

Short History

Establishment of Environmental Disputes Settlement System

Environmental Pollution issues had already emerged in Japan in the late 19c and early 20c as cases of damage to agricultural products by mining waste and some other sporadic air pollution cases. Though these problems attracted the eye of the social public, they were mainly caused by mines or a single factory, so that the damage was limited to a specific area.

But in the latter half of 1960's, environmental pollution became a large social issue and had to be solved urgently. At that time, the Japanese economy was in a high growth period, which had made the national income twice as much and brought about an unprecedented material prosperity. However, contrary to such positive effects, a lot of negative effects were also felt.

For instance, our heavy and chemical industries had developed rapidly, and mining and industrial production and energy consumption had increased. Utilised raw materials had become innumerable and discharge of smoke and wastewater from factories increased beyond the capacity of natural purification. Moreover, lateness in installing environmental pollution prevention facilities aggravated air and water pollution.

Meanwhile, various environmental pollution cases such as organic mercury toxics caused by waste water from factories in the *Minamata* Bay of *Kagoshima* and *Kumamoto* Prefectures, and the Basin of the *Agano* River of *Niigata* Prefecture (so-called *Minamata* Disease), asthmatic patients caused by smoke from factories in *Yokkaichi* City of *Mie* Prefecture, cadmium toxics caused by waste water from mining and industrial factories in the Basin of the *Jintsu* River of *Toyama* Prefecture (so-called "*Itai-Itai* (ouch-ouch)Disease") had produced extremely tragic damage to human health and life. Pollutants discharged and accumulated for a long time had also brought a serious environmental deterioration. The importance of settlement of environmental pollution problems was belatedly recognised as an urgent agenda.

However, environmental disputes had various distinctive difficulties. The number of victims was usually large, its damage ranged from lives and health of human beings to property and living environment, and immediate remedy especially in cases of health damage was required, but the establishment of a cause-effect relationship remained extremely difficult.

To settle such environmental disputes, civil trials by the general judicial system still played an important role, but in such civil trials,

- (1) victims must establish a cause-effect relationship, which was very difficult,
- (2) a large sum of trial costs was required,
- (3) trial proceedings were rigid and a long time was required before a final judgment.

Therefore, judicial measures were not deemed satisfactory to victims, in that they had limits in securing a quick and proper settlement of environmental disputes.

Thus, it was urgently needed, on the one hand, to consolidate various control laws on environmental pollution (such as Noise Control Law, Air Pollution Prevention Law) into a comprehensive legislation to contain environmental pollution beforehand, and, as an aftercare measure, to establish a new administrative environmental dispute settling system so as to provide a quick and just settlement through a simplified proceeding apart from the judicial solution.

With such backgrounds as (1) aggravation of environmental pollution and its damage, (2) awakening of environmental consciousness of the public, (3) characteristics of environmental disputes in mind, the Basic Law for Environmental Pollution Control was enacted in 1967.

Based upon this Law that says " the Government must take necessary measures to establish an environmental dispute settling system", Environmental Disputes Settlement Law was enacted in 1970.

This system is unique in that it provides for a dispute-settling system by administrative agencies uncommon in other countries. According to this Law, conciliation, mediation, arbitration and adjudication system was established and the Environmental Dispute Coordination Commission was created at the national level, Pollution Examination Commission in each Prefecture.