

中英法律用語及翻譯實務

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法律英文 (legal English) 的特色：

1. 非單一的語言
2. 同意詞和近意詞很多
3. 多意詞很多

conservatorship, receivership,
provisional liquidation,
liquidation

* * *

監管、接管、清理、清算

借款人應保證抵繳證券權利之完整。

Borrower warrants that the collateral shares are owned by Borrower free and clear of any claim, pledge, mortgage, lien, hypothecation, assignment, charge, option, preference, priority, security interest, or other encumbrance whatsoever in such collateral shares or the proceeds thereof.

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借款人應保證抵繳證券權利之完整。

enter into a contract

sign a contract

execute a contract

conclude a contract

extend a loan
loan extension

* * *

secure a loan

法規名稱英譯統一標準

(摘自「法規名稱英譯統一標準表」，行政院九十二年七月三日院臺規字第○九二○○八六四七一號函核定)

位階	名稱	
	法規名稱	法規名稱英譯標準化用語
1. 憲法	憲法、憲法增修條文	Constitution Amendments of the Constitution
2. 法律	法、律、條例、通則	Act 例外: Codes (民法、刑法、民事訴訟法、刑事訴訟法、行政訴訟法)

法規名稱英譯統一標準*

3. 法規命令	規程、規則、細則、辦法、綱要、標準、準則	Regulations 例外： 1) <i>Enforcement Rules</i> (施行細則) 2) <i>Standards</i> (標準)
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*摘自法規名稱英譯統一標準表，行政院九十二年七月三日院臺規字第○九二○○八六四七一號函核定。

機關內部規範之「行政規則」名稱用語*

行政規則 directions	作業要點、原則、 注意事項...	Directions
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*摘自法規名稱英譯統一標準表，行政院九十二年七月三日院臺規字第○九二○○八六四七一號函核定。

法規結構用語*

法規結構名稱	法規結構名稱英譯標準化用語
編	Part
章	Chapter
節	Section
款	Subsection

*摘自法規名稱英譯統一標準表，行政院九十二年七月三日院臺規字第○九二○○八六四七一號函核定。

法規結構用語*

目	Item
總則	General Principles
通則	General Provisions
罰則	Penal Provisions
附則	Supplementary Provisions

*摘自法規名稱英譯統一標準表，行政院九十二年七月三日院臺規字第○九二○○八六四七一號函核定。

法規條文結構用語*

法規條文 結構名稱	法規條文結構英譯 標準化用語
條	Article
項	Paragraph
款	Subparagraph
目	Item
之一	-1

*摘自法規名稱英譯統一標準表，行政院九十二年七月三日院臺規字第○九二○○八六四七一號函核定。

Article 5bis
第五條之一

*semel, bis (之一), ter (之二),
quater (之三), quinquies (之四),
sexies (之五) ...*

其他容易混淆或誤用的中英法律術語...

Terms of Authority

- 應 **shall** vs. 得 **may** vs. 不得 **may not** vs. 得不 **need not** (is not required to, may deny..., may refrain from...)

被告得隨時選任辯護人。(刑事訴訟法§29前段)

An accused may employ defense counsel of the accused's choice at any time.

證券商應在其所在地設置營業處所，並不得與其他證券商共同使用同一營業處所。(臺灣證券交易所股份有限公司營業細則§20[1])

A securities firm shall establish its place of business at its registered location, and may not share a place of business with any other securities firm.

經營證券投資信託事業之申請案件有下列情形之一者，本會得不予許可... (證券投資信託事業設置標準§14)

In any of the following circumstances, the Commission may deny approval for the application for operation of the securities investment trust enterprise....

(NB: It would be incorrect to translate this as “may not approve.”)

- 以上，以下

稱以上、以下、以內者，**俱連本數或本刑計算**。(刑法 §10[1])

The words “not less than,” “not more than,” or “within” uniformly denote that the figure or punishment stated is inclusive.

So:

2年以上

=“Not Less Than Two Years” = “At Least Two Years” = “Two Years or More” (But \neq “More than two years”)

2年以下

=“Not More Than Two Years” = “At Most Two Years” = “Two Years or Less” (But \neq “Less than two years”)

證券商有左列情事之一者，本中心得對其自營或經紀業務或其營業處所之全部或部分，停止其三個月以下之買賣：

一 依第九十五條規定處以違約金，最近半年內達三次以上者。(財團法人中華民國證券櫃檯買賣中心證券商營業處所買賣有價證券業務規則§96)

In any of the following events, the GreTai Securities Market may suspend the proprietary trading or brokerage business of a securities firm or its places of business in whole or in part for not more than three months:

1. Where a monetary penalty has been imposed under Article 95 three times or more within the most recent half year;

[...]

- 推定 (presumed) , 視為 (deemed, considered)

...而未於所定期間內為反對之意思表示者，推定其已有同意之表示。(電腦處理個人資料保護法施行細則§30[2])

...If the [principal or agent] does not make a contrary expression of intention within the specified time period, it is presumed that the principal has expressed consent.

貨物標定賣價陳列者，視為要約。但價目表之寄送，不視為要約。(民法§154[2])

Displaying goods for sale with their selling price is deemed to be an offer. However, the sending of price catalogues is not deemed to be an offer.

- 損害 damage vs. 損害賠償 damages

損害賠償，除法律另有規定或契約另有訂定外，應以填補債權人所受損害及所失利益為限。

Unless otherwise provided by statute or by contract, damages shall be limited to the compensation of damage suffered and profit lost. (民法§216[1])

- 撤銷voidance vs. 廢止 revocation

Under the Administrative Procedure Act, nullification of an **unlawful** administrative disposition is referred to as “**撤銷**” (“**voidance**”; “**to void**”); nullification of a **lawful** administrative **disposition** is referred to as “**廢止**” (“**revocation**”; “**to revoke**”). (See Articles 117, 122, and 123.)

