

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

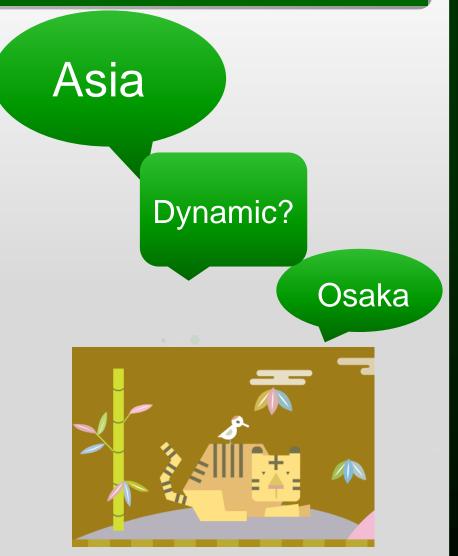
Sponsor: Japan Society for the Promotion of Science

(JSPS)



Why TIGER?







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 Fikushima 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





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 FukushimaMore 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
 - ImportantFraming of problemsGoal 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?

