

Special Report – Great East Japan Earthquake and Japan’s Nuclear Energy Policy

A. Background of the Special Report

A.1 Background of the Special Report - Great East Japan Earthquake and Fukushima Daiichi Nuclear Power Plant Accident -

a Great East Japan Earthquake

a.1 On March 11, 2011, at 14:46 (Japan time), a magnitude 9.0 earthquake occurred off the coast of Sanriku in the Tohoku region (hereafter referred to as the Great East Japan Earthquake). After the earthquake, seven waves of tsunami hit the Tohoku region, flooding an area of approximately 561km².

a.2 As of September 2012, the total number of deaths and missing persons caused by the earthquake and tsunami is approximately 18,600 (Cabinet Office Extreme Disaster Management Headquarters, *FY2011 (2011) Tohoku Region Pacific Ocean Earthquake (Great East Japan Earthquake)*, September 25, 2012).

Across the nation, 129,428 buildings have been reported as fully destroyed, 265,300 buildings as half destroyed, and 727,294 building as partially damaged, but the precise number is not known as some areas sank under water after the tsunami.

A.2 Fukushima Daiichi Nuclear Power Plant Accident

a There are fifteen nuclear reactors alongside the Pacific Coast of the Tohoku region, including the six of the Fukushima Daiichi Nuclear Power Plant operated by the Tokyo Electric Power Company.

There are a reprocessing plant, uranium enrichment factory, high-level radioactive waste storage facility and low-level radioactive waste storage facility at Rokkasho Village in Aomori Prefecture.

b Of these facilities, off-site power sources were damaged by the earthquake and the emergency diesel-generator was damaged by the tsunami at Reactors 1, 2, 3 and 4 of the Fukushima Daiichi Nuclear Power Plant. After loss of all the power sources, cooling functions of the reactors and the spent nuclear fuel storage pools were paralyzed. Consequently, radioactive substances were discharged into the environment.

b.1 At Reactor 1, on March 11, the water level of the nuclear reactor dropped and nuclear fuel was exposed, leading to meltdown. Most fuel melted down and fell to the bottom of the pressure vessel. It is presumed that molten fuel created holes in the bottom of the pressure vessel, and fuel leaked through these holes into the reactor container. On March 12, an attempt was made to vent gas and steam to lower pressure inside the reactor container. However, a hydrogen gas explosion occurred at the reactor building, and the reactor facility was destroyed.

b.2 At Reactor 2, pressure inside the reactor container also rose. On March 13, an attempt was made to vent gas and steam, but on March 14, the water level of the nuclear power reactor dropped and nuclear fuel was exposed, which led to meltdown. It is presumed that an

explosion occurred near the suppression chamber on March 15. Most of the nuclear fuel melted down and fell to the bottom of the pressure vessel. It is presumed that the bottom part of the pressure vessel was damaged by molten fuel, and part of the molten fuel fell further to the bottom of the reactor container through the holes created by the damage.

- b.3 At Reactor 3, nuclear fuel also began melting down on March 13 after the water level of reactor dropped and nuclear fuel was exposed. Over March 13 and 14, several attempts were made to vent air and steam, but on March 14, most of the nuclear fuel fell to the bottom of the pressure vessel. A hydrogen explosion occurred at the reactor building, and reactor facilities were damaged. It is presumed that the bottom part of the pressure vessel was damaged, and some of the molten fuel fell further to the bottom part of the reactor container through the holes created by the damage.
- b.4 Reactor 4 was undergoing a routine inspection and was not in use during the disaster, but the water temperature of the storage pool for spent nuclear fuel escalated. At 6 a.m. on March 15, a hydrogen gas explosion occurred at the reactor building, causing damage to the reactor facility.
- b.5 Water was poured into Reactors 1, 2, and 3, but as the pressure vessels and reactor containers were damaged, large quantities of radiation-contaminated water leaked out and are now being stored on site. Reactors 1, 2, 3, and 4 are still being cooled down using the water circulation and water injection cooling system.
- c According to the June 2011 press release of the Nuclear and Industrial Safety Agency, the total amount of radioactive substances discharged by the Fukushima Daiichi Nuclear Power Plant accident into the air is estimated at 770,000 terabecquerels (10^{12}).
According to the October 2011 press release of the Japan Atomic Energy Agency, estimated total amount of radiation discharged by the Fukushima Daiichi Nuclear Power Plant accident into the sea, including radiation fallout, was 15 quadrillion (10^{15}) becquerels.
The Fukushima Daiichi Nuclear Power Plant accident is considered as “Level 7 (major Accident)” which is the most serious on the International Nuclear Events Scale (INES).
- d In April 2011, the State Party designated the area within 20 km of Fukushima Daiichi Nuclear Power Plant as an Evacuation Area, and prohibited entry into the area. Furthermore, the Government designated areas where the estimated radiation dose is more than 20 mSv as a Specially Designated Recommended Evacuation Area, and issued evacuation orders to people residing in those areas.
The total area of the Evacuation Area and Specially Designated Recommended Evacuation Area is approximately 1,100 km². Approximately 85,000 residents were ordered by the Government to evacuate, and have been displaced from their homes. Even in areas where the Government did not issue an evacuation order, many residents have voluntarily evacuated to avoid their exposure to radiation.
- e The Great East Japan Earthquake was an unprecedented multi-faceted disaster with the combination of earthquake, tsunami and nuclear disaster. It not only caused grave damage to the affected areas, but also made a huge impact on the Japanese society and economy, and

continues to threaten the basic human rights of many people.

B. Livelihoods of Disaster Victims

B.1 Background

a.1 After the massive seismic movement and tsunami of the Great East Japan Earthquake, many buildings were either destroyed or swept away. Furthermore, due to the Fukushima Daiichi Nuclear Power Plant accident, thousands of people lost their families, lost livelihood environments such as homes, workplaces and schools, and were forced to flee to other areas.

According to the Cabinet Office Extreme Disaster Management Headquarters, as of September 25, 2012, 329,777 people remain displaced across the nation (including those staying at evacuation centers and those staying with families, friends, in public housing and temporary houses).

According to “2011 Tohoku Region Pacific Ocean Earthquake Damage Flash Report (No. 767)” (November 1, 2012) published by the Disaster Provision Main Office of Fukushima Prefecture, the number of people displaced outside Fukushima Prefecture is 59,031 and the number of evacuees staying at temporary houses in Fukushima Prefecture is 98,995.

a.2 Distribution of food, water and other necessary items to disaster victims was not sufficient. There are various other issues, such as livelihood support and job referral for those who became unemployed, the influence of interruption of school classes, and the question of whether those displaced by radioactive contamination can return home.

a.3 Insufficient health maintenance for women and the vulnerable, and nursing care of elderly persons during the emergency phase were reported

a.4 Those who were forced to evacuate as a consequence of the Great East Japan Earthquake and the Fukushima Daiichi Nuclear Power Plant accident fall under the category of “internally displaced persons” defined under the “Guiding Principles on Internal Displacement” as persons who have been forced to leave their homes as a result of or in order to avoid the effects of natural or human-made disasters.

Principle 11 stipulates internally displaced persons’ rights to be protected against infringement of personal dignity such as gender-based violence.

Principle 18 stipulates internally displaced persons’ rights to adequate standards of living. It requests the authorities in charge to assure adequate food, drinking water, basic shelter and housing, clothing, medical services and sanitation facilities. It also requests that special efforts are to be made to ensure full participation of women in planning and distribution of these basic supplies

Principles 3 and 19 stipulate the rights of children, women, persons with disabilities and the elderly to receive treatment and services that meet their special needs.

