

# Annual Report on Government Measures for Persons with Disabilities (Summary) 2012

Cabinet Office  
Japan

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### About this Report

The report on government measures for persons with disabilities is submitted to the Diet every year based on Article 11 of the Basic Law for Persons with Disabilities (Act No. 84, put into effect on May 21, 1970).

The current report, the 19<sup>th</sup> of its kind, lists measures that were taken by the government, mainly in fiscal 2011, in line with the basic directions of sector-by-sector measures called for in the Basic Program for Persons with Disabilities. The implemented measures are classified according to their purpose into four categories –“promoting mutual understanding and exchange,” “building the foundations for independence and participation in society,” “building the foundations for daily life” and “building the foundations for comfortable living environment.”

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# Initiatives of Government Measures for Persons with Disabilities

Report for fiscal 2011

## Chapter 1: Overall initiatives of measures and the current situation for persons with disabilities

### **【1】 Tendencies of policy reforms for persons with disabilities**

#### **1. Promotion of policy reforms**

##### **(1) Ministerial Board and Committee**

The establishment of the “Ministerial Board for Disability Policy Reform” (hereafter called the “Ministerial Board”) in the Cabinet in December 2009 and the inception of the “Committee for Disability Policy Reform” (hereafter called the “Committee”) under its supervision, focusing on the persons directly concerned (persons with disabilities themselves and/or their families) in January 2010, can be nominated as recent significant actions of government measures for persons with disabilities in our country.

This vigorous consideration aimed at the policy reforms was successively carried on in fiscal 2011.

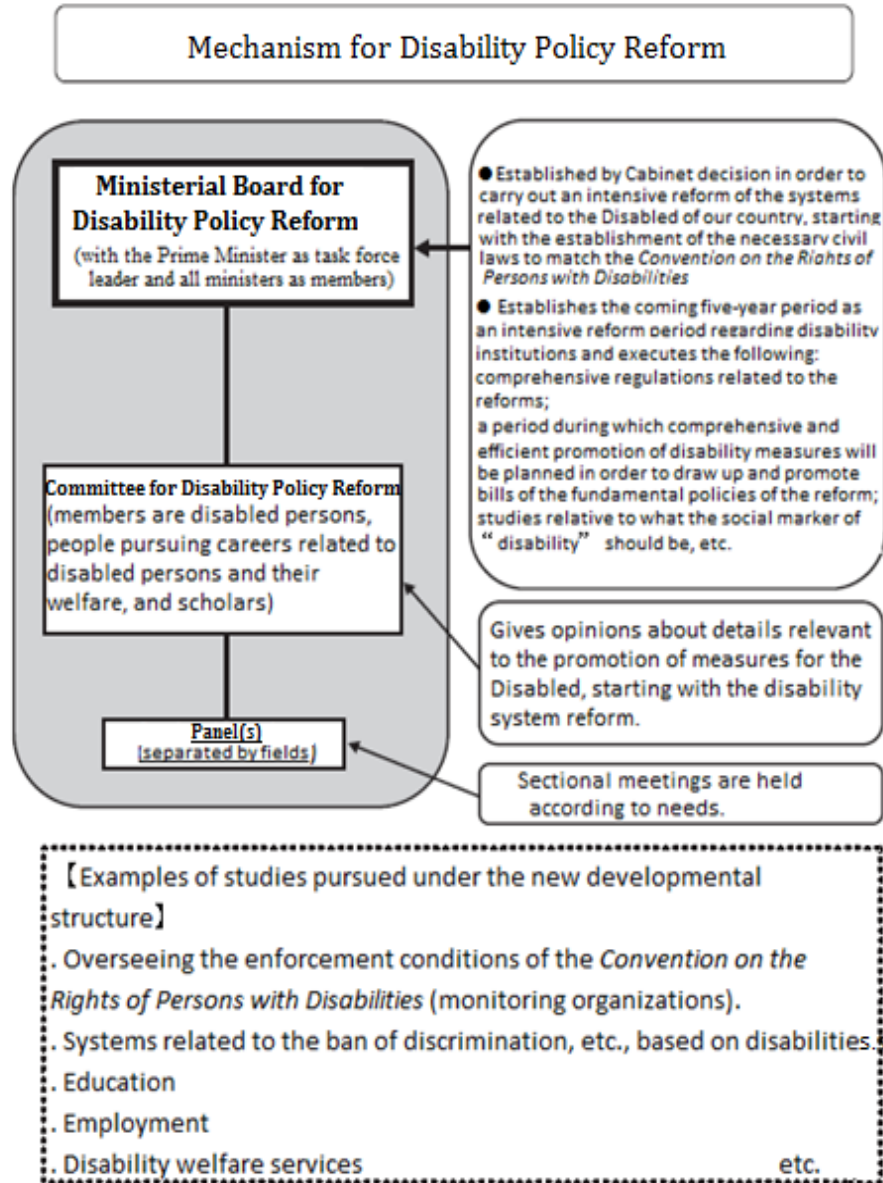
##### **A. The composition of the Ministerial Board and the Committee**