公司經中央主管機關**撤銷或廢止**登記者，準用前三條之規定。(公司法§26-1)

If the registration of a company is **voided** or **revoked** by the central competent authority, the provisions set forth in the preceding three articles shall apply *mutatis mutandis*.

民法裡的「撤銷」：

法律行為經撤銷者，視為自始無效。(民法§114[1])

If a juristic act is voided, it is deemed void *ab initio*.

當事人知其得撤銷或可得而知者，其法律行為撤銷時，準用前條之規定。(民法§114[2])

If its voidability was known or ought to have been known to the parties concerned, the provision of the preceding article applies *mutatis mutandis* to the voidance of the juristic act.

法規的「廢止」：

中央法規之制定、施行、適用、修正及廢止，除憲法規定外，依本法之規定。(中央法規標準法§1)

Except as otherwise provided by the Constitution, the enactment, enforcement, application, amendment, and repeal of central statutes and regulations shall be in accordance with the provisions of this Act.

- 施行 vs. 生效

法規明定自公布或發布日 **施行**者，自公布或發布之日起算至第三日起**發生效力**。(中央法規標準法§13)

If a statute or regulation specifies that it will **come into force** from the date of promulgation or issuance, it will **take effect** from the **third day from**, and counting inclusively of, the date of its promulgation or issuance.

法規特定有**施行**日期，或以命令特定施行日期者，自該特定日起**發生效力**。(中央法規標準法§14)

If a statute or regulation specifies the date on which it will **come into force**, or if the date is specified by an order, the statute or regulation will **take effect** on the specified date.

本規則九十年十月十七日修正施行前證券投資信託事業聘任之總經理有不符前項規定情事者，應於本規則修正生效後一年內改善。（證券投資信託事業管理規則§18[6][已廢]）

If, before these amended Regulations come into force on 17 October 2001, a securities investment trust enterprise (SITE) employs a general manager who does not meet the requirements of the preceding paragraph, the SITE shall correct the situation within one year after the amended Regulations take effect.

• 本法 this Act vs. the Act

凡依本法所訂立之契約，均應以書面為之。(證券交易法 §19)

Any and all contracts entered into under this Act shall be in writing.

本法第一百五十七條第一項所定獲得利益，其計算方式如下.... (證券交易法施行細則§2[2])

“Profit obtained” as referred to in Article 157, paragraph 1 of the Act shall be calculated by the following method:

*(NB: It is especially important to pay attention to this distinction when translating **isolated** provisions of statutes and regulations.)*

判決 judgment (非「verdict」)

裁定 ruling

終局判決 final judgment vs.

確定判決 final and unappealable judgment

判例 Supreme Court binding precedent

Core On-Line Resources for C-E Legal Translation in Taiwan

Partially bilingual databases of Taiwan law:

Ministry of Justice law database (free)

<http://law.moj.gov.tw/>

Judicial Yuan law database (free)

<http://jirs.judicial.gov.tw/index.htm>

Lawbank law database (free limited access; full access for subscribers only)

<http://www.lawbank.com.tw/index.php>

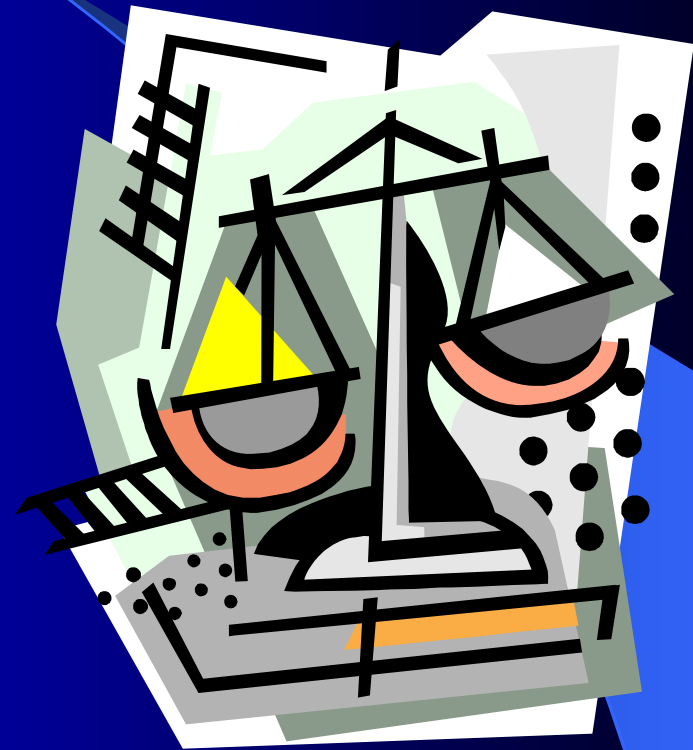
Core Reference Books for C-E Legal Translation in Taiwan

- *Blacks Law Dictionary*, Bryan Garner Ed. (Minnesota, West Group, 1999)

Also of note:

- *Translating Law* (Topics in Translation), Deborah Cao, Multilingual Matters Limited, 2007
- *Drafting Legal Documents*, Barbara Child (West Publishing, 1992)
- *Dictionary of Modern Legal Usage*, Bryan A. Garner Ed. (New York, Oxford University Press, 1995)
- *Legal Writing in Plain English*, Bryan A. Garner (Chicago, University of Chicago Press, 2001)
- *Manual of Style* (U.S. Government Printing Office, 1986)
- *University of Chicago Manual of Legal Citation* (Lawyers Co-operative Publishing Company, 1989)

Q & A / Discussion



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