C. Ensuring the Rights of Victims - Detail

C.1 Livelihood and Employment Support for Disaster Victims

a Proposed Recommendations for the Concluding Observation

- a.1 The State Party and affected local governments should make the following efforts to improve living conditions at temporary houses.
 - i. To continue distribution of food, daily necessities and medical services for disaster victims staying at temporary houses until they are self-sufficient.
 - ii. To establish a remission system of water and electricity expenses to those that are unable to afford them.
 - iii. To improve livelihood environment by measures such as establishment of medical institutions and nursing care service institutions within temporary housing complexes.
 - iv. To provide additional personnel to prevent isolation of disaster victims.
 - v. To monitor living conditions and take measures to improve the livelihood environment at temporary housing.
 - vi. If defects in construction are found, to take drastic measures to find out the cause and prevent recurrence.
 - a.2 The State Party should either provide grants for livelihood recovery or lump sum payments for temporary home visits.
 - a.3 The State Party should expand and reinforce the consultation capacity of public employment security offices and the Labour Standards Bureau in the affected areas, as well as Labour Bureaus of prefectural governments across the nation in order to enhance supervision and direction of business owners. It should also promote partnership with experts from the local Bar Associations to expedite legal relief.
 - a.4 Counseling functions of public employment security offices in the affected areas needs to be strengthened. In addition to increasing deployment of experts and employment support, a framework should be established to provide thorough care to the disaster victims.
 - a.5 To fully meet the needs of evacuees staying in remote areas, the State Party and local governments should compile a national list of disaster victims, and actively share information to understand the precise whereabouts of disaster victims. Information on evacuation sites should be disclosed to service provider organizations working for the public benefit.
 - a.6 The State Party should provide necessary assistance to those families that were forced to evacuate and live apart in order to maintain their household. Local governments that host evacuees should make every effort to provide housing, create employment opportunities and refer jobs.
- b Reasons**
- b.1 As a result of the Great East Japan Earthquake and Fukushima Daiichi Nuclear Power Plant accident, thousands of people lost their livelihood and employment environments.
 - b.2 Thousands of people still live in temporary houses. Temporary housing is a part of first-aid

measures provided as disaster relief. All possible measures should be implemented to assist victims of disasters who are unable to secure minimum standards of living and to make sure that assistance does not end when they relocate to temporary housing.

As most temporary housing for victims of the Great East Japan Earthquake is built at inconvenient places away from their original domicile, it is essential to ensure that living conditions are met. In the International Covenant on Economic, Social and Cultural Rights Article 11 Paragraph 1, the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living condition is recognized. This right should also be ensured at temporary housing.

- b.3 Distribution of goods, financial assistance such as grants to support living expenses and transportation costs for temporary home visits are necessary for the victims to recover their livelihoods.

Article 23, paragraph 1, item 7 of the Disaster Relief Act prescribes “granting or lending of funds, appliances and materials necessary to set up one’s living and businesses”, which allows both distribution of cash support, as well as granting or lending of appliances necessary for living. However, without any rational grounds, the Act has not been applied and no action has been taken for a long time, causing delay in the recovery of livelihoods as well as businesses.

Furthermore, cash assistance should be provided to residents who were forced to evacuate from their homes as a consequence of the nuclear power plant accident.

- b.4 Adequate employment support is necessary in order to promote recovery of the livelihoods of disaster victims. Reinforcement of the consultation framework and counseling capacity of public employment security offices, and supervision and direction of business owners should be promoted, as well as strengthening partnership with experts from local Bar Associations to expedite legal relief.

- b.5 Many disaster victims of the Fukushima Daiichi Nuclear Power Plant accident evacuated to remote locations. Those evacuees are likely to lose contact with the local governments of their places of origin, and may risk isolation or experience disruption of assistance. Families of evacuees tend to live apart, and are in need of assistance to maintain their households. Therefore, information on evacuees should be collected and shared amongst local governments and organizations that serve the public benefit. Assistance should be provided to families who are living apart from each other in order to maintain their livelihoods. Local governments that host evacuees should make every effort to provide housing, create employment opportunities and refer jobs.

C.2 Ensuring Rights of Women, Children, Elderly Persons and Persons with Disabilities

a Proposed Recommendations for the Concluding Observations

- a.1 The Government should create evacuation centre guidelines that incorporate a gender-equal perspective.
- a.2 Reconstruction plans and disaster management plans should be drafted based on outcomes of interviews with disaster victims who include women, elderly persons, children, non-Japanese

nationals, persons with disabilities and sexual minorities, and organizations that support them, as well the results of thorough analysis of factors that created disparities in the damage situation.

- a.3 Domestic Violence Consultation and Assistance Centers should be expanded in the affected areas. Furthermore, a Women's Centre that could handle various issues such as medicine, child rearing, elderly care, labor and law should be established, and its functions strengthened.
- a.4 In regard to community rebuilding, reconstruction of medical facilities, elderly care facilities and child care facilities should be prioritized. The State Party should provide financial assistance as deemed necessary.

b Reasons

- b.1 After the Great East Japan Earthquake, a lack of measures to ensure privacy, lack of space for women and child care, of understanding on the specific needs of women, women's access to various consultation spaces, and an excessive burden regarding cooking on women were reported. It became clear that evacuation centers need to be improved by incorporating a gender-equal perspective.
- b.2 A lack of concern towards victims who are especially vulnerable to the impact of the disaster, such as elderly persons, children, non-Japanese nationals, persons with disabilities and sexual minorities was also evident. These disaster victims require special attention as they may risk becoming persistently disadvantaged after the reconstruction.

On June 21, 2012, the "Statute on Protection and Support for the Children and other Victims of Tokyo Electric Company Nuclear Power Plant Disaster" was passed and enacted by the House of Representatives. Medical expenses for children and pregnant mothers who were affected by the accident will be exempted or reduced using national financial resources. Furthermore, the Government will guarantee lifelong health checks for children who may have been exposed to radiation. The Government will also be responsible for assistance to children who were separated from their families as a consequence of the accident, as well as the return of voluntary evacuees. However, as the current evacuation standard designated by the Government is an annual radiation dose of 20 mSv, in order to be eligible to receive assistance, zones need to be exposed to radiation over this "fixed standard". This "fixed standard" should be revised and adjusted to the public dose limit of 1 mSv designated by the International Commission on Radiological Protection (ICRP). Disaster victims should not be further separated from the general public.

Reconstruction plans and disaster prevention plans should be drafted based on outcomes of interviews with victims and organizations relating to women, elderly persons, children, non-Japanese nationals, persons with disabilities and sexual minorities, as well as on the results of thorough analysis of factors that created disparities in the damage situation.

- b.3 In the affected areas, many people, regardless of age, are exposed to severe stress due to the change of environment and fear towards future. An increase in incidents of spousal violence, violence against women and child abuse during the process of and after reconstruction are feared. Therefore, Spousal Violence Counseling and Support Centers should be expanded in

the affected areas. Furthermore, a Women's Center that could handle various issues such as medicine, child rearing, nursing care of the elderly, labor and law should be established and its functions strengthened.

- b.4 In the affected areas, burdens on women regarding medical, elderly nursing care and child care may become excessive. Therefore, in regard to community rebuilding, reconstruction of medical facilities, elderly nursing care facilities and child care facilities should be prioritized. The State Party should provide financial assistance as necessary.

C.3 Assistance to the Elderly and Persons with Disabilities

a Proposed Recommendations for the Concluding Observations

- a.1 Information on evacuees who are elderly and require nursing care as well as persons with disabilities should be collected through individual visits in order to thoroughly understand their living and health conditions. Collected information should be shared amongst concerned institutions and required assistance should be duly provided.
- a.2 Medical care, nursing care and psychological care should be fully provided to elderly and persons with disabilities. In order to realize this, assistance frameworks should be established in the affected areas. Special attention should be provided to elderly persons who are living alone.

b Reasons

- b.1 Amongst the victims, many elderly and persons with disabilities remain unregistered on the list of persons who require assistance. In cases where people evacuated to areas far away from their domiciles, it is difficult to find out their whereabouts and living conditions at the evacuation sites. For this reason, assistance to meet various needs, ranging from material to psychological needs, is not well provided and a considerable number of people are isolated and exhausted.

