**An Opinion of Japan Disability Forum (JDF) to the General Comments**

**On the Article 27 – Work and Employment of the CRPD**

1. Concerning the difference between stipulating in the relevant law non-provision of reasonable accommodation as discrimination, and obligating by the law employers to provide reasonable accommodation

Though in the Japanese Law for Employment Promotion, etc. of Persons with Disabilities employers are obligated to provide persons with disabilities with reasonable accommodation, its non-provision is not clearly stipulated in the Law as discrimination.

In the process of the revision of the Law disability organizations and others requested the Ministry of Health, Labour and Welfare to stipulate in the revised Law non-provision of reasonable accommodation as discrimination, and also to stipulate that non-provision of reasonable accommodation could be subject to legal force of a private law.

Against the request from disability organizations and others the Ministry insisted that obligating employers to provide reasonable accommodation could have the same effect as stipulating non-provision of reasonable accommodation as discrimination, and did not adopt the opinion of disability organizations and others into the revised Law.

The Ministry also insisted that legal force of a private law could be applied to non-provision of reasonable accommodation as legal wrongs under the civil law.

As a result, though provision of reasonable accommodation is legally obligated to employers, its non-provision is not clearly stipulated in the revised Law as discrimination.

By providing the above information to the CRPD Committee JDF would like to ask the Committee to clearly indicate in the general comments on the significance of stipulating non-provision of reasonable accommodation as discrimination in the law, and that obligating employers to provide persons with disabilities with reasonable accommodation does not necessarily have the same effect.

2. Toward ensuring persons with disabilities to participate in work and employment on an equal basis with others

Our objective is to ensure that persons with disabilities can participate in work and employment on an equal basis with others.

For achieving this objective it is very important to increase the number of persons with disabilities who work in the open labour market, which should be the indicator to assess the extent of the achievement of the objective.

However, out of 5,268 persons with disabilities who were employed by the administrative organs of the national government between 23 October 2018 to 1 June 2020 after having been revealed the padding of the number of the employed persons with disabilities, 876 persons with disabilities left their jobs within one and half years period (according to the tallying result of a special survey on the recruitment and establishment situation, etc. of persons with disabilities employed by the administrative organs of the national government as of 1 June 2020, compiled by the Ministry of Health, Labour and Welfare.)

The reasons of leaving their jobs are (1) deterioration of health conditions: 313 persons (35.7%) and (2) environment of their workplace: 186 persons (12.3%) which indicate the necessity of further consideration of provision of reasonable accommodation etc. to make it possible for them to continue their jobs at the respective administrative organs.

In the general comments we would like to ask the Committee to indicate how to make necessary legal arrangements for the compliance of employers with the prohibition of unjustly discriminatory treatment and non-provision of reasonable accommodation, which are needed for persons with disabilities to continue working in the open labour market.

As discriminatory treatment on the ground of disability is widely prevailing, and reasonable accommodation is not provided for persons with disabilities under the present circumstances, it is very difficult for many of them to work in the open labour market, and have to choose to work at sheltered workshops instead.

In order to improve such a situation we would like to urge the Committee to emphasize in the general comments on the necessity of drastically reviewing the actual situations of the open labour market, including employment conditions and workplace environment.

We wonder whether it is possible for all persons with disabilities who want to work, can fully participate in the open labour market when the abolition of discriminatory treatment on the basis of disability and non-provision of reasonable accommodation is realized.

As non-provision of reasonable accommodation might be justified in case of disproportionate or undue burden, we also need to pay close attention to its limitation.

Though in some of its concluding observations the Committee recommends　to the relevant governments that sheltered workshops should be abolished with a targeted time table, many of these facilities have been still in operation.

Taking into consideration such a reality we would like to propose to the Committee to make a global study on the actual situations of sheltered workshops. And based on the analysis of its results it should make concrete recommendations in the general comments on the realization of inclusive work and employment for persons with disabilities.