The Ministerial Board was established in December 2009, by Cabinet Decision, with the Prime Minister as the head, the Chief Cabinet Secretary and the Minister of State for Measures for Persons with Disabilities, Cabinet Office as assistant leaders, and all the other Ministers of State appointed as Ministerial Board Members, thereby disbanding the previous “Ministerial Board for Promoting Measures for Persons with Disabilities” (hereafter called the “Former Ministerial Board”).

The Ministerial Board was established to carry out intensive reforms of systems pertaining to persons with disabilities of our country, starting with the development of domestic legislation necessary for the establishment of the treaty relative to the rights of persons with disabilities (a tentative name—hereafter called “Convention of Rights of Persons with Disabilities, CRPD”); while securing close cooperation between relevant government agencies, it is intended to promote comprehensive and effective measures for persons with disabilities, to assign the current five years as an intensive reform period regarding disability policies, to carry out an overall adjustment concerning the reforms and create a draft of the basic policies of the reforms, and in addition, to conduct a study on the modalities of the term “disability,” as well as other actions. (See Chart 1).

In addition, in order for persons with disabilities to actually be able to actively contribute their opinions and participate in the discussion, the Committee was composed in a way that more than half (15 out of 26) of the members (including observers) are persons directly concerned (persons with disabilities themselves and/or their families).

■ Chart 1 Mechanism for Disability Policy Reform



## **B. “The first proposal” and the decision of the Cabinet**

After holding meetings from January to June of 2010, at the 14th meeting in June 2010 the Committee has summarized the first proposal: "Basic Direction for the Promotion of Disability Policy Reforms" (June 7, 2010).

The basic concept is as follows:

1. Members of society who are "holders of rights"
2. Building a society without "discrimination"
3. A new position from the "social model" perspective
4. Support to enable "community life"
5. Realization of a "cohesive society"

It incorporated things such as the fundamental issues, cross-sectional issues, basic directions of individual fields, and ideas of how to proceed in the future.

The first proposal was submitted to the head of the Ministerial Board (the Prime Minister), and after consideration by the Ministerial Board, "About the Basic Direction for the Promotion of Disability Policy Reforms" was approved by the Cabinet on June 29, 2010. (An overview is shown in Figure 2)

### **(2) Contents (of "About the Basic Direction for Promotion of Disability Policy Reforms") approved by the Cabinet**

This Cabinet Decision, as its basic concept, states that maximum importance should be given to the first proposal of the Committee aiming at the intensive promotion of policy reforms pertaining to persons with disabilities in our country and realizing a cohesive society that accepts individuality and mutually values individual differences and diversity, regardless of the presence or absence of disability.

As follows, the "**Basic Direction and Future Proceedings for Promotion of Disability Policy Reforms**" affirms the following 2 points, firstly in the “Direction of Reforms in the Basic Challenges”.

**1. Realization of community life and building an inclusive society** (supporting the movement of persons with disabilities to the areas of their choice and enhancing their living assistance after the move, as well as placing strong emphasis on equal social participation and involvement in the development of measures. Create a society without abuse.)