In the previous Concluding Observation, a recommendation was made that either psychiatric or psychological treatment⁵⁴ should be provided to elderly persons affected by the Hanshin Awaji Great Earthquake who are living alone in order to improve community service⁵⁵. As a consequence of the earthquake, tsunami and nuclear disaster caused by the Great East Japan Earthquake of March 11, 2011, many elderly persons lost their family members, relocated from their domiciles and were forced to live alone.

It is also essential to avoid the isolation of victims, and to build a community assistance framework in order to prevent solitary death and alcoholism of victims staying at temporary houses and public housing.

To provide required assistance, information on evacuees who require nursing care and persons with disabilities should be collected through individual visits in order to comprehend their living and health conditions. Collected information should be shared amongst concerned institutions and necessary assistance should be duly provided.

The Government created the "Guideline on disaster evacuation assistance to persons who require nursing care during disaster emergencies" in 2006, but almost no local governments

collected information on persons who require nursing care before the Great East Japan Earthquake, and the safety of persons with disabilities was also unchecked.

- b.2 Furthermore, in the affected areas, the elderly and persons with disabilities may suffer deteriorating health or psychological damage due to the change of environment, fear regarding their livelihoods and isolation from their communities. Medical care, nursing care and psychological care should be duly provided to elderly persons and persons with disabilities. To achieve this, an assistance framework should be built within communities.

D. Response to the Fukushima Daiichi Nuclear Power Plant Accident and Nuclear Power Policy – General Remarks

D.1 Previous Concluding Observation of the Committee (2001)

- a In the Concluding Observation of the Committee on Economic, Social and Cultural Rights (September 24, 2001), the Committee raised its concern that safety regulation of Japan's nuclear power facilities are of "C. Principle subjects of concern" and made the following remarks.

282. "The Committee is concerned about reported incidents in nuclear power stations and the lack of transparency and disclosure of necessary information regarding the safety of such installations, and also the lack of advance nationwide and community preparation for the prevention and handling of nuclear accidents."

- b In addition to the above comment, the Committee gave the following advice and requested the State Party in "E. Suggestions and Recommendations":

283. "49. The Committee recommends increased transparency and disclosure to the population concerned of all necessary information, on issues relating to the safety of nuclear power installations, and further urges the State party to step up its preparation of plans for the prevention of, and early reaction to, nuclear accidents."

D.2 Related Report in the 2009 Report of the Government of Japan

- a The State Party responded to the Committee in its "Third Periodic Report by the Government of Japan under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (December 2009)", as follows⁵⁶.

a.1 Transparency and Safety

284. "To obtain the understanding of citizens and residents of areas in which nuclear power installations are located, the Government recognizes that it is important to give them full explanations and to hear their opinions concerning the safety of nuclear power.

285. The Government has used various opportunities and the media to make appropriate disclosures of information concerning the safety of nuclear power.

286. The Nuclear and Industrial Safety Agency of the Ministry of Economy, Trade and Industry has assigned local public-relations officers for nuclear power safety to key areas of nuclear power installations. They explain the safety regulations governing nuclear power to local public entities, assemblies, and residents in the areas of nuclear power installations, and

work to strengthen the systems of information disclosure by actively producing and distributing pamphlets. The Government will continue to do its utmost to enhance the understanding among the public of nuclear power safety regulations, and intends to instruct the operators of nuclear power installations to ensure that they should disclose information and give clear explanations to outsiders about safety.”

a.2 Preparation of plans

287. “The Basic Disaster Management Plan, which is based on the Disaster Countermeasures Basic Act, Japan’s fundamental law concerning disasters, contains a section on dealing with accidents at nuclear power installations, which prescribes, as a basis for tackling nuclear-power-related accidents, the actions that need to be taken to prevent the occurrence and escalation of accidents and to recover from them.

288. Based on the Basic Disaster Management Plan, relevant ministries and agencies have formulated Disaster Management Operating Plans, while prefectures and municipalities have produced Local Disaster Management Plans. These plans place the affairs under the jurisdiction of relevant ministries and agencies and specify the actions to be taken within the prefectures and municipalities concerned.

289. Pursuant to the Act on Special Measures for Nuclear Disasters, operators of nuclear power installations have formulated a Disaster Management Operating Plan for each installation, which prescribes the action to be taken to prevent nuclear-power-related accidents, respond to emergencies, and deal with the aftermath of nuclear-power-related accidents.”

a.3 However, the Great East Japan Earthquake in March 2011 which triggered the Fukushima Daiichi Nuclear Power Plant accident revealed that overall the Japanese Government’s measures, ranging from safety regulation of nuclear power, prevention of accidents, information disclosure to nuclear disaster management, were extremely insufficient. Thus, the concerns of the Committee became a reality.

E. Response to Fukushima Daiichi Nuclear Power Plant Accident and Nuclear Power Policy – Details

E.1 Monitoring and Information Disclosure on the Status of Radioactive Contamination [related to Article 12-2(b) of the Covenant]

a Proposed Recommendations for the Concluding Observations

a.1 The State Party should continue to monitor the levels of radiation contamination extensively throughout land and sea. It should also establish a system to continue monitoring of marine products.

In particular, the Government should not delay in conducting a more detailed and in-depth monitoring survey in Fukushima Prefecture and its neighboring Prefectures.

a.2 As regards disaster victims’ decision-making on whether to evacuate from their domiciles, stay or return, the Government should provide accurate information on current contamination levels, decontamination plans, and adequate prediction of mid- to long-term shifts in the

contamination levels taking into account wind, rain and other possible transfer of radioactive substances.

- a.3 Concerning the decision on when to lift the designation of the Evacuation Areas, the State Party should set up a third-party organization comprised of independent scientists and local representatives who have no ties to the nuclear power industry. The relationship between the third-party organization and the authorities should be legally clarified.
- a.4 The State Party should fulfill its responsibilities set forth in the Law, and newly establish a legal system to make it obligatory to record minutes of all the discussions on the nuclear power plant accident.

b Reasons

- b.1 Radioactive contamination of air, soil, river and ocean by the Fukushima Daiichi Nuclear Power Plant accident spread over a wide area, and there are concerns about its long-term effects.

In order to decrease public exposure dose and facilitate residents from contaminated areas in deciding whether to evacuate, stay or return, the Government of Japan must accurately survey and monitor the contamination levels of the environment, and disclose accurate information on the proliferation of radiation, conditions of contamination and future projections.

However, the monitoring system was not sufficient during the Fukushima Daiichi Nuclear Power Plant accident.

- b.2 In June 2012, the “Statute on Protection and Support for the Children and other Victims of Tokyo Electric Company Nuclear Power Plant Disaster” was enacted. Article 6 of the Statute sets forth that the State Party shall continue its radioactive material monitoring survey, make the survey more in-depth and detailed than at present, project future contamination levels, and disclose results of surveys and projections in a timely manner.

- b.3 However, the detailed monitoring surveys and future projections of radioactive contamination of the environment as requested by the Statute are not carried out in reality. Therefore, disclosure of survey results is insufficient, and is not reflected in the proposal regarding public exposure and decision-making of evacuees in rebuilding their livelihoods

In particular, the ocean and rivers are not monitored comprehensively.

- b.4 During the Fukushima Daiichi Nuclear Power Plant accident, estimated levels of radioactive contamination calculated by the System for Prediction of Environment Emergency Dose Information Network System (SPEEDI) were not promptly made public. Criticisms were raised that this delay increased public exposure to radiation. Preparation for future nuclear power plant accidents is insufficient.

- b.5 The decision regarding cancellation of the designation of the Evacuation Areas is an important factor related to the return of evacuees, as it will heavily affect their safety and recovery of livelihood. Such a decision should not be distorted by administrative decisions whose objective is to maintain local population numbers.

