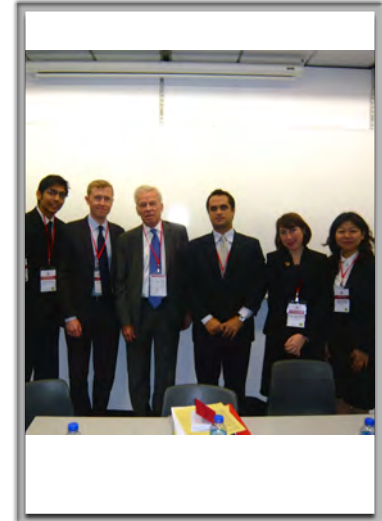




ICA from a viewpoint of Far East Asia
what is the use of arbitration business for us?

Akira SAITO (Kobe University)

Vis East Moot





Applicable Law
matters?

No, I do not think so!

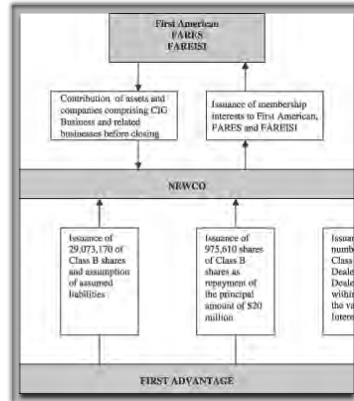


Expert Witness?



M&A Cases

Earn Out Scheme



ICC Court of Arbitration

Seat of Arbitration

Institution

Law Firms

Arbitrators



Tranche 1 → Tranche 2

Which Accountant?

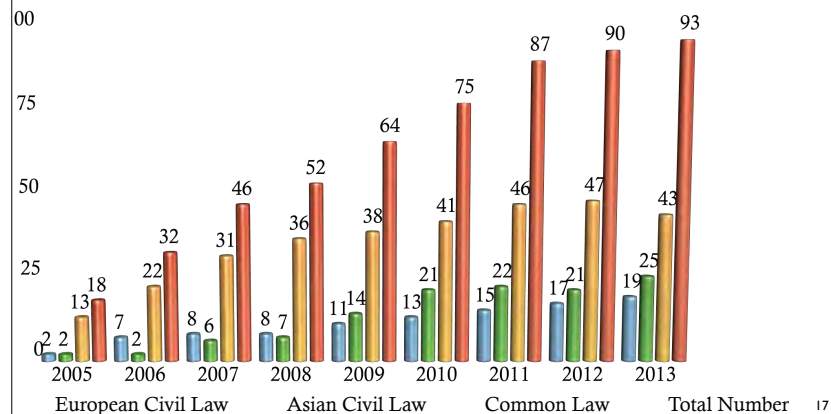


OEM

Trademark & Formulae??



Participating Teams in Vis East (Hong Kong)