**2. The perception and clarification of the definitions”** (Review the definition of disability; clarify the definitions of discrimination on the grounds of a disability, sign language and other non-speech languages, including cases when reasonable accommodations were not provided.)

Subsequently, in the "**Basic Direction and Future Proceedings for Promotion of Disability Policy Reforms**" the following three points are defined:

**1. Starting with the definitions of disability and discrimination as well as the amendment of the Basic Act for Persons with Disabilities and system promotion policy reform, review and augment the provisions concerning the basic measures.**

- Establishment of the council responsible for the promotion of reform during the intensive reform period
- Legal status of so-called monitoring agencies responsible for the implementation and monitoring of the implementation of the CRPD after the intensive reform period, etc.

→ Consideration in accordance with the first proposal, aiming to submit the bill in the year of 2011 (Note: This bill was submitted to the Diet in April 2011 and passed in July. See below for details.)

**2. The enactment of laws, concerning issues such as prohibition of discrimination on the ground of disability**

- Prohibits discrimination against persons with disabilities and establishes a system with the purpose of providing relief in case of damage.

→ Consideration in accordance with the first proposal, aiming to submit the bill in the year of 2013 (Note: This bill was prepared by the "Prohibition Discrimination



Panel" under the Committee in November 2010 and is currently under consideration.)

In relation to this, the possibility of urgently submitting the bill on the human rights relief policy is being considered as well.

### **3. The enactment of the General Welfare of Persons with Disabilities Act**

- Providing assistance with no cleavage in the policy system, building a policy that consists of such services as the improvement of the community life assistance system based on individual needs.

→ Consideration in accordance with the first proposal, aiming to submit the bill in the year of 2012, and to enforce it by August 2013 (Note: This bill was prepared by the "General Welfare" under the Committee in April 2010, due to a debate within the same panel, the "Legislation to Comprehensively Support Daily Life and Social Life of Persons with Disabilities (General Support for Persons with Disabilities Act)", which included the contents of the "Independent Support for Persons with Disabilities Act", was submitted to the Diet in March 2012 as the "Bill on the Improvement of Relevant Act and Regulations for the Establishment of New Health and Welfare Policies for Persons with Disabilities for the Realization of Cohesive in the Community". See below for details.)

In addition, for each policy field a "process chart" of the reform is stipulated and concisely indicates the basic directions in specific fields and future proceedings. An overview is shown in Chart 2.

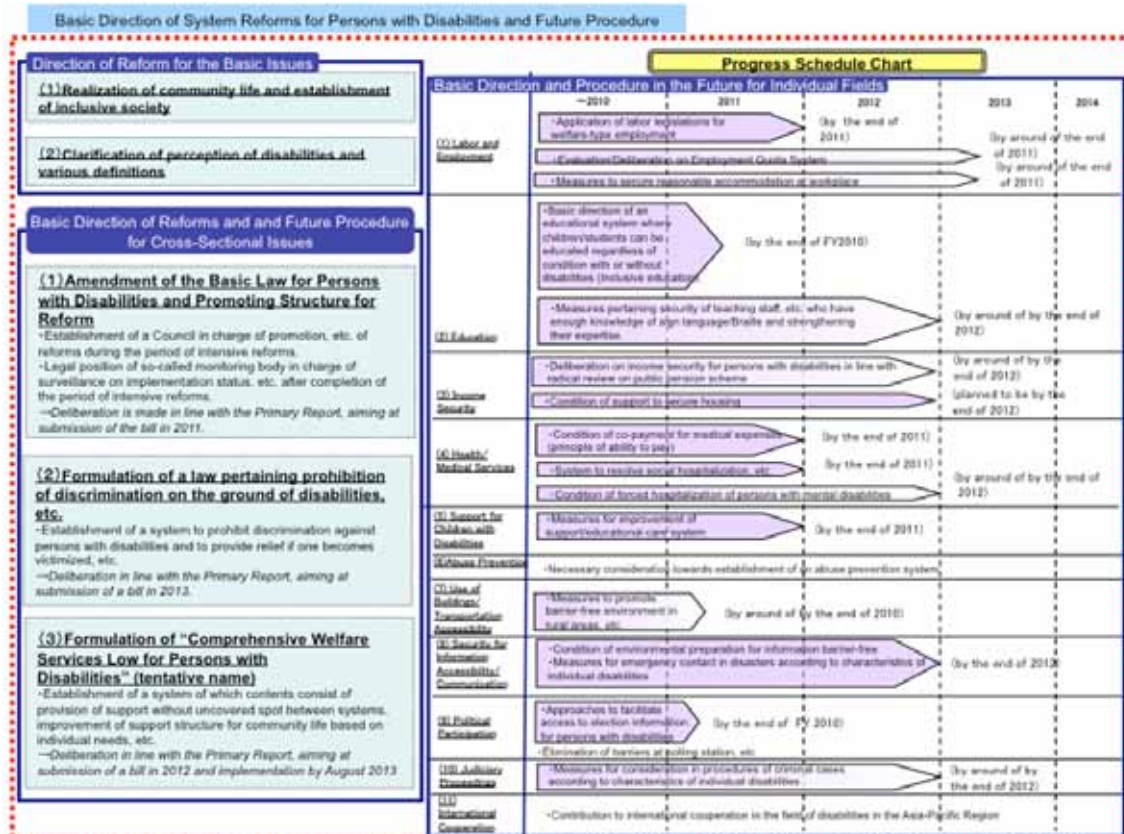
Chart 2: Basic Direction for Promoting System Reforms for Persons with Disabilities (Cabinet Decision on 29 June, 2010) [Summary]