To supplement the accuracy of such an important decision, the State Party should set up a third-party organization comprised by independent scientists and local representatives who

have no ties to the nuclear power industry, and legally clarify the relationship between the third-party organization and the authorities.

- b.6 All the Government's discussions on the nuclear power plant accident should be disclosed to its people. As a prerequisite of disclosure, minutes of meetings must be kept.

However, regarding the Fukushima Daiichi Nuclear Power Plant accident, it became apparent that minutes were not recorded during important emergency management meetings that the Government held every day after the accident. Without these minutes, it is not possible to analyze the Government's response to the accident, or to improve future responses in case of another similar accident. Furthermore, it is not possible to analyze who was responsible for what after the earthquake. This violates the objective of the Public Records and Archives Management Act.

E.2 Health Checks and Health Management of the Public [related to Article 9, Article 12-2(b) of the Covenant]

a Proposed Recommendations for the Concluding Observations

- a.1 The State Party should conduct health control surveys and provide free medical services to check the external and internal radiation exposure of disaster victims who live in the areas where the public radiation dose exceeds 1 mSv per annum.

Moreover, it should be made clear that the objective of these measures is not to "remove health concerns", but rather "prevention, early detection and treatment of detrimental effects on health"

- a.2 The following improvements should be made before the health control survey of disaster victims is implemented.

- i. As much as possible, the target population should be surveyed face to face and interviewed in detail.

- ii. Detrimental effects of radiation exposure should not be limited to cancer and leukemia, and no remarks should be overlooked. As a minimum, blood tests, urine tests and whole-body counter exams should be carried out on all those who wish to be examined. In such cases, the detection limit should be set as low as possible.

- iii. Thyroid gland tests should not be limited to a supersonic wave test, but blood and urine should also be tested

- iv. For pregnant and nursing mothers, breast milk should be tested, and a follow-up study on newborns should be conducted.

- v. An appropriate comparative group should be selected.

- a.3 The State Party should acknowledge that disaster victims have the right to know their own radiation exposure dose. If a victim requests, the Government should measure internal exposure dose using equipment such as a whole-body counter, and use the obtained data to calculate the total accumulative dose up to now. Such data should be disclosed to the disaster victims and all the expenses should be borne by the Government.

- a.4 While the privacy of each disaster victim should be sufficiently respected, the results of health

control surveys should be widely made available to academic institutions. The Ministry of Education, Culture, Sports, Science and Technology and the Ministry of Health, Labour and Welfare should immediately cancel their circular dated May 16, 2011 entitled “Conducting surveys and researches in the affected areas”. Furthermore, the results of health control surveys conducted by prefectures should be made widely available for medical and academic research, and survey opportunities should be given to multiple organizations.

b Reasons

b.1 Radioactive contamination from the Fukushima Daiichi Nuclear Power Plant accident spread across a vast area, and its effects may continue for a long period.

It cannot be denied that residents who were exposed to radiation after the nuclear power plant accident may suffer from health damage. As the State Party had promoted development of nuclear power, it must prevent, promptly discover and treat any detrimental effects on the health of residents.

To do so, the Government has the obligation to adequately estimate the levels of external and internal exposure to radiation, and assess levels of radiation dose based on effective testing. Based on such an assessment, epidemiologic health surveys, life-long health checks and health control of the public, especially children who are most at risk of being affected by radiation, are necessary. These measures must take into account a long-term perspective and possible delayed effect

Proposed measures were incorporated in Article 13 of the “Statute on Protection and Support for the Children and other Victims of Tokyo Electric Company Nuclear Power Plant Disaster” which was enacted in June 2012

However, in this Statute, the objective of these measures is set forth as “to promptly remove the health fears of disaster victims related to external and internal exposure to radiation”, which may cause misunderstanding that the main goal of the proposed measures is to remove “fears” rather than to “prevent detrimental effects on health”.

Furthermore, the specific measures set forth in the Statute are yet to be realized. Appropriate actions should be taken at earliest possible timing. Also, the criteria of the zones eligible for aid are yet to be decided. Eligibility should be judged based on the advice of the ICRP that proposes the dose limit for exposure of the public to radiation as 1 mSv per annum. All areas where more than 1 mSv of radiation were detected should be made eligible to receive assistance under the Law.

b.2 Large volumes of internal exposure were detected in nuclear power plant workers who only approached the Fukushima Nuclear Power Plant area after the accident, and were not engaged in any tasks inside the plant. This fact suggests that residents of the area may have been internally exposed to similar levels of radiation. Nevertheless, internal exposure of residents has mostly not been tested.

Therefore, the State Party should cooperate with local governments, and using equipment such as whole-body counters, measure levels of internal exposure of infants, pregnant women and outdoor workers who resided in the areas where radioactive materials spread. Using this

collected data, levels of exposure to radiation at the time of the accident should be estimated. The results should be disclosed to the disaster victims concerned, and all expenses should be borne by the State Party.

- b.3 Currently, Fukushima Prefecture is carrying out a “Health Control Survey of the People of the Prefecture”. However, many questions are being raised on the adequacy of the survey, as its objective is “to remove health concerns and to promote the long-term health of the people of Fukushima”, illnesses other than cancer and leukemia are not included in the test, and the precision of the test is not sufficient to ascertain the actual conditions of internal exposure.
- b.4 On May 16, 2011, the Ministry of Education, Culture, Sports, Science and Technology and the Ministry of Health, Labour and Welfare released a circular entitled “Survey and research in the affected areas” to related testing and research organizations as well as universities. This circular requested organizations to thoroughly coordinate with local governments in the affected areas, and strictly avoid duplication of health checks and research on disaster victims. This indirectly requests organizations to refrain from conducting any health surveys other than the Health Control Survey for the People of the Prefecture conducted by Fukushima Prefecture. Consequently, academic, scientific and third-party surveys of any independent nature are restricted. This is not favorable in terms of ensuring impartiality of the survey and from an academic standpoint. There are undeniable risks of governmental control of information on the effects of radiation exposure of the public, as well as restriction of publicly available health surveys.
- b.5 In Article 13 of the “Statute on Protection and Support for the Children and other Victims of Tokyo Electric Company Nuclear Power Plant Disaster” which was enacted in June 2012, the State Party sets forth that it will take necessary measures to estimate radiation exposure doses, and assess the results of effective radiation dose testing. It also sets forth that the State Party will take necessary measures regarding the detrimental effects of radiation on health, such as by conducting regular health checks on disaster victims. Lifelong health checks should be ensured at least to all the children who resided in the areas where a certain amount of radiation was detected. Medical expenses (excluding injuries and illnesses that are not related to radiation exposure caused by the Fukushima Daiichi Nuclear Power Plant accident) should be deducted for children and pregnant women.

However, it is inadequate that the objective of these measures is laid out in the Statute as “early removal of health concerns of disaster victims related to external and internal exposure to radiation”.

Specific measures based on this Statute are yet to be implemented. Appropriate measures should be implemented as soon as possible. As criteria of areas to which the Statute should be applied are also undecided, the following criteria should be applied.

- i. All areas of Fukushima Prefecture, regardless of exposure dose
- ii. All areas outside of Fukushima Prefecture where the additional accumulative exposure dose over one year after March 11, 2011 is estimated to be more than 1 mSv (this designation can only be made based on air dose. Initial exposure including internal

exposure dose after the accident should be appropriately estimated and zones that meet the above criteria should be additionally designated)

- iii. For those victims who reside or resided in areas other than those mentioned above, there should be measures to guarantee eligibility based on exposure dose after the accident as well as regional exposure conditions.

