



# **Japan: Strategies for Improving Citizens' Access to Information and the Role of Information Commissioners**

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# Legal Schemes

## 1 General regulations for access to information

### (1) National level

- ① Law Concerning Access to Information Held by the Administrative Organs (LAI) (1999)
- ② Law Concerning Access to Information Held by Incorporated Administrative Agencies (2001)

### (2) Local level

Ordinances concerning access to information held by local governments

## 2 Special provisions in the environmental legislation (ex.: PRTR Act)



## Scope of LAI

### 1 Applicable Organs

All national administrative organs

### 2 Scope of the administrative documents

Documents, pictures and electromagnetic records held by the administrative organ concerned for organizational use by its employees

#### **Including:**

(1) Documents before final decisions

(2) Documents obtained/prepared before the enforcement of LAI



# Right to Request Disclosure

**1 Any person has the right to request disclosure**

**2 Principle**

**Obligation to disclose Documents**

**3 6 categories of exceptions**

**Obligation: Partial Disclosure**

**4 Exception of exception**

**Discretionary Disclosure of Non-Disclosure**

**Information for Public Interest Grounds**

**However, Limited number of examples in practice  
(only 8 cases in 2011)**



## 6 categories

**Information disclosure may be refused if it might adversely affect:**

**1 personal information**

**2 confidential corporate information**

**However, information which is relevant for the protection of a person's life, health, livelihood or property shall be disclosed.**

**3 national security/international relations**

**4 maintenance of public safety**

**5 deliberation process of administrative decision**

**6 confidentiality of the proceedings of public authorities**



## Procedure for Disclosure

### 1 Deadline for Disclosure Decisions

30 days from the request (extendable for more 30 days)

### 2 Fees

(1) Disclosure request: cir. US\$ 2 - 3

(2) Documents:

Inspection : cir. US\$ 1 up to 100 pages

Copy: cir. US\$ 0.1 /1 page



## Access to Justice

**Any dissatisfied requesters has access to a review procedure.**

### **1 Appeal to the Administrative Organ**

**(1) Reference to the Information Disclosure  
Review Board**

**(2) Review Board: Submitting a report  
(report: open to the public)**

### **2 Litigation**

**Only 15-30 cases/year**



# Information Disclosure and Personal Information Protection Review Board

## 1 Organization

Under the Cabinet Office

Commissioners + Secretariat (incl. Examination Officers)

5 Panels (3 Commissioners/panel)

## 2 Commissioners

- Total: 15 members
- 5 full-time Commissioner, 10 part-time Commissioner
- Appointed by the Prime Minister subject to the Diet approval
- Term: 3 years

## 3 Competence

- Submission of reports
- *Ex officio* examination
- Solicit to show the requested documents (in camera examination)