### Aim and Fundamental Thinking

"Fundamental Direction of the Persons with Disabilities Systematic Reforms Promotions (Primary Opinions) June 7<sup>th</sup>, 2010" of the Persons with Disabilities Systematic Reform Committee, is of the utmost importance. Accordingly, concentrated reforms of the systems regarding persons with disabilities in Japan shall be carried out.



Symbiotic society regardless of disability, respecting differences and diversity of individuality to each other and recognizing the individuality of each member



### (3) "The second proposal"

After the compilation of the first proposal and holding 15 discussion meetings on the contents of the revision of the Basic Act for Persons with Disabilities, in December 2010, the Committee put together the "Second Proposal for Reforms of the Systems of Persons with Disabilities."

In this proposal, as the intent and objectives of the amendments to the Basic Act for Persons with Disabilities, the following three points are first presented: "Building an inclusive society that mutually recognizes individuality and personality", "Shifting the concept of disability into the social model, confirming the basic human rights", "Creating institutions that monitor the implementation of

measures". Secondly, it mentions "General provisions concerned", "Basic measures concerned", "Promotion system", etc.

"General provisions concerned" included 12 topics such as:

**1) Purpose:**

Such as the realization of a society that respects individuality and personality regardless of the presence or absence of disability

**2) Definitions:**

Such as reconsidering the definition of disability based on the concept of a "social model"

**3) Fundamental principles:**

- The right guaranteeing the appropriate life to the dignity of holding the fundamental human rights
- Confirmation of the "right of equality to live in the community" in the Convention of Rights of Persons with Disabilities.
- Confirmation of the "right of social participation on the basis of self-determination that has received the necessary support"
- Use of languages such as sign language and means of communication (Confirmation of the "right to freedom of opinion and expression" under the CRPD), etc.

**4) Prohibition of discrimination:**

- Reviewing the provisions relating to discrimination on the basis of disability based on the CRPD
- Collecting and providing case studies related to discrimination and its prevention, etc.

Regarding "Basic Measures concerned," they included:

1. Community life, 2. Labor and employment, 3. Education, 4. Health and medicine, 5. Prevention of the causes of disabilities, 6. Ensuring just procedures

concerning promotions of regional migration and health care for persons with mental disabilities, 7. Consultations and as such, 8. Housing, 9. Universal design and technology development, 10. Barrier-free public facilities and ensuring transportation and movement, 11. Information access and language and communication security, 12. Culture and sports, 13. Income security, 14. Political participation, 15. Judicial procedures, and 16. International cooperation.

According to the, Promotion System, they propose that the Central Council on Promotion of Measures for Persons with Disabilities and the Committee be developmentally reorganized and a new council be established that is in charge of monitoring the implementation of measures on the national level. As such, they propose the establishment of a council that has monitoring functions on the local level.