E.3 Health Checks and Health Management of Workers who were Engaged in Radiation-exposed Labor [related to Article 7, Article (b) of the Covenant]

a Proposed Recommendations for the Concluding Observations

- a.1 Specific measures should be implemented to accurately and swiftly provide information to workers on the long-term risks of working in a radiation-exposed environment and security measures against exposure.
- a.2 Health conditions of workers engaged in radiation-exposed work should be monitored in the long term.
- a.3 In cases where workers engaged in radiation-exposed work wish to receive health checks related to radiation exposure or receive medical treatment for illnesses that could have been caused as a consequence of exposure to radiation, the State Party should implement assistance measures such as abolishing medical expenses or providing financial support.
- a.4 The State Party should track down workers who have not received any exposure dose checks, as well as any missing names and contact information of workers who worked in a radiation-exposed environment after the Fukushima Daiichi Nuclear Power Plant accident.
- a.5 Criteria for industrial accident compensation insurance should be established for illnesses related to radiation-exposed work.

b Reasons

- b.1 Directly after the occurrence of Fukushima Daiichi Nuclear Power Plant accident, many workers were engaged in radiation-exposed work in order to stabilize the situation. Long-term support for health management (including testing) is required to maintain the health conditions of workers who worked in a radiation-exposed environment. Necessary expenses should be borne by the Government.
- b.2 On March 14, 2011, the Government raised the legal limit of radiation exposure (effective dose) of workers engaged in emergency response from 100 mSv per annum to 250 mSv per annum (this was reverted to 100 mSv on December 16, 2011). However, in July 2011, it was identified that six workers were exposed over the raised limit of 250 mSv of radiation.
- b.3 Careless management of radiation exposure of workers who worked in order to stabilize the emergency situation has also been questioned. Many workers' exposure does has not been measured, and the contact information of many workers is missing. A follow-up survey is required in order to make health maintenance services available to such workers.

E.4 Discrimination and Prejudice against Evacuees [related to Article 2-2 of the Covenant]

a Proposed Recommendations for the Concluding Observations

290. The State Party and Fukushima Prefecture should cooperate and implement specific measures to expand the psychological care of the people of Fukushima and to prevent social discrimination against them⁵⁷.

b Reasons

b.1 Due to the extensive contamination of the Fukushima region by the Fukushima Daiichi Nuclear Power Plant accident, there were reports of bullying and discrimination against the people of Fukushima by people living in other prefectures. The contamination will remain for a long time, and there are concerns that such discrimination may spread further. For example, children who were forced to evacuate were being bullied at their new locations, or evacuees were refused from hotel accommodation. Cases of discrimination based on groundless prejudices are reported in the news.

b.2 In June 2012, the “Statute on Protection and Support for the Children and other Victims of Tokyo Electric Company Nuclear Power Plant Disaster” was enacted. Article 2 of the Law sets forth as its principle that “All supportive measures taken shall be ensured that they will not evoke ungrounded prejudices against the victims of the TEPCO nuclear disaster”. However, no specific measures have been implemented to prevent such prejudices.

E.5 Decontamination [Article 11, Article 12- 2b) of the Covenant]

a Proposed Recommendations for the Concluding Observations

a.1 The decontamination process is of a nature that does not decrease the actual amount of existing radioactive materials, but merely transfers radioactive materials from one place to another. The substantial limitation of environment cleanup by the current decontamination method should be acknowledged, and decontamination should only be carried out after appropriate prevention measures are implemented to prevent further pollution of the environment through the decontamination process, as well as countermeasures against exposure of workers.

a.2 In Special Decontamination Areas (Restricted Areas and Deliberate Evacuation Areas), the long-term numerical target of measures against environmental pollution discharged by the accident should be an additional annual exposure dose of less than 1 mSv.

a.3 It should be acknowledged that decontamination of Special Decontamination Areas (Restricted Areas and Deliberate Evacuation Areas) will take a very long time, and lifting of the designation should be done cautiously.

a.4 As regards areas where a decontamination plan has been developed, the living zones of children should be taken special consideration, and the estimated additional exposure dose for children per annum should be decreased to less than 1 mSv (air dose 10 cm above ground surface) by the end of March 2014. Affected zones should be continuously monitored as they may be repeatedly contaminated, and if radiation is detected, the area should be duly decontaminated.

a.5 Participation of local residents is essential in drafting and finalizing decontamination plans.

Related information should be promptly disclosed to the public.

- a.6 As regards incineration used to decrease radiation-contaminated waste, the capacity and performance of incineration facilities should be appropriately tested and assessed. Based on the principle of public disclosure and participation, residents should have access to the decision-making process regarding incineration policy.
- a.7 Criteria for the selection of decontamination service providers should be set, and only those service providers that have received appropriate training or certification should be allowed to provide the service. These criteria should include items such as prevention of environmental pollution, labor safety and hygiene control, effectiveness of decontamination, expense, and technical and economic ability of service providers.
- a.8 The expense required to implement decontamination should primarily be borne by Tokyo Electric Power Company, but practically, the State Party should take responsibility to secure expenses and conduct research on means of decontamination.

b Reasons

- b.1 Vast areas of land (soil), forest, river and ocean were contaminated by radioactive materials discharged from the Fukushima Nuclear Power Plant. As a result, the living environments of people as well as production environments for agriculture and fishery were damaged. Many people were forced to evacuate, and terminate or abandon their production activities.
- b.2 As regards waste, soil and other materials contaminated by radioactive materials discharged by the Fukushima Daiichi Nuclear Power Plant accident, the “Act on Special Measures concerning the Handling of Environment Pollution by Radioactive Materials Discharged by the Nuclear Power Station Accident Associated with the Tohoku District–Off the Pacific Ocean Earthquake that Occurred on March 11, 2011” was concluded in August 2011, in which the responsibilities of the State Party and roles of local governments regarding disposal and decontamination (removal of contaminated soil, fallen leaves and branches, accumulated mud in waterways, and prevention of proliferation of such contamination) were set forth. In November of the same year, the Government announced its basic policy on countermeasures based on the Act.

According to the Act, the Minister for Environment will take into account the conspicuousness of pollution and other factors to designate “Special Decontamination Areas”, and other areas where decontamination is required as “decontamination planned areas”. As for “Special Decontamination Areas (Restricted Areas and Deliberate Evacuation Areas)”, the Government will draft and implement a decontamination plan. Furthermore, regarding “decontamination planned areas”, heads of prefectures, cities, towns and villages will be assigned to develop and implement decontamination plans.

Regarding the waste contaminated by radioactive substances from the accident, the Minister for the Environment will take into account the level of radiation dose and designate “waste from designated zones” and “designated waste”. Such waste will be disposed of by the State Party, and other waste will be disposed according to the Waste Disposal Act.

- b.3 On the other hand, there are concerns about the proliferation of environmental contamination

in the course of transfer, incineration and final disposal of waste contaminated by radioactive substances.

The decontamination process is of a nature that does not decrease the actual amount of existing radioactive materials, but merely transfers radioactive materials from one place to another. There are substantial limitations to environmental cleansing by decontamination. Thus, there are concerns about the effectiveness of decontamination, feasibility, and further proliferation of environmental contamination in the course of the decontamination process. Questions are being raised regarding exposure risks of workers and residents in the course of decontamination and disposal of waste.

Sufficient prevention measures against environmental pollution and exposure of workers should be taken before the implementation of decontamination in order to prevent further contamination or human exposure to radiation.

To do so, the Government should license and verify service providers by establishing strict criteria to assess their waste incineration ability and the appropriateness of decontamination service providers.

- b.4 Needless to say, the scale of the contaminated area and volume, the aforementioned issues regarding environmental contamination in the course of waste processing and decontamination, delays in the construction of interim storage spaces for removed soil and rubble and storage facilities are hampering the processing and decontamination of waste contaminated by radioactive substances.

It should be acknowledged that decontamination is a long-term process. Realistic goals should be set for the decontamination of Special Decontamination Areas (estimated additional annual exposure dose should be less than 1 mSv), and lifting of area designation should be carried out cautiously.

In particular, numerical targets should be made stringent for the living zones of children.