## Status of Enforcement (2011)

### 1 Requests

**Total: 96,677**

**Ministry of Infrastructure: 39,010**

**Ministry of Environment: 502**

### 2 Decisions: 83,712

**(1) Disclosure: 42,983 (51.4%)**

**(2) Partial disclosure: 38,688 (46.2%)**

**(3) Nondisclosure: 2,041 (2.4%)**

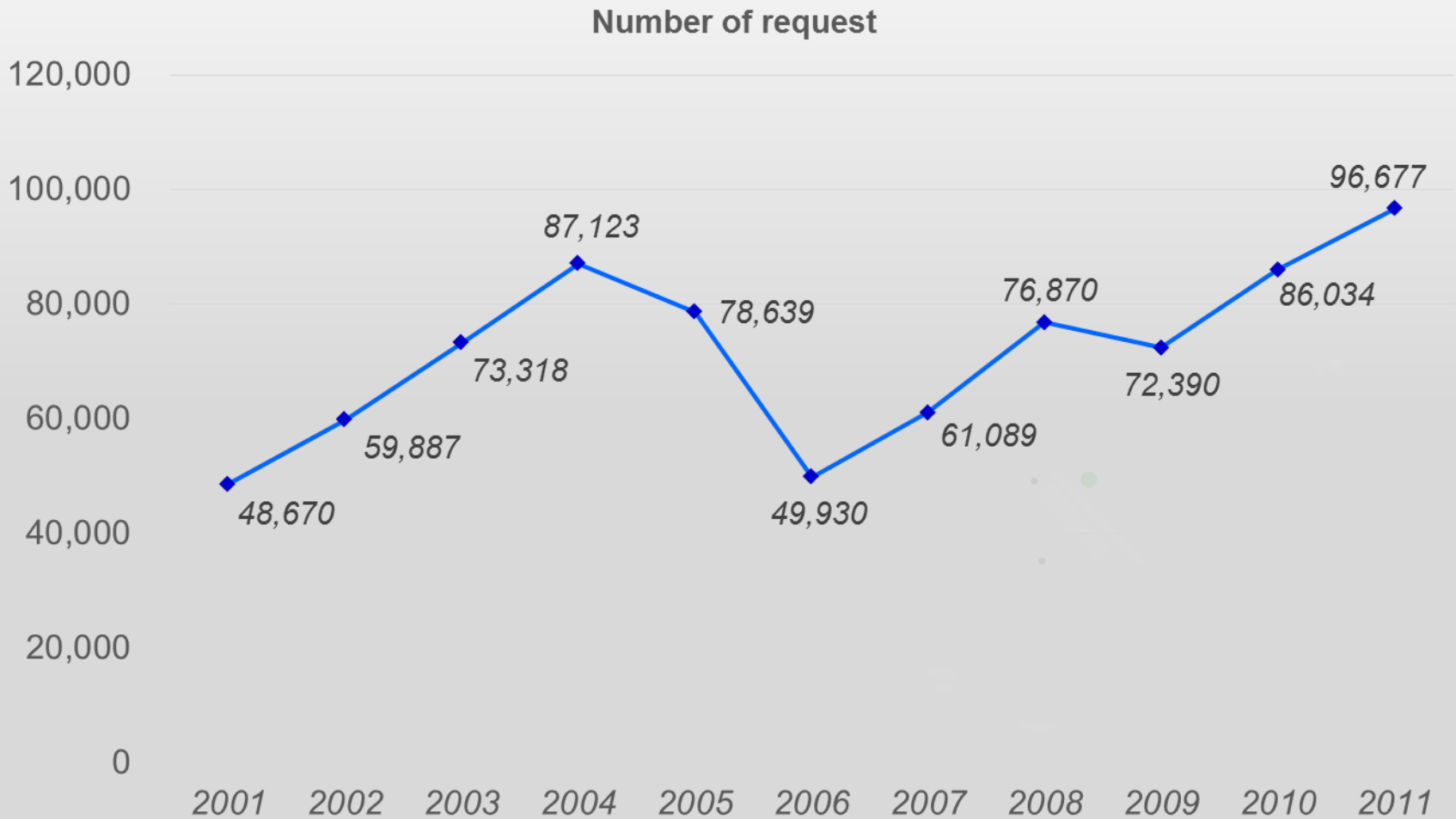
