

Background to the decision to review the nuclear damage compensation system

- The Atomic Energy Commission (AEC), which was established in the Cabinet Office, plans, deliberates and makes decisions from a neutral and broad perspective on matters related to utilization of nuclear energy for peaceful purposes
 - In order to properly prepare for possible future nuclear accidents, nuclear damage compensation system was to be reviewed in light of how it is being used for the accident at TEPCO's Fukushima Daiichi Nuclear Power Station (TEPCO Fukushima nuclear accident)
 - For this purpose, the AEC established the Advisory Committee on Nuclear Damage Compensation System in May 2015
 - The Advisory Committee includes jurists, lawyers, experts from the Japan Atomic Energy Insurance Pool, and journalists, etc.
 - The committee has interviewed representatives from Fukushima Prefecture and related local organizations such as those involved in agriculture, forestry, fisheries, and commerce in order to ascertain how compensation for the TEPCO Fukushima nuclear accident is being handled
- The Advisory Committee meets once every 2 or 3 months and has thus far held 17 meetings

Issues relating to reforming the nuclear damages compensation system

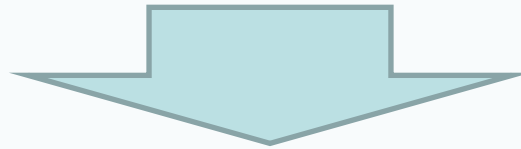
Response to the accident at the TEPCO Fukushima nuclear accident in terms of compensation

- The nuclear damage was expected to largely exceed 120 billion yen (maximum amount of compensation), so Japanese government established The NDF*

* Nuclear Damage Compensation (and decommissioning) Facilitation Corporation

- About 7.2 trillion yen has been provided by June 2017 through the NDF mutual aid schemes (at most 13.5 trillion yen could be provided through the scheme)

- Prompt and appropriate procedures for compensation such as provisional payments to the victims were carried out in case of TEPCO Fukushima nuclear accident



The government decided to review the nuclear damage compensation system in light of the experiences after the TEPCO Fukushima nuclear accident;

- in order to carry out a rapid and appropriate compensation to the victims
- in order to secure the funds needed to fulfil operators' responsibility in case of a severe accident

Basic thinking on further review discussion

- The system in which the victims receive appropriate compensation for all damages recognised as caused by nuclear power
 - In order to protect victims suffering from nuclear damage, which is the purpose of the Act on Compensation for Nuclear Damage
- To consider citizen's burden, based on the allocation of liability between the nuclear operators and the national government;
 - the burden by electric power consumers through electricity charges
 - the burden through general tax
- To consider foreseeability of the nuclear operators in response to nuclear power and the electricity system reform
 - Place the nuclear power as an important base load power source in the “Strategic Energy Plan” based on the “Basic Act of Energy Policy”
 - Progress on electricity system reform such as the complete liberalization of the retail sale of electricity, the abolishment of rate-of-return regulations and legal separation of the power transmission/distribution

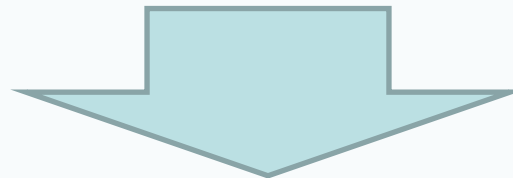
Liability for damages of nuclear operators (1)

- Nuclear operators are liable for nuclear damages caused by reactor operation;
 - strict liability
 - channeling of liability
 - unlimited liability
- Most agree that it is appropriate for strict liability for nuclear operators and the channeling of liability to nuclear operators to continue according to current practice, consistent with the Conventions on Supplementary Compensation for Nuclear Damage (CSC), which Japan has signed
- In regard to the scope of liability of nuclear operators, some say that unlimited liability should be maintained, the others say that limited liability should be introduced

Liability for damages of nuclear operators (2)

Issues in case of limited liability of nuclear operators

- Difficulty in obtaining the understanding of the citizens including local residents in nuclear installation site area
 - Emotional beliefs that nuclear power plant operators should take full responsibility for compensation
- A high upper limit would have to be set should compensation liability be limited
 - One operator shouldering the entire burden, however, could push its liabilities beyond its assets, making it insolvent
- Setting an upper liability limit in light of the limited assets of nuclear operators, it may vary for each nuclear operator or each nuclear facility; it can be a problem in regard to legal stability