- b.5 When developing and implementing decontamination plans or disposing of waste, information should be disclosed to the public and residents should have access to the decision-making process.
- b.6 As regards use of contaminated waste (ash, etc.) for landfill, the Government has set a standard in which it approves the disposal of waste at controlled disposal sites if the cesium density is below 8,000 becquerels per kilogram, and even if the cesium density is between 8,000 becquerels and 100,000 becquerels per kilogram, the Government will acknowledge disposal of the waste on the condition that it is specially treated. Nevertheless, before the accident, if the level of cesium-137 contained in the waste was above 100 becquerels per kilogram, waste was stored at a low-level radioactive waste processing facility for a long period. Therefore, even taking into account the state of emergency, to permit landfill of waste which is above the previous clearance level at general waste final disposal facilities (controlled final disposal sites) is unacceptable. In particular, during transfer and storage, any waste above 8,000 becquerels per kilogram may radiate more than 1 mSv per annum, which is the public radiation exposure limit.

E.6 Compensation for Damage

a Proposed Recommendations for the Concluding Observations⁵⁸

a.1 Contents of the Compensation for Damage

- i. Regarding compensation for damage related to the Fukushima Daiichi Nuclear Power Plant accident, appropriate compensation should be paid if causality between the accident and damage can be acknowledged with consideration of individual specific conditions.
- ii. As regards psychological damage to evacuees, the current compensation amount and criteria are too low. Either the amount should be increased or an appropriate amount should be calculated based on the period of evacuation.
- iii. Termination of compensation to the evacuees who resided in the Emergency Evacuation Preparation Area or Designated Evacuation Recommended Areas should be abolished. As for payment of compensation for business damages or incapacity, the irregularity of the accident should be taken into consideration and such payment should not be terminated for the time being.
- iv. Not only the asset value of real estate located inside the zone, but also movable property left inside the buildings of the No-return Area, No-residence Area and Areas being Prepared for the Lifting of the Evacuation Order, and the buildings in the No-residence Areas and Areas being Prepared for the Lifting of the Evacuation Order, should be treated as totally damaged, and compensation amounts should be based on repurchase price if requested by disaster victims.
- v. Criteria of compensation for evacuation from areas other than designated Evacuation Area (voluntary evacuation) should be fully revised. At minimum, all the residents from areas where more than 1.3 mSv (0.6 mSv per hour, above 5.2 mSv per annum) of radiation was detected in March should be made eligible to apply. For those areas where additional annual exposure dose exceeds 1 mSv, at least children, pregnant women and their family members should be made eligible.
- vi. In cases where a disaster victim is either a person with disability, an elderly person or suffers from chronic illness, uniform application of same criteria to these persons should not be tolerated, and appropriate compensation should be paid in accordance with the condition of damage suffered by each individual.
- vii. It should be acknowledged that decontamination of the Special Decontamination Area (Evacuation Area and Deliberate Evacuation Area) will take a very long time. Taking into account that the lifting of area designation should be done cautiously, various means should be considered, such as recovery of damage through relocation of livelihood spaces, including communities, or reconstruction of office buildings, or issuance of disaster compensation that will assist the early recovery of agriculture, forestry and fishery and other businesses.

a.2 Damage Compensation Procedure

291. As regards the Nuclear Power Damage Compensation Dispute Reconciliation Center, a new

Act incorporating the following stipulations should be enacted to ensure its independence from the Government as a semi-legal organization.

- i. Arbitration against the accused entity should be made statutory to the Center's reconciliation proposal. Victims will not be bound by the arbitration, and unless Tokyo Electric Power Company takes the case to the court within certain time frame, settlement should be considered concluded as proposed by arbitration. In addition, it should be made clear that Tokyo Electric Power Company must respect the submitted proposal and unless the proposal significantly lacks rationale, the Company must accept it.
- ii. Decisions by the Centre should be made in accordance with the law, case law, and guidance issued by the government panel addressing disputes over compensation for the nuclear accident. However, it should be made clear that the Government's compensation guidelines, such as compensation damage criteria, are not legally binding.
- iii. Based on the rule of certified ADR prescribed in the Act on Promotion of Use of Alternative Dispute Resolution (ADR Act), claims to the Centre should be invested with the legal effect of nullification of extinctive prescription.
- iv. As regards the positioning of the Centre within the Government, rather than placing it under the Ministry of Education, Culture, Sports, Science and Technology, which is partially responsible for nuclear power related administration, it is appropriate to place it under the Cabinet Office, which would enable the Center to have a certain independence from all the Ministries and Agencies.

If a disaster victim has a disability, information dissemination and execution of rights should be appropriately assisted based on the nature of their disability.

b Reasons

- c Compensation for damage caused by the Fukushima Daiichi Nuclear Power Plant accident is stipulated in the Act on Compensation for Nuclear Damage. An interim guideline and its annex (hereafter, "interim guideline") on the scope of compensation have been released by the government panel addressing disputes over compensation for the nuclear accident.

So far, application and payment of damage compensation has been made in accordance with the interim guideline. There is room for improvements regarding the scope of compensation and contents of compensation such as payment standards. Procedural problems such as the application procedure or the time-consuming process of dispute reconciliation are also indicated.

b.1 Contents of Compensation Damage

- i. If a particular damage was not listed in the interim guideline, but causality between the damage and the nuclear accident can be acknowledged, appropriate compensation should be paid in accordance with individual status.
- ii. As regards psychological damages of evacuees, there are criticism that current compensation amount or standard is too low and do not reflect realities of evacuation. For example, the monthly payment for psychological damage to evacuees from the No-residence Area or No-return Area is set at 100,000 yen per person, but this is too low.

If the evacuation period is prolonged, compensation should be increased. The total compensation paid for psychological damages and evacuation expenses to evacuees from zones outside the Evacuation Area (voluntary evacuees) is too low. The fixed amount for evacuees other than children and pregnant women, a total of 80,000 yen, lacks rationality. In accordance with the period of evacuation, appropriate monthly payments must be paid to compensate for psychological damage.

- iii. In accordance with the period of evacuation, appropriate monthly payments must be paid to compensate for psychological damage. In the interim guideline, the termination date of compensation for evacuees from former Emergency Evacuation Preparation Areas or evacuees from the Designated Evacuation Recommended Area were decided without prior consultation with other stakeholders. Although individual status will be taken into account and the termination date of compensation payments related to sales damage and incapacity will be rationally decided, the termination date should not be fixed considering the special nature of the accident.
- iv. As regards compensation for assets, the interim guideline prescribes that all the asset value of real estates inside the No-return Area should be acknowledged as fully damaged. Not only that, taking into account the special nature of the nuclear power plant accident and the long time taken, movable property left inside the buildings of No-return Areas, No-residence Areas, Areas being Prepared for the Lifting of the Evacuation Order, and buildings in such areas should be considered as fully damaged if victims wish, and compensation should be made based on repurchase price..
- v. The range of compensation amount and eligibility criteria for evacuees from areas other than the Evacuation Areas are too vague in the interim guideline. All residents who lived in areas where more than 1.3 mSv (0.6 mSv per hour, over 5.2 mSv per annum) of radiation was recorded in March should be made eligible to apply. For areas where additional annual exposure dose exceeds 1 mSv, at least children, pregnant women and their families should be made eligible.
- vi. Sufficient verification and consideration have not been made for damages unique to persons with disabilities, elderly persons and persons with chronic illness. Even if the details of damage were the same, the scale of damage tends to be greater, more grave and complex for such persons. If a disaster victim is a person with disability, an elderly person or suffers from chronic illness, appropriate compensation should be paid in accordance with individual status of damages. Uniform application of the same compensation criteria to these persons should not be tolerated, and appropriate compensation should be paid in accordance with individual needs.
- vii. Compensation for community reconstruction is not indicated in the interim guideline. Nevertheless, it should be acknowledged that decontamination of the Special Decontamination Areas (Restricted Areas and Deliberate Evacuation Areas) will take a very long time, and the decision to lift area designations should be made cautiously. Taking into account these issues, recovery of damage by reconstructing livelihood spaces,

including relocation of communities or reconstruction of offices, or issuance of damage compensation that would allow recovery of livelihood, including maintenance of communities as well as the early recovery of agriculture, forestry, fishery and business activities, should be considered.

b.2 Damage Compensation Procedure

- i. Currently, disputes against Tokyo Electric Power Company over compensation for damage are conducted through the Nuclear Power Damage Compensation Dispute Reconciliation Center (hereafter referred to as the “Center”), which is an out-of-court dispute reconciliation procedural institution set up within the Government panel addressing disputes over compensation for the nuclear accident under the jurisdiction of the Ministry of Education, Culture, Sports, Science and Technology.

