A CHANGE OF MITIGATION REGULATIONS IN JAPAN'S EIA SYSTEMS - SUSTAINABILITY AND A ROLE FOR EIAs

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"Sustainable development" is based on both ecologically and economically sound environments. Environmental impact - assessment (EIA) is a tool to integrate ecological consideration into economic activities. "Mitigation" plays the role -to-integrate ecological consideration into economic activities through EIAs. When impacts are problems, "mitigation" measures are solutions in EIAs. Therefore "mitigation" is a sort of conclusion of EIAs. Mitigation process is the one which people can participate. Definition of "mitigation" is to "avoid," "minimize," and "compensate for" adverse impacts-and this sequence is important. No action, i.e., "zero option" is included in the "avoidance" mitigation.

It is very important for achieving effectiveness of EIA to devise practical mitigation measures through EIA process. If mitigation was not required in an EIA system, project proponents never try to integrate ecological consideration into their proposed project through/after the EIA. Such a case, EIA is ineffective in terms of forming sustainable development.

This paper analyzed a change of "mitigation" statements that were regulated in the EIA systems from the first Japan's national EIA guidelines in 1972 to the EIA Law in 1997 and discussed relationships between "mitigation" regulations and effectiveness of EIA systems.

The quarter century of Japan's EIA experience was roughly divided into three periods, i.e., “introduction period," "formation period" and "legislation period."

The first Japan’s EIA was performed by the Ministry of International Trade and Industry and the Ministry of Health and Welfare in 1964. The EIA was introduced to devise mitigation measures against pollution problems that were already very serious in Japan. The first national EIA system was introduced in 1972, which are

known as "Cabinet Agreement 1972" on environmental mitigation measures for public works. It was much influenced by establishment of National Environmental Policy Act 1969 in the United States. In the "introduction period ' (early 1970's), "mitigation" was clearly defined in EIA systems because a concept of EIA was introduced to identify mitigation measures against pollution problems. However .- served to do little more than to patch over each pollution problem temporarily when it arose.

In 1974, the national environmental council released an EIA guideline known as "Interim Report 1974". The report said, "since the concept to balance demerits with merits of proposed development was out of our popular national sentiment, environmental standards should be introduced to evaluate instead of the concept. This "Interim Report" became an authority for environmental standards as criteria of EIA evaluation. In 1979, the national environmental council submitted a recommendation of EIA system (Recommendation 1979) to the Environment Agency. In this report, EIA is defined as a tool "to survey present environment conditions, to simulate future impacts, and to evaluate those impacts." In 19S4. the Cabinet passed "Implementation of EIA" known as "Cabinet Decision 1984." The Decision indicated details of national EIA system but still mitigation regulation and relationships between evaluation and mitigation proposals were not clear.

In the "formation period" (later 1970's and 1980's), a peculiar Japanese style EIA system was developed. Japan's EIA system became 'substantive" system rather than "adjective" or 'procedural" system. EIA was used to show that proposed project met environmental standards. No mitigation measures were required against impacts on ecology and amenity because there was no standard on them. In addition, "avoidance" mitigation and "compensation" mitigation were not required. Therefore EIAs were not able to stop losing natural land use such as natural coasts, wetlands forests especially in urban & suburban areas. Most of EIAs ordinances and guidelines of local governments followed this style. Effectiveness of EIA was low. EIA was merely a name. Both project proponents and environmentalists considered EIA just a cost.

In 1992, 1UNCED was held and "Agenda 21" was enacted. This global environmental awareness introduces "ecological" and "holistic" (not sectoral) approach into Japan's environmental policies. Following these environmental concerns and because of needs from societies in Japan, Environmental Basic Law was established in 1993, which described the necessity to establish EIA law. In June 1997, the EIA Law was finally passed and will be in force in 1999. In the law, "mitigation" is clearly regulated as "avoidance" and 'reduction". Clear and "procedural" guidelines or ordinances of mitigation must be prepared.

Through the analysis of Japan's experience on mitigation regulations in EIA systems, following implications are suggested for effectiveness of EIA systems.

1) When Impacts are "problems", mitigation measures are "solutions". Clear mitigation regulation is essential in the EIA systems. 2) Environmental standards are not almighty. Policies are necessary to cover areas where standards are not available, especially in areas of ecology and amenity. 3) In EIA systems, adjective (procedural) approach is more important than substantive approach.

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