the members' discussion at the workshops. The following are EC Network's research members:

- Ms. Toshiko Sawada (Director)
- Mr. Eiichiro Mandai (Senior Researcher)
- Ms. Yuko Tonomura

The EC Network is one of Japan's leading institutes in the complaint handling fields, specifically complaints related to cross-border e-commerce.

The EC Network handles consumer complaints and disputes from both domestic and international consumers arising from online transactions such as internet shopping, internet services and internet auctions. With the constant growth of cross-border e-commerce, the EC Network has also earnestly engaged in international activities including participation of the Asia Pacific Trustmark Alliance (ATA) whose members issue their trustmarks to e-commerce businesses. In the ATA, the EC Network plays a central role as the representative of an alternative dispute resolution (ADR) institute of Japan.

(4) Consultant

As an ERIA Consultant, this working group invited Mr. Michikazu Chihara, Manager of NEC Cooperation (Japan) to the workshops. Mr. Chihara is a leader of the Consumer Confidence Issue Group of the Global Business Dialogue on Electronic Society (GBDe) and has actively engaged in promoting consumer confidence in e-commerce. He made a contribution to the discussion at the workshops as a strong advocator of the realization of ICA-Net.

(5) Observers

The following people who were interested in this research attended the workshops and contributed to the discussion:

- Ms. Shino Uenuma, Attorney of South Toranomom Law Office in Japan
- Prof. Shujiro Urata, Project Supervisor of ERIA and Professor, Waseda University in Japan
- Dr. Friska Parulian, Associate Researcher of ERIA

(6) Coordinating institute

The Center of the International Cooperation for Computerization (CICC) wholly managed this project. The core members are shown below:

- Mr. Tomoyoshi Nishizumi
- Ms. Hiroko Kawabata
- Ms. Tomoko Kawamura

CICC has been involved in support programs for training human resources essential for the computerization of developing countries, promotion of cooperation projects to find solutions for technical challenges common among developing countries, and exchanges of individuals to support computerization. Their management skills developed through these experiences were utilized during this project.

3. Contents of the Report

This is the final report of this working group. Part III, which is entitled “Research for the Establishment of a Safe and Highly Reliable Marketplace in ASEAN and East Asia”, which is the result of the research work undertaken by the members of the group. The contents are as follows:

3.1. Current Status of E-commerce Market and Legal Systems in Each Country

From 1.1. to 1.6., each member reports on the present condition of his own country based on presentations and discussions in the two workshops.

Regarding 1.1. Malaysia, 1.3. Vietnam and 1.6. Japan, they are the contents of

re-arrangement of these data and update, and the new analysis of the legal systems. With respect to these three countries, fundamental information has already been published in the ERIA Research Project Report 2008².

Sections 1.4. and 1.5. present in detail information about South Korea and the Philippines, respectively. The sections also include fundamental information since these two countries started their participation in the working group only in 2009.

1.2. Singapore updated this report though they were not present in the two workshops. Thailand participated in the working group as a member in 2008, but did not participate in 2009. Likewise, China which attended the workshop in 2008 as an observer did not join the workshops in 2009. However, the report of 2008 contains a lot of information on Thailand and China.

This year, the working group examined the legal system on consumer protection of each country as it relates to e-commerce. The members responded to a specific set of questions and the result of the comparative study is presented in Section 1.7. The study interestingly highlights the differences in the legal systems even just within Asia. This comparative chart on the legal systems will serve as a good reference not only for e-commerce businesses but also for policymakers in each country, hence, it can pave the way for high-level harmonization of legal systems within ASEAN and East Asia.

The legal information such as the name of a law on non-member countries is included in the comparative chart. It should be noted that the working group could not confirm the contents and the accuracy of such information without a member from those countries in the group.

The comparative study should not end with the conclusion of this project. It is desirable to continue updating the comparative chart and expand the scope of the study to other countries, to share not only the text of the laws but also the actual application of the laws. Countries can benefit from this information exchange.

3.2. Demonstration Experiment of ICA-Net

This chapter is a summary of discussions in the workshops about the demonstration experiment and the future image of ICA-Net.

² http://eria.org/pdf/research/y2008/no3-2/III.Research_for_Establishment.pdf.

In 2.1., from the standpoint of a consumer organization, the Consumers International (CI) states expectations for ODR (Online Dispute Resolution) as redress for consumers who have a dispute arising from cross-border e-commerce. CI also expects that the ICA-Net will help bridge the regional digital divide and will fulfill various functions in the future.

Prof. Hayakawa, Vice Chair of the working group, visited the EU and ECC UK and exchanged opinions about the possibility of future cooperation of ICA-Net with ECC-Net of EU. He was able to acquire further information of the ECC-Net and EU as good reference to consider the design of ICA-Net. The result is described in 2.2.

In 2.3. “Outline of demonstration experiment and case example,” the report clarifies the significance of the ICA-Net based on the discussion of the workshops with explanation of details about eight cases dealt with in the demonstration experiment.

Based on these results, the participants of the final workshop discussed the desirable framework of the ICA-Net, which will include a “Terms of Reference” as the minimum code of conduct for each CALO. The required support from each government, as viewed by the working group, is described in 2.4.

3.3. Toward Realization of ICA-Net

The set of policy recommendations is the outcome of the research conducted these past two years.

4. List of Authors

Executive Summary	
I. Background and Objectives	Prof. Tsuneo Matsumoto
II. Overview of the Research	Prof. Tsuneo Matsumoto
III. Research for Establishment of a Safe and Highly Reliable Marketplace in ASEAN and East Asia	
1. Current Status of E-commerce Market and Legal Systems in Each Country	
1.1. Malaysia	Mr. Muhammad Sha'ani Bin Abdullah
1.2. Singapore	Mr. Seah Seng Choon
1.3. Vietnam	Dr. Nguyen Manh Quyen
1.4. Republic of Korea	Prof. Moonchul Chang
1.5. Philippines	Ms. Maria Lourdes Yaptinchay
1.6. Japan	Mr. Naoki Iguchi
1.7. Comparison of Consumer Protection Laws	Mr. Ko Anada
2. Demonstration Experiment of ICA-Net	
2.1. Consumer Organization's Expectations regarding Online Consumer Redress	Ms. Indrani Thuraisingham
2.2. Exchange of Opinions with EU	Prof. Yoshihisa Hayakawa
2.3. Outline of Demonstration Experiment and Case Example	EC Network
2.4. Terms of Reference of ICA-Net	EC Network
3. Policy Recommendation: Toward a Realization of the ICA-Net	Prof. Tsuneo Matsumoto