**Nondisclosure information: 40,325**

**Nonexistence: 2,278**

**Glomar denial: 339**



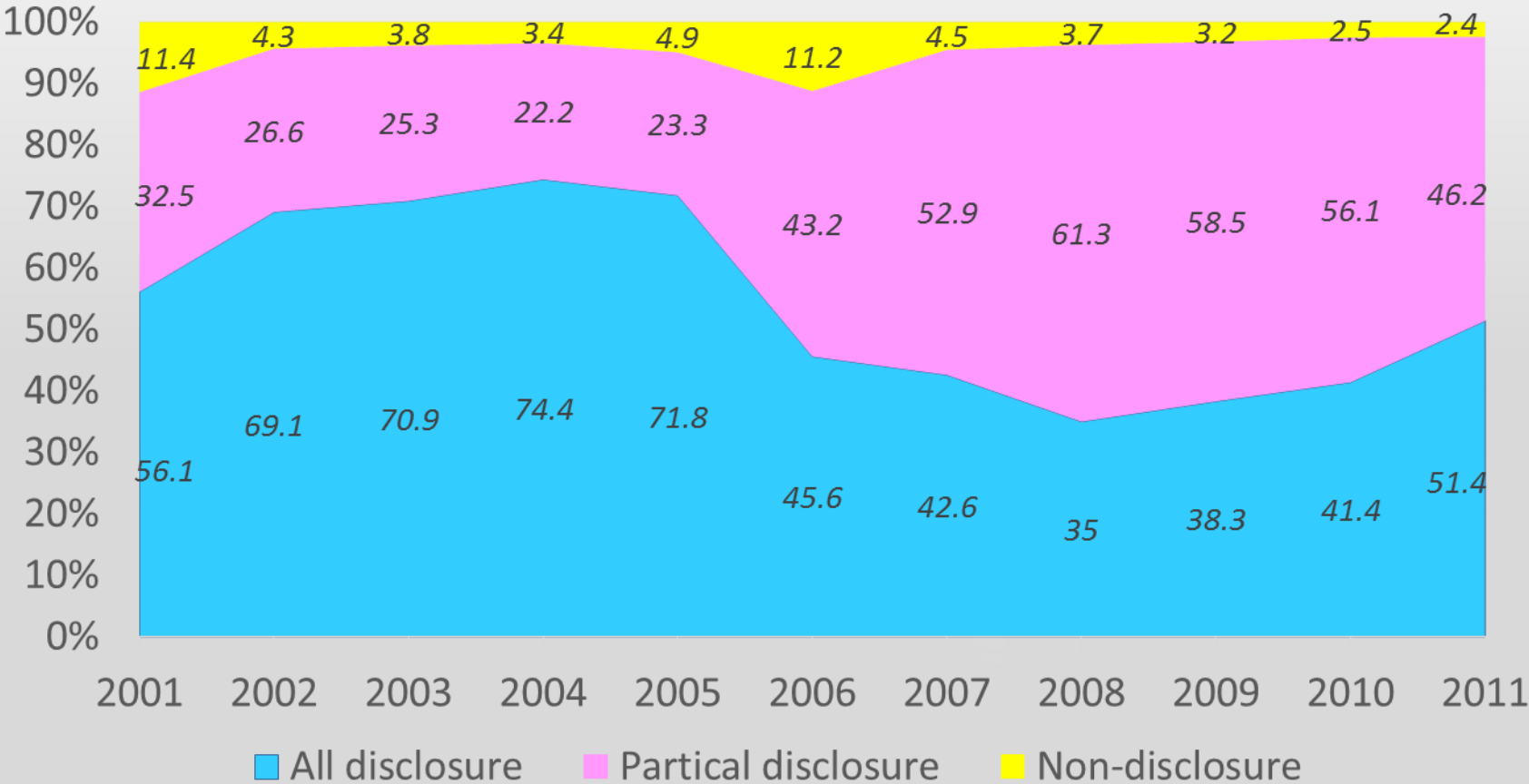
# Number of Request





# Decisions

Decisions





## Administrative Appeals (2011)

**1 Number of administrative appeals: 1,077**

**cf. Litigation: 12**

**2 Duration of the process**

**Within 6 months: 21.6%**

**6-9 months: 18.5%**

**9-12 months: 