

Report on Corporate Law and International Competitiveness Compiled by the Study Group for Development of Ideal Approaches to Legal Functions in Japanese Companies for Enhancement of International Competitiveness

- Focusing on approaches to legal functions and legal human resources required in the Reiwa Era -
(Outline)

1. Background to the Preparation of This Report

The previous report by the Study Group for Development of Ideal Approaches to Legal Functions in Japanese Companies for Enhancement of International Competitiveness compiled in April 2018 (hereinafter referred to as the "previous report") pointed out drastic changes in the competitive environment faced by Japanese companies, focused on ideal approaches to management and legal functions that contribute to fortifying the international competitiveness of Japanese companies, clarified the significance of legal functions for companies and the need for and effectiveness of utilization thereof, and compiled challenges in introducing such functions into companies and recommendations to address these challenges. Since its release, the Ministry of Economy, Trade and Industry (METI) has endeavored to disseminate the previous report and it has also been attracting attention from a variety of industries and triggering discussions mainly among personnel in charge of corporate legal affairs. Meanwhile, METI has received many requests from legal affairs personnel of companies, apart from some leading companies already engaging in cutting-edge efforts, to present richer recommendations, more specific methodologies and a variety of clear options for practical actions in advancing efforts for change and improvement in order to enhance corporate legal functions in a practical manner.

Accordingly, regarding legal functions as a "partner" and a "guardian" as proposed in the previous report, this report identifies their potential from the perspectives of the "creation of new business," or the "creation of new value," and proposes more specific measures and options and a framework which will encourage companies to create the desired legal functions especially in terms of ideal approaches to changing and improving organizational operation and fostering and winning human resources.

2. Need to Enhance Legal Functions

Most countries have witnessed the emergence of new companies like Uber and Airbnb, which create new markets by making adjustments between innovative businesses and legal regulations, in other words, by thoughtfully utilizing law and expanding the sizes of such new markets to the world's top levels.

There is a huge gap in competitive conditions from the very start between companies seeking new businesses only within the scope surely permitted under the existing rules and companies seeking new businesses with possible alterations of rules in mind. Proper legal support is indispensable to enable companies to effectively utilize law in their business expansion.

Amid acceleration of globalization and innovation, the need to create new products, services and ecosystems is increasing. Under such circumstances, corporate legal functions as a partner have become more important and are likely to be the source of

competitiveness, and one key element for survival.

Regarding legal functions as a "partner" and a "guardian" as proposed in the previous report, this report aims to identify their potential from the perspectives of the "creation of new business," or the "creation of new value," and proposes more specific measures and options and a framework which will encourage companies to create the desired legal functions especially in terms of ideal approaches to changing and improving organizational operation and fostering and winning human resources.

3. Potential in Legal Functions toward the "Creation of New Business (Value)"

(1) Approaches to legal functions toward the "creation of new business (value)"

When considering means for achieving the goal, it is effective for Japanese companies to share more specific ideas concerning what legal functions should be focused on and what potential such functions have. The Study Group pointed out the following potential as a message on approaches to legal functions toward the "creation of new business (value)."

- Legal affairs personnel of companies will be able to cooperatively create sound and sustainable value through communication in the broad sense based on their legal backgrounds, while fulfilling three types of functions included in legal functions on an ongoing basis in consideration of expectations from internal and external parties concerned.

(2) Three types of functions included in legal functions

The previous report compiled legal functions into those as a partner and those as a guardian. However, from the perspective of materializing the creation of new business (value) as envisaged by top management and responsible departments, legal functions can be analyzed in more detail as three types of functions.

Firstly, functions as a partner can be further classified into (i) creation functions and (ii) navigation functions. In particular, creation functions are considered to be less recognized under a changing environment even by pioneering legal affairs departments that have been involved in business strategies and regarded as "fulfilling functions as a partner". The third functions are (iii) those as a guardian, which are important and basic in the same manner as or further than before.

These three types of functions differ from each other only relatively and it may not be clearly said which of them are being fulfilled in some business situations. All are necessary for properly and sufficiently fulfilling legal functions and if any of them are not recognized or are not put in place, the overall legal functions of that company should inevitably be judged as insufficient. Additionally, the balance among these three types of functions is determined depending on the goals of top management.

(3) Means for fulfilling legal functions

Legal functions mentioned in (1) and (2) above need to be fulfilled "through communication based on the legal backgrounds of responsible personnel in consideration of expectations from internal and external parties concerned."

4. Methods for Introducing Legal Functions

Legal functions, irrespective of whether the current functions are sufficient or not, need to be enhanced constantly, aiming to achieve better forms in response to changes in each company's business condition.

This report introduces basic approaches of (i) fundamental reform of the organization (top-down approach) and (ii) gradual reform of the organization (bottom-up approach). These methods accompanying a pro-cyclical structure are used in various sectors not limited to the legal affairs sector and there are a number of companies that are making various attempts for creating new business (value).

5. Methods for Fostering and Securing Human Resources who Support Legal Functions

Under circumstances where the competitive environment is changing drastically and further innovation is required in accordance with the advancement of the Fourth Industrial Revolution, more active functions to create new business (value), such as creation functions and navigation functions, have become more and more important and further sophisticated expertise has come to be required of human resources. If efforts for human resource development continue to aim at only fostering generalists without clarifying the requirements for truly necessary human resources amid such changes in the competitive environment, it is highly likely that companies will not be able to secure expert personnel with the required skills and mindset and will become unable to fulfill their functions sufficiently.

This report introduces specific examples of fostering and winning human resources as follows for each item with concrete initiatives and underlining ideas.

- (1) Describe required human resources
 - (i) Acceptance and presentation of diverse career paths
 - (ii) Presentation of human resources that a company requires
 - Present preferable behavioral traits (legal competency) as legal affairs personnel
 - Present skills and mindset required for each type of duty and for each post (skill maps)
 - Present requirements for each post (job description)
- (2) Foster competent human resources
 - (i) Enhancement of expertise
 - (ii) Understanding of business and accumulation of on-site experience
 - Participation in business department meetings and negotiations, temporary changes of seats
 - Participation in management meetings
 - Utilization of concurrent services
 - Transfer to other departments or subsidiaries
 - Side work and side job
 - (iii) Enhancement of universal skills (generic skills)
 - (iv) Evaluation and guidance commensurate with requirements

- (3) Secure competent human resources
- (i) Recruitment of new graduates
 - (ii) Mid-career recruitment
 - (iii) Increase excellent human resources in labor markets
 - Education at universities and graduate schools
 - Realization of diverse career paths

Conclusion

From the perspective of enhancing the international competitiveness of Japanese companies, METI will continuously consider future ideal approaches to legal function in cooperation with the parties and the related agencies that have interest in legal function of companies.