However, when evaluating the current state of dispute settlement at the Center, there are incidents that may raise doubts about how Tokyo Electric Power Company is responding to the issue, such as delaying settlements by not promptly responding to arraignment or rendering an account, or taking a stubborn position which results in settlement with lower compensation.

In order to change such situations, promote appropriate and speedy settlement, relieve disaster victims, fulfill rights, and ensure protection, new legislation reflecting the opinions of the JFBA should be passed to empower the Center as an independent semi-legal institution both in name and in reality.

- ii. Disability of disaster victims should not be used as an excuse for failure to disseminate information to them regarding the application process for receiving damage compensation or difficulty in guaranteeing their execution of rights. To respond to the characteristics of various disabilities, application forms and directions should be prepared with *kana* phonetic characters alongside *kanji* characters, in braille, in audio, in electronic data etc., and if necessary, visits and assistance in person should be provided.

E.7 Prevention of Further Environmental Pollution [Article 12-2(b) of the Covenant]

a Proposed Recommendations for the Concluding Observations

292. Without delay, means to prevent further pollution of the sea and groundwater should be implemented, and an underground shield should be constructed at the Fukushima Daiichi Nuclear Power Plant.

b Reasons

293. Radioactive materials continue to leak out from the Fukushima Daiichi Nuclear Power Plant to the sea, and it is feared that radiation-contaminated water may pollute the groundwater.

E.8 Revision of Nuclear Disaster Management Measures

a Proposed Recommendations for the Concluding Observations

a.1 Unless the nuclear disaster management plans of the local governments of municipalities in the areas surrounding nuclear power plants are revised, and disaster prevention plans of

nuclear power operators are duly revised, operation of existing nuclear reactors should not be permitted (including resumption of operation).

- a.2 The opinions of residents must be reflected in the nuclear disaster management plans of local governments of municipalities in the areas surrounding nuclear power plants. When nuclear power operators are drafting their disaster prevention plans, the opinions of residents and local governments (all local governments located within 80 kilometers of nuclear power installations) should be well reflected.

b Reasons

- b.1 Using the lessons learned from the Fukushima Daiichi Nuclear Power accident as stated in the Report of the Japanese Government to the IAEA, the Nuclear Power Regulation Authority revised its nuclear disaster management guideline. The Government also revised the nuclear disaster chapter of its Basic Disaster Management Plan. Revision of plans related to nuclear disaster prevention will be carried out by local governments of municipalities where nuclear power plants are located.
- b.2 Unless adequate disaster management plans reflecting lessons learned from the Fukushima Daiichi Nuclear Power Plant accident are developed by local governments of municipalities in the areas surrounding nuclear power stations, and preparations are made accordingly, nuclear power stations should not be operated (including resumption of operation).
- b.3 When local governments are drafting disaster management plans, related information should be widely disclosed to local residents, who have the strongest interest in the matter, and their participation in the decision-making process should be guaranteed.

When nuclear power operators draft their nuclear disaster prevention plans, not only residents, but also local governments that hold a responsibility to protect their residents should be consulted and their opinions should be reflected. Regarding this, the revised Enforcement Order of the Act on Special Measures concerning Nuclear Emergency Preparedness makes it obligatory for nuclear power operators to hold prior consultation with heads of the city, town or village where a nuclear power station is located, as well as heads of prefectures that are located within 30 kilometers of the nuclear power installation, and have prepared designated regional nuclear disaster prevention plans. Taking into account the scale of damage left by the Fukushima Daiichi Nuclear Power Plant accident, this scope is insufficient.

E.9 Revision regarding safety regulation

a Proposed Recommendations for the Concluding Observations

- a.1 The Nuclear Regulation Authority must have independence and impartiality in its authority, budget and selection of personnel, and must disclose its information and be managed as a truly effective safety regulatory institution.
- a.2 In order to establish an independent regulatory administration that can win trust from the people under the newly founded Nuclear Regulation Agency, the members of the Nuclear Regulation Authority should be selected from persons who have no ties to organizations promoting nuclear power policy. Similarly, as regards selection of staff members of the

Nuclear Regulation Agency, exceptions should not be accepted in the so-called “no-return rule”, which should be strictly observed.

a.3 Using the lessons learned from the Fukushima Daiichi Nuclear Power accident, guidelines on earthquake-proof safety, multiple damage, severe accidents, and decrepitude of facilities and machinery, should be revised to enhance counter-measures. Furthermore, backfitting (the act of making existing nuclear power facilities compliant to safety regulations in the new guidance) policy should be strictly observed.

a.4 Until compliance with the new guideline is confirmed, existing nuclear power facilities should not be approved to resume operations.

b Reasons

b.1 The Fukushima Daiichi Nuclear Power accident made it evident that previous safety tests and safety regulations were insufficient. There is an urgency to drastically review and revise the guidelines on safety assessment, regulation and regulatory institutions

b.2 As regards safety guidelines, the report by the IAEA’s Fukushima Daiichi Nuclear Power Plant accident investigation team, which was published in June 2011, points out the insufficiency of the anti-tsunami defense in depth measures and the inadequacy of the counter-measures for severe accidents in case of simultaneous occurrences of accidents at multiple power plants. The report also points out that safety regulations and guidelines should be updated based on lessons learned from the Fukushima Daiichi Nuclear Power accident.

b.3 The National Diet’s Investigation Committee on the Accident at the Fukushima Nuclear Power Stations of Tokyo Electric Company requested in its report published on July 5, 2012 that a new regulatory institution should be established. The report made a recommendation that the organization should “be independent from 1) other governmental organizations promoting nuclear power, 2) nuclear power operators, 3) politics, and establish a command and order system, authorization and service process to enhance its surveillance capacity”.

b.4 Based on lessons learned from the accident at the Fukushima Daiichi Nuclear Power Plant, on 20 June 2012, the Act on Establishment of the Nuclear Regulation Authority was enacted. The Nuclear Regulation Authority was established as new nuclear safety regulatory organization and the Nuclear Regulation Agency was founded as its secretariat.

However, there are criticisms regarding the selection of members of the Authority to the effect that some members are interested parties of the nuclear power operators.

It can be assessed that in regard to the selection of staff members of the Nuclear Regulation Agency, the so-called “no-return rule” (prohibition of staff members returning to their Ministries and Agencies of origin) was prescribed. However, there is a proviso that during the first five years, exceptions will be accepted based on motivation and aptitude of the staff, which suggests that the rule may be invalid. Exceptions should not be allowed and the “no-return rule” should be strictly observed.

b.5 The Law on the Regulation of Nuclear Source Material, Nuclear Fuel Material and Reactors (hereafter referred to as “Nuclear Reactor Regulation Law”) was revised in June 2012, following the enactment of the Act on the Establishment of the Nuclear Regulation Authority.

It can be assessed that a backfit system was introduced (a system which allows orders to be issued to nuclear power operators to either stop, remodel or repair nuclear reactor facilities built for power generation, if location, structure or facility of approved nuclear reactor facilities are not compliant with the certifying standards that reflect the latest knowledge. If an order is violated, certification may be cancelled or an administrative order may be issued to halt operation for a period of less than one year) with this Law.