Furthermore, a proposal that set the term, “Persons with Disabilities” to be officially designated as the legal definition for said peoples with disabilities was made.

#### **(4) Decision of the amendment bill of the Basic Act by the Ministerial Board, acceptance from the National Diet and enforcement**

On the morning of the eleventh of March, 2013, in light of the second proposal discussed above, the Ministerial Board decided to amend a portion of the, “Basic Act for Persons with Disabilities.” The bill was officially decided upon on April 22<sup>nd</sup> of the same year at the Cabinet and then later submitted to the National Diet.

The bill went through the deliberations process at the National Diet; at which it was added to deliberations on other similar measures that proposed to protect persons with disabilities from disasters and crime, and to protect them as consumers. The lower house approved unanimously the proposal on June 16<sup>th</sup> of the same year and then the upper house followed in kind on July 29<sup>th</sup> also in the same year. The proposal became enacted and enforced as law on August 5<sup>th</sup> of the same year. However, the section on, “Commission on Policy for Persons with Disabilities,” was postponed to be enforced within the year. It was later enforced on May 21<sup>st</sup> of 2012.

## **2 Outlining the Amended Act**

The Amended Act (Act number 90 of fiscal year 2011)” is outlined by the following. Refer to Diagram 3.

### **(1) Purpose (Regarding Article 1 of the Act)**

In order to realize policy regarding persons with disabilities in keeping with the CRPD - the Act amended from the perspective of clarifying policy, stipulating how to define persons with disabilities in CRPD and society which Japan should aim for.

As a rule, the main objectives of the act are to ensure that persons with disabilities are able to receive the necessary support they need, while at the same time encourage their active participation in society in any and all fields, at their own discretion, without discrimination so that they may ultimately enjoy a cohesive society along with their neighbors.

### **(2) Defining (Regarding Article 2 of the Act)**

According to a passage of the CRPD Article 1, “Persons with disabilities includes those who have impairments which in interaction with various barriers may hinder their full and effective participation in a society on an equal level with others”.

Furthermore, reasonable accommodation is defined according to a passage in Article 2 of the same convention, stating that persons with disabilities may participate in society on an equal footing with other members of society by helping remove barriers that would otherwise prevent them from doing so.”

The reforms were set in light of intentions of the law as defined above.

### **1. Persons with Disabilities**

Before the amendment was set, barriers to participation on the behalf of persons with disabilities were viewed as only due to the imparities that the persons with disabilities had and the definition of persons with disabilities is individuals whose daily life or social life is subsequently and continuously limited due to the disability. Now however due to the reforms, difficulties incurred in the

life styles of persons with disabilities derives from not only impairments but also facing various barriers in a society, “Society Model.” As such, the definition of persons with disabilities came to be defined as, “Individuals who have impairments and whose daily life or social life is subsequently and continuously limited due to impairments and social barriers” (Article 2 Section 1.)

According to the pre-amendments of a person with disabilities, the area of concern was: a person with a physical, intellectual or mental disability. However, afterwards, this came to include persons experiencing developmental disabilities and diseases. As such, a person with disabilities came to be: a person with physical, intractable developmental and other disabilities related to the body and/or mind. Also, under the new definition, the person with disabilities is considered to be in a continuous, definite and or cyclical very limiting condition.

In 1993, the definition of persons with disabilities the Persons with Disabilities Act: limb related disabilities, visual disabilities, hearing disabilities, balance coordination disabilities, voice and also language function disabilities, heart related disabilities, respiratory disabilities, other organ related functional disabilities, mental loss. In fiscal 2010, “mental retardation,” and “mental retard” were amended into, “intellectual disability;” as well physical and other psychological disabilities were included from the perspective of regarding, “disability” as widely as possible.

## **2. Societal Barriers**

In light of the, “Society Model,” previously mentioned in number 1 of the above section, this section will cover the societal barriers to causing limitations in the daily lives or social lives of persons with disabilities. These barriers are incurred by things, systems, habits, ideas etc. as defined by Article 2 Section 2.

