



# **High technology and public participation-based decision-making – Current trends and issues on the environment**

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# What is PROJECT TIGER?



# “Policy decision-making and public participation on energy, chemicals and water issues: an international comparative study”

## Fukushima Accident



Need for decision-making instruments in the field of science and technology policies



- **Developing measures for fundamental rationale on social decision-making**
- **How to guarantee public participation (PP)**

Term: 2014-2016

Sponsor: Japan Society for the Promotion of Science  
(JSPS)



# Why TIGER?

プロジェクト  
タイガー

TIGER

とは？

T echnology

I nternational

G reen access

E nvironmental

R i g h t

[詳しく見る>>](#)

Asia

Dynamic?

Osaka





## Collaborators

### Field:

Law

Sustainability Science

Technological Society Theory

### Countries:

Brazil, China, France, Germany,

Taiwan, Thailand, USA



## What done in 2014, What do in 2015

### 2014

19 seminars

Analysis of current Japanese situation

Collecting data concerning target countries

### Aim of this WS

Sharing information/common understanding

Framing: What are the issues to discuss?

### 2015

Site visits/hearings about the good practice

Discussing more concretely



## Aarhus Convention and its Three Pillars

- “Environmental issues are best handled with the participation of all concerned citizens, at the relevant level.”(Principle 10)
- Three Pillars of Aarhus Convention (1998)
  - (1) Access to information
  - (2) **Right to participate in decision-making**
  - (3) Access to justice
- UNEP adopted Bali Guidelines (2010).
- Principle 10 was reaffirmed in Rio+20



## Today's topic

**Analyze** science and technology policy-making mechanisms in Japan

**From** viewpoint of P10

**Show** critical issues in Japan

**Focus** on

(1) Nuclear power and energy

(2) Chemical substances management

(3) Water management





## Three phases of PP and Japan

- PP in decisions on specific permits

Many studies

- **PP concerning plans and policies**

- PP during the preparation of executive regulations

General provisions for public comments of the administrative procedure act



# What is Basic Law

## 47 Basic Acts

Principle

Basic plan/guidelines

PP provision concerning plans/policy: increase

## Individual Laws in each field

More concrete plan/guidelines/policy

PP concerning plans/ policy

Regulation

PP in decisions on specific permits



# Nuclear Power and Energy



## Contrast between environmental and energy law

- **Energy Law**

**No provision on public participation**



- **Environmental Law**

**Much more public Participation:**



## Three important laws

**“Energy Policy Basic Law”**

**Basic Energy Plan**

**“Atomic Energy Basic Law”**

**Fundamental guideline**

abolished after Fukushima . . .

**“Nuclear Reactor Regulation Law”**

**Permits**



# After Fukushima Public Demonstrations

- Public demonstrations all over the country  
Also in regular basis: Every Friday before  
the premier's residence in Tokyo
- Coalition of anti-nuclear groups has been  
formed.



**Fundamental change?**



# Three Methods of Public Consultation

## 1 Public hearing sessions

- Held at 11 places national wide

## 2 Solicitation of public comment

- 89,000 comments
- More than 80% of submitted supported the 0% scenario.

## 3 Deliberative Polling



## What is Deliberative Polling?

- Polling process reveals the conclusions the public would reach, if people had the opportunity to become more informed and more engaged in important issues.
- Commissioned by the national government  
Active advice of Stanford University.
- 285 participants were drawn from a larger random sample throughout the country totaling 6,849.
- They gathered in Tokyo and spent most of two days deliberating.





# Innovative Strategy vs Basic Plan

- **Innovative Strategy** for Energy and the Environment (2012) : **No legal basis**

0% nuclear dependence rate



**Change of government**



- **New Energy Basic Plan: Legal basis (2014)**

Nuclear: important base load power supply



## No PP on permit

- New independent regulatory commission was established: **Nuclear Regulation Committee.**

**Only technical experts**

**No lawyer**

- **No PP**

**No hearing of local governments' opinion**

- **EIA procedure**

No application to resuming their operation



# Litigation?

- **Past**

Judicial control over technical issues of nuclear reactors has been **limited**.

- **After Fukushima**

**More than 20 cases**

- **Present: Change?**

**Oi plant case: Landmark victory  
(May 21, 2014)**



## Evaluation

- No public participation, **only public acceptance**
- Stakeholder  
Limited number of strong interest groups  
Public: not familiar with nuclear issues
- There is a traditional recognition of the legislator that it is a **pure technical issue** that should be **decided by the experts**.



# Chemical Substances Management



## Access to information

- **PRTR** law (1999): Access to information



**Good database**

Important tool for risk communication

- Problem: **How to use**

Common people are not familiar with chemical substances.



## Policy dialogue and NGO

- **NGO**

Proposal for new legislation/policy

Partially succeeded

- **Ministry of Environment**

Organizing the dialogue with  
stakeholders including NGOs



Implementation of SAICM



## Evaluation

- **Will to promote PP**
- **Good database**
- **Some pioneering cases**
- **However,**
  - No legal obligation** to carry out PP procedures at policy-making level
- **Important**
  - Framing of problems**
  - Goal and process setting**





# Water Management

# Legal System of Water Law

## <Various Acts>

- River Act
- Water Pollution Control Act
- Waterworks Act
- Sewerage Act etc.



Need for Integration



Basic Act for Water Cycle in 2014



## Anti-dam movement and some changes

Protests against the construction of dams: active



Revision of River Act in 1997

- **River Basic Guidelines**: No PP
- **River Improvement Plan**: Legal provision for PP

River administrators shall take necessary measures, such as public hearings, to consider the opinion of the people concerned whenever necessary.



## Weakness of current system

### Issues:

Administrator's discretion to carry out PP

### Alternative:

Establishment of River Commission

### Some good practices:

Yodogawa Basin commission



## Evaluation

- Variety of citizen's activities

Need for coordination

Strong concern and expertise of the public

NGOs: active



- Some legal provisions for on PP

Some good practices



**Towards proactive PP**



# Conclusion



## Evaluation

- **Common**

Lack of substantial and meaningful PP

- **Reason**

Technical character of issue

Common issue in PP on plan/policy

- **Different**

Phase of issues



## Need for collaborative research

### Proposal for datasheet for basic information

Q1 Any basic plan at national/State/province level?

Energy, Chemical, Water

Q2 Any legal basis for such plan?

Q3 Any legal provision for PP?

Q4 What kind of PP?

Q5 Any differences among three levels?

Q6 Any good practice/concrete case?



An aerial photograph of a terraced rice field on a hillside. The terraces are filled with young green rice seedlings, arranged in neat rows. A winding path or road runs along the top of the hill, and a body of water is visible in the upper left corner. The overall scene is lush and green, with a small wooden structure visible on the right side of the terraces.

Thank you for your attention