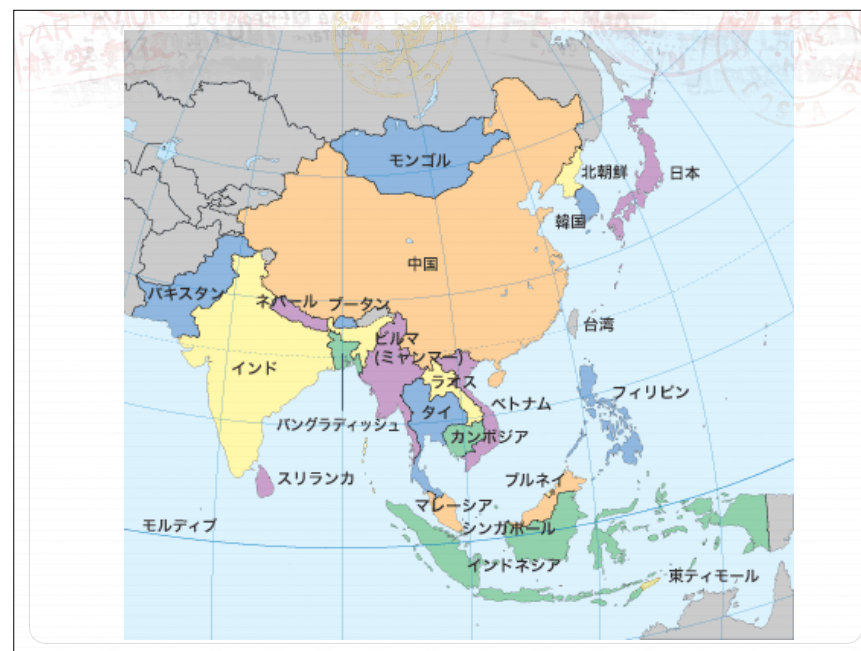


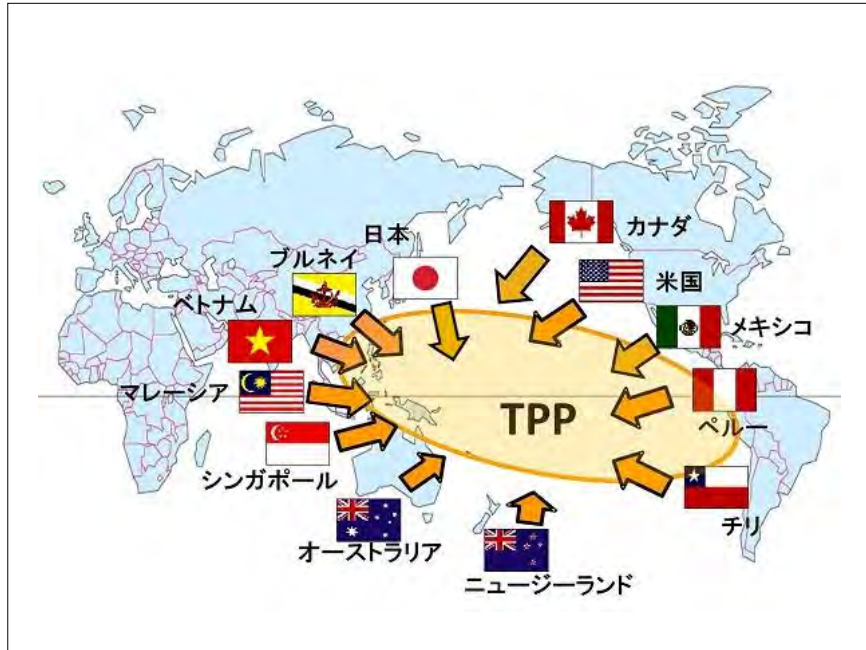
Participating Teams from Asian Civil Law Jurisdictions in Vis East 2013 ⁸

- ✦ Teams from **Common Law Jurisdictions** [43]
 - ✦ USA 20; Canada 1
 - ✦ India 11; Australia 7; Hong Kong 3; Singapore 1;
- ✦ Teams from **Asian Civil Law Jurisdictions** [25]
 - ✦ Korea 7; China 6; Japan 4; Taiwan 1
 - ✦ Indonesia 3; Vietnam 2; Thai 1; Cambodia 1;
- ✦ Teams from **European Civil Law Jurisdictions** [19]
 - ✦ Germany 11; Hungary 1; Czech 1; Netherlands 1; Swiss 1; Finland 1; Slovenia 1; Denmark 1; France 1;
- ✦ Teams from other jurisdictions
 - ✦ Philippine 1; Brazil 2; Mexico 1; Russia 1

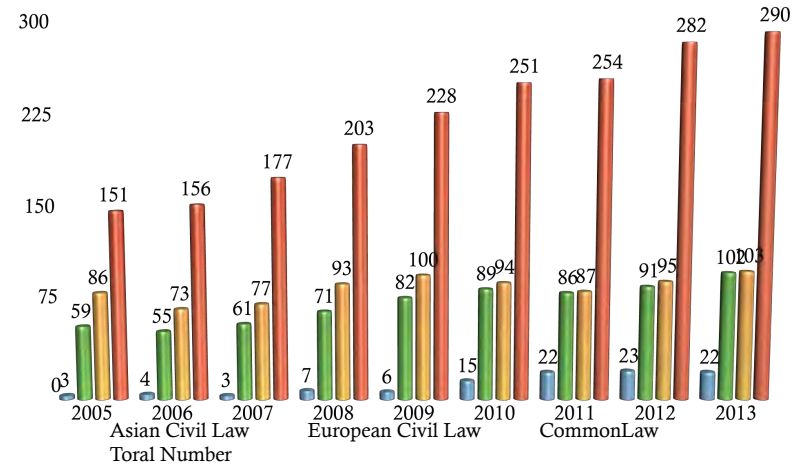
East Asian Civil Law Jurisdictions: Under-represented in Moot?

Asian Common Law Jurisdictions		Asian Civil Law Jurisdictions	
✦ Singapore	5million	✦ China	1331million
✦ Malaysia	28million	✦ Korea	49million
✦ Hong Kong	7million	✦ Japan	128million
		✦ Indonesia	230million
		✦ Thai	68million
		✦ Vietnam	87million
		✦ Cambodia	15million
		✦ Laos	6million





Participating Teams in Vis Moot (Vienna)



The Reign of Common Law is about to end in Europe. ⁸

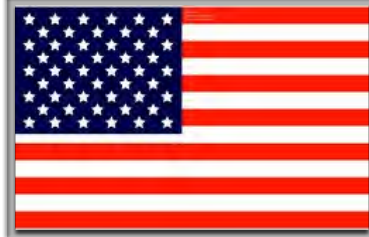
- ✦ European Civil Law Tradition is regaining the power according to the advancement of EU.
 - ✦ CISG, UNIDROIT Principles, and Principles of European Contract Law are mainly based on Civil Law Tradition.
 - ✦ The Rise of Civil Lawyers in EU:
 - ✦ Eurocrats and European Court Judges
 - ✦ The Advocates of European Court
- ✦ Common Law Tradition versus Civil Law Tradition?
 - ✦ EC Regulations based on Civil Law Tradition are invading in Contract law areas (including Conflict of Laws)
 - ✦ Lower hurdle of Language Barrier between English and European Languages.
- ✦ Globalization and revival of other legal traditions
 - ✦ The rise of Muslim Law and Islamic Finance in global level.

EU



B

Asian Business Lawyering



A Common lawyer's view on Law and English in Moot Arbitration

- ✦ 'For schools in jurisdictions where English is the first language, or where English is taught early (Germany being the prime example) – their main challenge is the legal one. For others, such as Japan and Indonesia and Korea, the linguistic challenge is basic one, as it slows down learning in the essential elements of the moot.'
- ✦ 'As you say, to work in Japan the students MUST think like Japanese lawyers. However, the Moot is in English, and there is nothing to do about that. The students must eventually develop the English-language skills in order to get past both the "cultural" and the language obstacles.'
- ✦ (Personal email communication with a Common Law arbitrator who worked in Asian for a long while, on May 3, 2011)