### **(3) Fundamental Principles (Regarding Article 3 to 5)**

(1) Article 3 through 5 lays out a standard set of guidelines for how to realize a society in which persons with disabilities can live and function cohesively with their peers, regardless of their particular disability. Furthermore, in the pre-reforms Article 3, the fundamental ideals were laid out. However, this content has been pulled to the fundamental principles section.

## **1. Regional Society Coexistence (Article 3)**

The mandate to establish and secure opportunities for persons with disabilities to actively participate in any and all fields regardless of said disability in a cohesive society, as directed by the pre-reforms (Article 3 Section 1) shall be maintained. Additionally, the new additions- reforming regional societies to be more cohesive (Article 3 Section 2), Securing the opportunity to choose communication method (Article 3 Section 3) - was also stipulated.

Furthermore, in regards to all persons with disabilities, as well as ensuring the opportunity to choose the means by which to be understood, provisions have been put in place to ensure that they may also have the opportunity to choose from different information acquisition methods and choose different methods to use that information (Article 3 Section 3). Moreover, according this section, as an example of, "Methods by which to be understood," one such example would be: Language (including sign language).

## **2. The prohibition of discrimination (Article 4)**

In the pre-reforms act, it was mandated that persons with disabilities may not be discriminated against due to their disabilities (Article 4 Item 1). This shall be maintained, as well the promotion of measures for the removal of societal barriers (Article 4 Item 2). Furthermore, the national government should work to spread enlightenment and information regarding the discrimination of persons with disabilities (Article 4 Item 3).

In regards to the prohibition of discrimination, in the Convention of Rights of Persons with Disabilities it states: "Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human and fundamental freedoms. The former shall be the basis for the treatment of persons with disabilities. Beyond that, all forms of discrimination based on the disabilities of persons with disabilities shall be banned and rejected (Article 2 of the Treaty.)

In light of the Convention of Rights of Persons with Disabilities, in order that persons with disabilities are not discriminated against (in order that there is no

break with Article 4 Item 1), and that societal barriers to persons with disabilities (barriers to the daily maintenance of life by persons with disabilities are incurred by things, systems, habits, ideas etc.) be removed. Provisions must be set in place to remove said barriers in the event that in the past, the burden of such was not too excessive (Article 4 Item 2.)

Regarding the meaning of “reasonable treatment” in more specific terms, under the Committee for Reforms of the Persons with Disabilities System, the Prohibition of Discrimination Meeting was opened; at which, deliberations were taking place regarding how to legally ban discrimination for persons with disabilities. However, because the deliberations were still taking place at the time of the decree of the reforms proposal, the exact meaning of, “reasonable treatment” has yet to be clearly defined. On the other hand, there is a lot on the subject of ways of thinking about reasonable treatment, in the Persons with Disabilities Human Rights Treaty in Article 4 Item 1 and Item 2.

#### **(4) Fundamental Policy (Article 10 of the Act)**

Before the reforms, policy was determined based on the age and condition of the disabilities of the person with disabilities. Now after the reforms however, sex and life-style conditions must be taken into account as well (Article 10 Item 1).

In order to establish and enforce policies regarding persons with disabilities, the support needs may vary greatly depending upon the sex of persons with disabilities. As such, it is necessary to meet each of their needs. Also, there is a need to change the culture of persons with disabilities treatment as such that differences in gender and age, symptoms of the disabilities and other such attributes are not only considered. It is also necessary to recognize general life-style differences in family structures, occupation and the communication methods the person with disabilities uses on a daily basis.

For the phase of changes to the system, efforts must be made to ensure that persons with disabilities may be able to choose and decide at will, be able to participate proactively in any field; also it is imperative that in the event of creation of policies related to persons with disabilities, the opinions of private organizations that deal with persons with disabilities and organizations run by persons with disabilities are heard and respected (Article 10 Item 2.)



## **(5) Persons with Disabilities Independence and Societal Participation Support Fundamental Policies**

In keeping with the general reforms, alongside changing established guidelines regarding healing care and nursing care (Article 14), and Education (Article 16), also to nurturing care (Article 17), emergency and crime prevention (Article 26), protection of persons with disabilities as consumers (Article 27), Treating during Voting (Article 28), treatment during judiciary procedures (Article 29) and others have been changed.