However, the Law that includes a backfit system prescribes that when deemed necessary, appropriate measures should be taken based on the results of quick analysis of its implementation. Depending on how it is operated, the backfit system itself could be substantially invalid.

Regarding the backfit system, it should be strictly observed.

To enhance countermeasures based on lessons learned from the Fukushima Daiichi Nuclear Power Plant accident, guidelines on safety and earthquake resilience, multiple damages, counter-measures to severe accidents, and decrepitude of facilities and machineries should be revised. Furthermore, the backfit system (to make existing nuclear power facilities compliant with the safety regulations prescribed in the new guideline) must be strictly observed.

- b.6 Until compliance with the new guideline can be confirmed, operation of existing nuclear power facilities should not be permitted.

E.10 Shift in the Nuclear Energy Policy

a Proposed Recommendations for the Concluding Observations

- a.1 New and additional construction of nuclear power plants (including those in the process of planning and construction) should be terminated, and nuclear fuel cycle facilities such as reprocessing factories and fast-breeder reactors should be immediately abolished.
- a.2 Of the existing nuclear power plants, 1) Fukushima Daiichi and Daini Nuclear Power Plants, 2) plants which may suffer damage from projected large-scale earthquakes, and 3) plants that had been operating for more than thirty years, should be immediately abolished.
- a.3 All nuclear power plants other than those above should be abolished as early as possible within the next ten years. Until they are abolished, safety standards should be widely and nationally discussed. Unless a plant is compliant with such safety standards, operation should not be approved (including resumption of suspended nuclear power plants).
- a.4 The core of the future energy policy should be the promotion of renewable energy, energy saving and efficiency of energy use.

b Reasons

- b.1 The Fukushima Daiichi Nuclear Power Plant accident made it evident that safety of nuclear power plants cannot be assured against natural phenomenon, especially earthquakes and tsunami, which frequently occur in Japan. It also made it clear that once an accident occurs at a facility such as a nuclear power plant, radiation contamination has a grave and widespread impact on the natural environment and people's livelihoods. Even without any accidents, there are serious problems such as exposure of workers or pollution caused by thermal drainage.

If reprocessing and plutonium-thermal power generation are further promoted, it is feared that the damage would be more serious.

Nuclear power plants and nuclear fuel cycle policy have problems, the solutions to which are yet to be found both technically and socially, such as the processing of radioactive waste. They possess a structure that will force dangers on the future generations.

b.2 The State Party should immediately withdraw from such an energy policy that is dependent on the deeply problematic nuclear power. It should shift its energy policy towards one that places at its core the promotion of renewable energy, energy saving and energy efficiency. Specific measures should be promoted in this regard.

b.3 On September 14, 2012, the Government compiled a new energy policy proposal (“Innovative Strategy for Energy and Environment”) whose framework includes prohibition of new and additional construction of nuclear power plants, strict application of stipulated rules regarding the “forty-year limitation of operation” and “mobilization of all possible policy resources to such a level as to even enable zero operation of nuclear power plants in the 2030’s”.

However, this policy proposal was not endorsed by the Cabinet. Therefore, it does not specifically promise an end to reliance on nuclear power plants. While it does not approve new and additional construction of nuclear power plants, the Minister for Economy, Trade and Industry, approved resumption of suspended construction of nuclear reactors. Early abolishment of reactors and resumption of construction are clearly in contradiction to each other, which shows that the Government’s policy is not fixed.

In August 2011, the “Act on Special Measures Concerning Procurement of Renewable Energy Sourced Electricity by Electric Utilities” was enacted. However, to make purchase of renewable energy functionally effective as a system, it is essential for the Government to set an appropriate purchase price and purchase period, as well as evade refusal of electricity connection.

E.11 Export of Nuclear Power Plants

a Proposed Recommendations for the Concluding Observations

294. The State Party should immediately cease its export policy of nuclear power plants, as it causes unsolvable grave human rights violations and environmental problems to partner countries and their neighboring countries. The State Party should not enter any cooperation that would lead to use of nuclear power such as supply of nuclear substances, materials, facilities and technologies, or offers of labor.

b Reasons

295. The State Party had promoted export of nuclear power plants in its policy, and has concluded nuclear power agreements with Russia, Jordan, the Republic of Korea and Viet Nam. It is in the process of concluding agreements with India, South Africa and Turkey.

296. However, the Fukushima Daiichi Nuclear Power accident is yet to be brought to an end, and decontamination measures are not complete. Detailed cause analysis of the accident is still ongoing. It has become clear that prevention of nuclear disasters, safety regulations, disaster

prevention measures and post-accident measures were insufficient.

297. The Fukushima Daiichi Nuclear Power accident made it evident that once a nuclear accident occurs, the effects of the contamination are grave. Exporting nuclear power plants would put partner countries and their neighboring countries at risk of complicated environmental problems that may cause unsolvable and grave human rights violations, especially violations of the rights of partner countries' citizens to health, hygiene and environment, which are prescribed in the International Covenant on Economic, Social and Economic Rights

298. In October 2012, a national vote on construction of nuclear power plants was conducted in Lithuania, where a Japanese company had been working on a sales order of construction of a nuclear power plant. Approximately 60% of the voters voted against the construction. This outcome reflects how seriously the Lithuanian people viewed the consequence of the Fukushima Daiichi Nuclear Power Plant accident.

(END)

¹Japan Federation of Bar Associations (JFBA), "Declaration on Action for Human Rights 2009" November, 2009, <http://www.nichibenren.or.jp/en/document/statements/year/2009/20091100.html>

²JFBA, Declaration on Action for Human Rights 2009, op.cit, November 2009

³ JFBA, Report of JFBA Regarding Second Periodic Report by the Government of Japan under Articles 16 and 17 of the International Covenant on Economic, Social, and Cultural Rights, 2 March 2001, http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/society_report_2_en.pdf

⁴ JFBA, Report of JFBA Regarding Second Periodic Report by the Government of Japan under Articles 16 and 17 of the International Covenant on Economic, Social, and Cultural Rights, op.cit, 2 March 2001, Para.10

⁵ JFBA, Report of JFBA Regarding Second Periodic Report by the Government of Japan under Articles 16 and 17 of the International Covenant on Economic, Social, and Cultural Rights, op.cit, 2 March 2001

⁶ Report of JFBA Regarding Second Periodic Report by the Government of Japan under Articles 16 and 17 of the International Covenant on Economic, Social, and Cultural Rights, op.cit, 2 March 2001

⁷ JFBA, Declaration on Action for Human Rights 2009, op.cit, November 2009

⁸ JFBA, Declaration on Action for Human Rights 2009, op.cit, November 2009

⁹ JFBA, Statement on the "Outline of the Bill being Considered on the Establishment of a Human Rights Commission" Released by the Minister, the Senior Vice Minister and Parliamentary Secretary of the Ministry of Justice, 13 January 2012, <http://www.nichibenren.or.jp/activity/document/statement/year/2012/120113.html>

¹⁰ JFBA, Update Report on Issues and Questions from the committee on the Elimination of Discrimination against Women with regard to the Sixth Periodic Report of the Japanese Government, May 2009, para.17, 2, http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/woman_report_6_update_en.pdf

¹¹ JFBA, Report by the JFBA on the "Sixth Periodic Report on the Implementation of the Convention on the Elimination of all Forms of Discrimination against Women Japan", 20 October, 2008, para.299, http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/woman_report_6_en.pdf

¹² Committee on the Elimination of Discrimination against Women (CEDAW), Concluding Observations on the Sixth Periodic Report of the Government of Japan (CEDAW/C/JPN/CO/6), 7 August 2009, para.15, 16, 21, 22

¹³ JFBA, Report by the JFBA on the "Sixth Periodic Report on the Implementation of the Convention on the Elimination of all Forms of Discrimination against Women Japan", op.cit, 20 October, 2008, para.116-128

¹⁴ CEDAW, op.cit. (CEDAW/C/JPN/CO/6), 7 August 2009, para.28