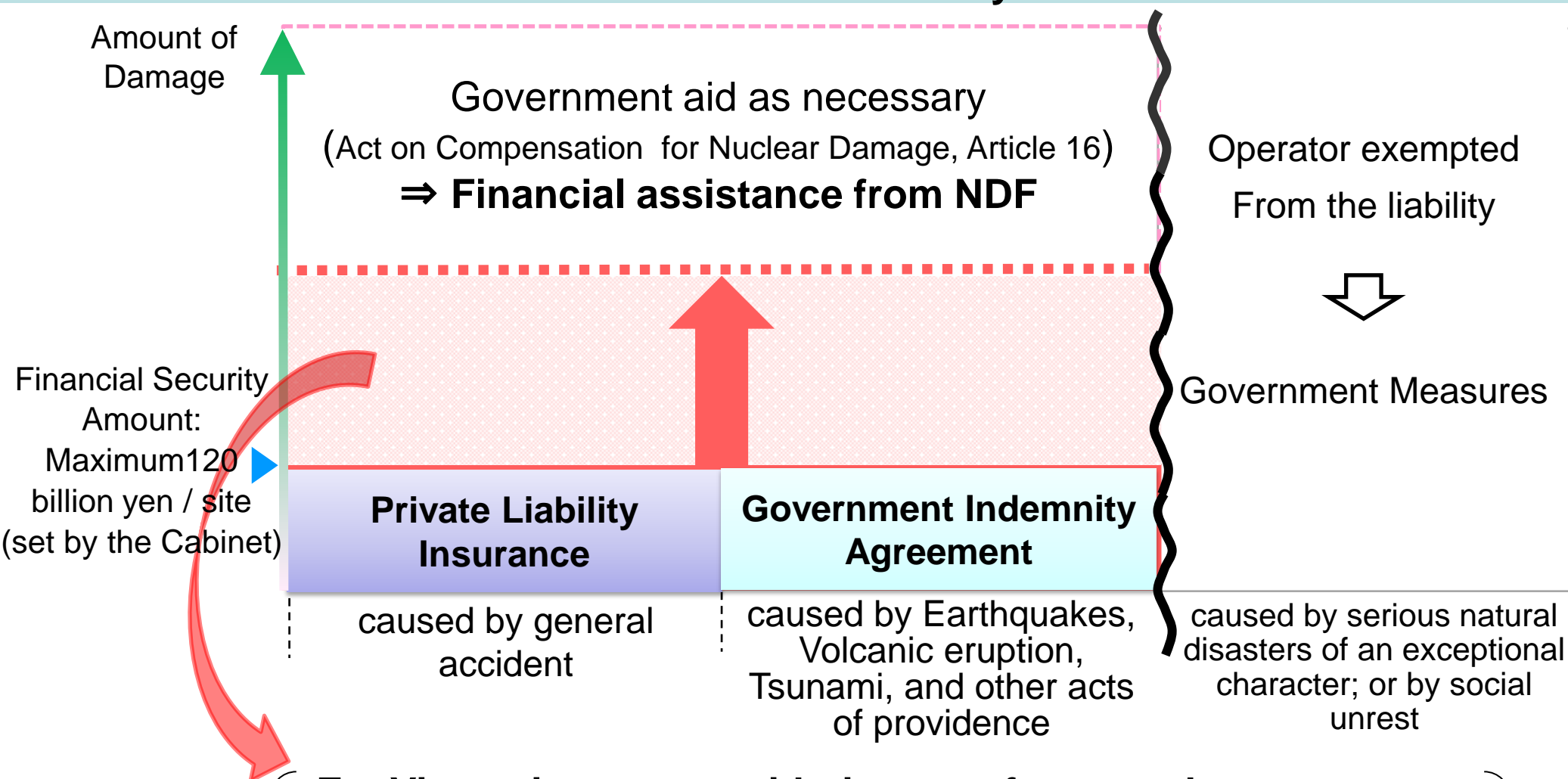
Considering both viewpoints of liability and securing foreseeability of nuclear operators, there are many legal and institutional problems that is difficult to solve in a short-term to apply unlimited liability to nuclear operators

