

Submission in follow-up to HRC resolution 15/25 “The Right to development”

Japan

The Government of Japan recognizes the work of the high-level task force which is an experts’ meeting.

The Government of Japan considers that international cooperation is important in supporting the efforts of each state indirectly to realize the right to development in cases in which the government is not able to take steps to realize the right to development for its people, and that international cooperation should not be obligatory but voluntary. Therefore, The Government of Japan is concerned about the elaboration of a legally-binding instrument and believes it is necessary to seek other options including guidelines.

(Comments for each report)

1. Regarding A/HRC/15/WG.2/TF/2/Add.2

P11, indicator related to Sub-criteria 1(g)(iv)

This points out “intellectual property and technology transfer provisions in trade agreements” as the indicators and also Note 65 indicates “bilateral trade agreements and regional trade agreements that include condition tightening intellectual property rights protection beyond the agreed levels of the TRIPS Agreement”. However, the existence of provisions beyond TRIPS Agreement (Trips-plus rules) in itself is not in a primary connection with the technology transfer and the access to technology. In that sense, “it is not appropriate to state that the existence of such provisions go negative for technology transfer or that the lack of such provisions mean positive for technology transfer. Therefore, “intellectual property provisions in trade agreements” are not appropriate as the indicators of Criteria and Sub-criteria.

P11, indicator related to Sub-criteria 1(g)(v) and Sub-criteria 1(g)(vi)

This points out “use of TRIPS flexibilities to acquire green technologies” and “use of TRIPS flexibilities and price discounts to expand access to HIV antiretroviral drugs” as the indicators. However, this is not to say that the use of TRIPS flexibilities primarily brings about a benefit for technology transfer and for access to medicines. Because the use of TRIPS flexibilities has nature that it becomes either positive or negative on a case by case basis depending on varieties of elements, “using TRIPS flexibilities” as such is

not appropriate as the indicators.

2. Regarding A/HRC/15/WG.2/TF/2/Add.1 and Corr. 1

P6, para19. lines 1-5

The Paris Declaration has its intention to strengthen global partnership and its principles have widely influenced multi-lateral donors' aid practices. Thus it is not appropriate to state that "...did not establish a formal global partnership, but rather created a framework for bilateral partnerships between donors and creditors, and individual aid recipient countries. It is thus indirectly relevant to Goal 8."

P6, Para19, lines 5-11 and lines 13-15

The relation between this high-level task force and the World Trade Organization (WTO) should not be forejudged on the task force. It should be considered carefully following sufficient discussions in WTO.

P7, para27. lines 1-5

The Paris Declaration has its intention to strengthen global partnership and its principles have widely influenced multi-lateral donors' aid practices. Thus it is not appropriate to state that "...did not establish a formal global partnership, but rather created a framework for bilateral partnerships between donors and creditors, and individual aid recipient countries. It is thus indirectly relevant to Goal 8."

P8, para28. lines 8-9

2011 Paris Declaration survey process has been already launched in October 2010 with specific monitoring indicators which have been agreed by the DAC-Working Party for Aid Effectiveness. Thus it could be difficult to include additional monitoring items such as regarding human rights. Consultation would be required to Cluster D of DAC-Working Party for Aid Effectiveness.

P8. para29, lines 1-9

Assessment of the Paris Declaration will be completed by July 2011 through 2011 Paris Declaration survey and Evaluation of Paris Declaration and discussed in the Busan HLF4 in November 2011. Thus it is too early to conclude that "It is therefore less useful as a framework for enhanced development effectiveness..." without legitimate evidence.

P11. para45

The existence of provisions beyond TRIPS Agreement (Trips-plus rules) in bilateral and regional trade agreements is not in a primary connection with the access to medicines and it is not appropriate to think that the existence of such provisions in itself gives adverse effect on access to medicines. Therefore we cannot share any concerns about the fact that the World Health Organization (WHO) does not refer to them in the strategy and plan.

P13. 5. Transfer of technology, (a) Development Agenda of the World Intellectual Property Organization.

This expresses the opinion that intellectual property can have a negative consequence on the diffusion of the technology, since the temporary monopoly it creates can restrict the sharing of the benefits of technology. However, the monopoly right is given as a compensation of disclosure of the invention. The technology information can be disseminated to public through such disclosure and such disclosure contributes to improvement of the technology standards. If the inventors' opportunity to recover the research and development cost through the monopoly is lost, the investors keep the technology secret and it gives negative effects on the diffusion of technology. Therefore it is difficult to support the opinion that the temporary monopoly has a negative consequence on the diffusion of technology.

P14. Para 59, lines 4-8

This comment is not appropriate because it provides misleading message without referring to specific terms regarding the CDM.

P14. Para 60, lines 1(after "include")-lines 3(before "inequitable distribution")

This comment seems to be not an issue unique to CDM but a common issue in the development.

P14. Para 60, lines 10

It is stated that some mechanism projects do not generate real emissions reductions. However, it is inadequate to state such negative message without providing detailed explanation.

P14. Para 60, lines 11(after "equity")-lines 12(before "although")

This comment is not an issue unique to CDM but a common issue in the development.

P14. Para 60, lines 15-16

This comment is inadequate to state such negative message without providing detailed explanation.

P14. Para 61, lines 4(after ‘with stakeholders’)-6(last)

It is necessary to clarify what ‘required procedures’ mean. At the same time, we deem it necessary not to prejudge the result of the negotiations on future mechanism related to CDM, as this is dealt with in the overall negotiation on post-2012 framework.

P14. Para 62, lines 4-6

This comment is not appropriate because it prejudices the outcome of the negotiations.

P16. Para69, lines 1-2

It is too conclusive to state that “it(=Aid) has not placed recipient societies on a sustainable path of development” without showing any evidence, given that there have been different views on effectiveness of aid to the development. Quoted Moyo’s argument (=”Dead Aid”) does not necessarily get full agreement in the development sector.

3. Regarding A/HRC/15/WG.2/TF/2 and Corr.1

P19. para80. (d) line 3

Add the word ‘risk’ between disaster and reduction.

End