In light of the viewpoint that in the event of a person with a disability being the victim of a crime or disaster, the effects would be considerably worse for them than for others, as a way to prevent that; also from the view point of ensuring that persons with disabilities feel safe and secure at all times so that they may maintain regular life styles, it is necessary to respond to persons with disabilities differently depending on their sex, age, condition of disability and life-style. As such, in order to prevent emergencies and crime, the necessary policies have been drafted by the lower house of the National Diet. This article was written in light of the Great East Japan Disaster.

## **(6) The Committee for the Creation of National Policy Regarding Persons with Disabilities (Article 32 of the Act)**

In the Convention of Rights of Persons with Disabilities it states parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present convention. When designating or establishing such a mechanism, states parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights. (Article 33, Item 2). In light of this, fundamental programs and the condition of enforcement of related policies shall be monitored. If necessary, the Persons with Disabilities Policy Committee (Central Persons with Disabilities Reform Committee Exhibit) that is in charge of advising the various ministers shall be reopened at the Cabinet (Article 32, Items 1 and 2).

Moreover, the word monitor in this context is used more generally in a positive light to highlight the need for proactive involvement in grasping the condition of

the progressing state of affairs of the policies and content of the programs related to topic in terms their time measured success or lack thereof.

**(7) Coalition government institutes at sub-national municipalities (Article 36 of the Act).**

According to Convention of Rights of Persons with Disabilities, in the case of the establishment of regional monitoring institutions, the signing nation's acts and policies shall be followed. The true aim of the treaty is to align national policies with the ideals of the convention. From this perspective, in regards to Japan, it is even more pertinent that such regional monitoring organizations are established in order to secure that, persons with disabilities policy is being enacted in municipalities across the nation. As well, due to dispatch of Regional Persons with Disabilities Reform Committees, such monitoring institutions will also monitor them as well (Article 36)

**(8) The Period of Enforcement of Reforms to the Persons with Disabilities Act**

The actual day of the enforcement of the reform of the act was on August 5<sup>th</sup> 2011. However, such provisions were extended to within one year of the date of enforcement of the act (May 21<sup>st</sup> 2012) for the Persons with Disabilities National Policy Committee and the other institutions that dealt with deliberations and the coalition government committee institute.

**(9) Deliberations**

A. In the event that the said act is left in effect in the nation for a period of three years, deliberations will be held on the effects of the reforms to the Persons with Disabilities Act. Measures shall be made according to the findings of such deliberations.

B. Deliberations must take place in light of the condition of policies aimed at ensuring that persons with disabilities may receive the necessary support to participate in society in the varying regions throughout the nation and enjoy independent lives. Furthermore, health and welfare institutions and medical

institutions alike must link together to form a general support system for persons with disabilities.

### **(10) Incidental Deliberations**

In the completion of the legislative reforms, at both levels of the National Diet, provisions had to be made in an array of areas. As such, incidental deliberations about this followed.

### **3 . Convention on the Rights of Persons with Disabilities and related matters**

One of the important factors of the above mentioned considerations about the reform of domestic systems on persons with disabilities is the adoption of the Convention on the Rights of Persons with Disabilities (CRPD) in the United Nations.

The Resolution at the 56th General Assembly of the United Nations decided to establish an Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities. After holding eight sessions, the 61st General Assembly adopted the CRPD in December 2006.

The CRPD was opened for signing on 30th March 2007 and entered into force in May 2008. Japan signed this Convention in September 2007 and has since been working toward the conclusion of the Convention as soon as possible.

### **4. Policy Assessments**

Assessments of persons with disabilities as discussed previously, the headquarters was placed in the National Cabinet. Under its administration, a committee on reforms centering around persons with disabilities. As well, system reforms and deliberations have been carried out with maximum efforts. As such deliberations, the, “First Deliberation Hearings” and the, “Second Deliberation Hearings” have taken place. Proposals have been made in light of the policies up until now regarding persons with disabilities.