Study on enhancement of securing compensation resource of nuclear operators

- Based on the experiences from the TEPCO Fukushima nuclear accident, the current financial security amount might be insufficient for a severe accident
- The current compensation system enables nuclear operators to secure compensation resources through the mutual aid scheme of NDF in which they prepare against nuclear damage
 - However, procedure will take a long time
- It is considered that the current amount of the compensation measures (120 billion yen, about 1.1 billion dollars) should be raised in order to secure enough to cover prompt payment in case of a severe accident
- We must continue to discuss the new compensation framework in terms of;
 - prompt payment;
 - the difficulty in convincing citizens to bear the costs;
 - the foreseeability of nuclear operators;

based on the purpose of the Act on Compensation for Nuclear Damage, to protect victims and to contribute to the sound development of the nuclear industry, and for the appropriate allocation of liability between the nuclear operators and the national government

Framework for securing compensation resources of nuclear operators under unlimited liability



Ex: Viewpoints on considering new framework

- Does it contribute to prompt, fair assistance to the victims?
- Can it convince citizens to bear the costs through general taxes and electricity charges?
- Is it concerning the foreseeability of nuclear operators?

(Ref.) opinions from commissioners for securing compensation resources of nuclear operators (1)

- It is necessary to discuss on the raise of the amount of compensation.
- It is not agreeable that compensation resource should be secured by reserve funds or mutual aid scheme of nuclear operator under new compensation framework.
- It is inappropriate to prepare by insurance with no refund payment for a severe accident that hardly occurs.
- It may be hard for citizens to obtain raising of the amount of compensation if it causes the raise of electricity charges.
- It is necessary to set appropriate compensation rates that will not cause the raise of electricity charges.
- It is important to build appropriate framework in terms of the balance between taxes and electricity charges in regard of citizens' bearing of the compensation burden.
- It is necessary to reconsider balance between insurance system and mutual aid scheme. Raising amount of compensation contributes to the rebalance of them.
- Current maximum amount of compensation is higher compared to other countries, and it is difficult for insurance industry to raise it.

(Ref.) opinions from commissioners for securing compensation resources of nuclear operators (2)

- The government should fulfill accountability for citizen's bearing of the compensation burden in the Diet..
- In regards to bearing compensation costs, compensation costs should be borne through Power-Resources Development Tax.
- In regards to bearing compensation costs, compensation costs should be borne through progressive tax, not regressive electricity charge.
- Although it is agreeable that citizens ultimately bear burden of compensation, it is necessary to discuss whether whole nation should bear it or not.
- The government has authority to regulate nuclear operators and is in charge of nuclear safety. The government and the nuclear operators should be collectively responsible under the new framework.
- As well as insurance, it is important that the government secure the financial resource for an emergency in the framework.
- In regard to national responsibility, new system should apply negligence liability and provide framework as the state reparations.

Review of procedures for compensation to the victims (1)

- In regards to nuclear damage compensation, prompt and appropriate procedures for the relief of victims are required
 - responses appropriate to the psychological and financial states of the victims
 - dealing efficiently with a large volume of claims arising within a short period
 - ensuring fairness in dealing with many similar claims
 - reducing the burden on the victims of having to prove cause and effect
 - responses in case that the effects of the accident last over a long period etc.
- For the TEPCO Fukushima nuclear accident, the Dispute Resolution Committee for Nuclear Damage Compensation under the Ministry of Education, Culture, Sports, Science and Technology developed guidelines and the special legislation that is necessary to proceed to relief the victims was engaged
- Besides, in order to deal with the many claims for settlement mediation within a short time, the Nuclear Compensation Dispute Resolution Center -- the first such center for nuclear accidents in Japan -- was established
- Since these efforts have built up a successful record of resolving at a high percentage, it is expected to make use of this experience

Review of procedures for compensation to the victims (2)

- **National government's establishment of an advance payment system**
 - In regards to the advance payment system by the government enacted as the special legislation for the response of TEPCO Fukushima nuclear accident, it should be enacted as the general law to prepare for cases that nuclear operators are unavoidably unable to provide full compensation or provisional payments promptly

- **Interruption of the extinctive prescription in regards to ADR**
 - In regards to the provisions for interrupting the extinctive prescription by Alternative Dispute Resolution (ADR) mechanism enacted as the special legislation, it is necessary to be enacted as a general regulations

- **Dispute resolution procedures other than mediation**
 - From the standpoint of enhancing the effective resolution according to the needs of resolution of dispute, it should be discussed on preparation for the way of respect for mediation of resolutions by nuclear operators, and procedures with binding force (for example; arbitration procedure)