

Symposium : Uniform Trust Code in the United States and Future Amendment of Japanese Trust Act

This symposium consists of two parts. In the first and main part, Professor David English made a keynote address on the Uniform Trust Code (UTC), which was adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in August 2000. Professor English had played a role of main reporter of the UTC.

Professor English described very briefly but succinctly the most important core of the new comprehensive code of trust law in the States.

First, he explained the background information for the Japanese audience to understand the significance of the UTC: why it is needed, who took part in drafting, what relation it has to other trust laws, both in statutory form and Restatement type.

Then, he picked up the most important topics the UTC prescribed, 13 points in particular, including the scope of the Code, mandatory provisions and default rules, the principal place of administration, representation of beneficiaries, the termination and modification of trust, cy pres doctrine, spendthrift provisions, revocable trust provisions, removal of trustee, duty to keep reasonably informed, and trust deal with third parties.

Professor English concluded his remarks by commenting on the appropriate role of legislation in the field of trust laws.

The second part of the symposium was a sort of Q & A session. Professors Noriko Mizuno, Hiroyuki Kansaku, Masami Okino, Yukiko Oda, and Kiyoe Kado as well as Mr. Masatami Otsuka, attorney at law, prepared detailed questions regarding the comparative analysis of trust law between U.S. and Japan. Chaired by Norio Higuchi, each of them asked the crucial questions on the variety of topics, most of which are interesting and important when we think of the amendment of Japanese Trust Act. From the audience, two bankers, Mr. Hiroshi Hoshida and Mr. Junichi Kubo added important questions from practitioners' viewpoints. Professor English answered all of those questions and, all in all, this Q & A session helped every participant understand better the significance of the UTC and also what kind of problems and issues we should take seriously for the future amendment of trust law in Japan.