22.4%**

**more than 1 year: 37.5%**

**3 Board's Recommendations**

**Admit: 3.4%**

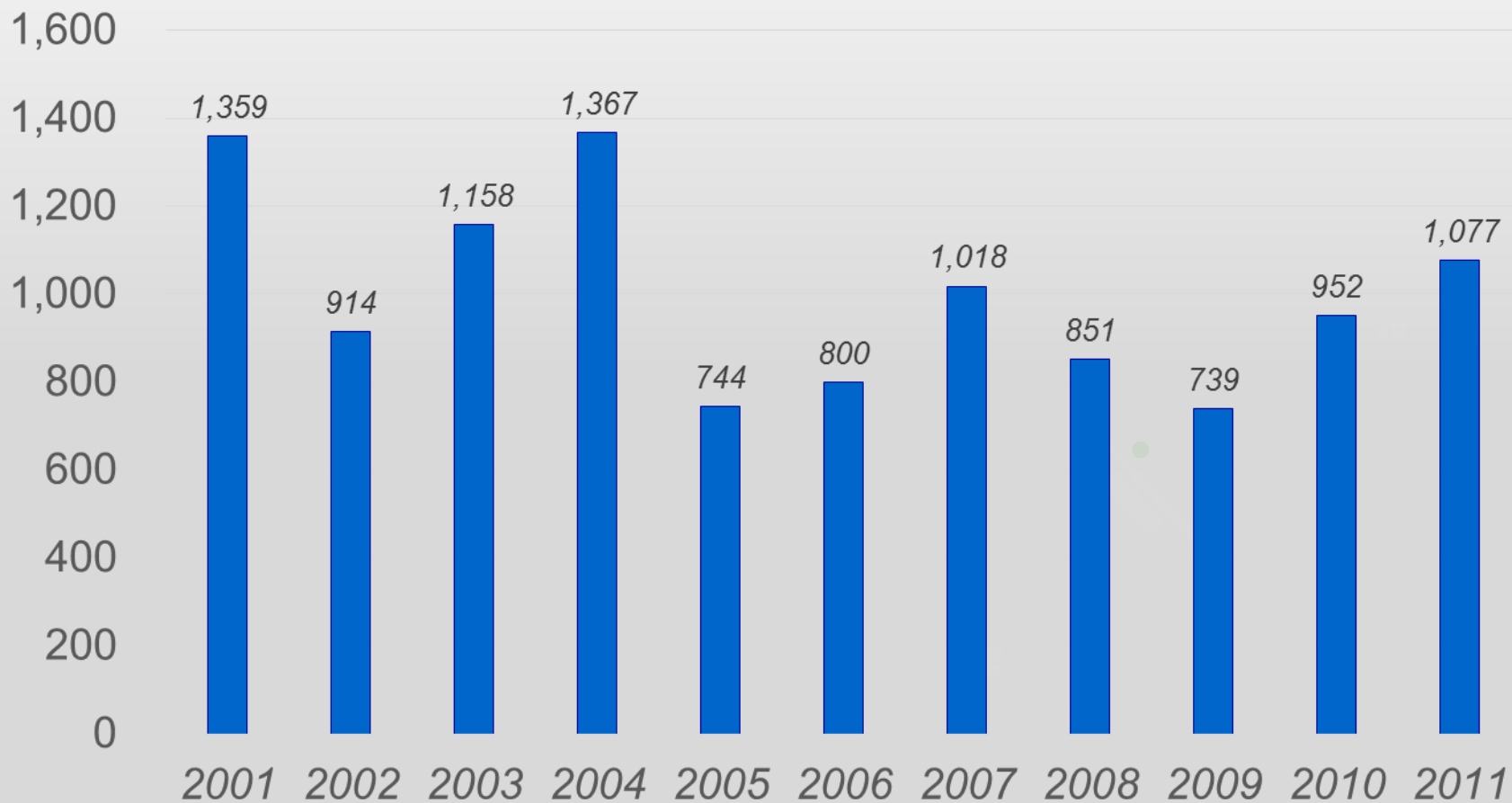
**Partially admit: 20.6%**

**Dismiss: 76%**



# Number of Administrative Appeals

Number of administrative appeals





# Recent Cases : Asbestos Kishiwada Case and Amagasaki Case

**1 Requested documents: Old inspection documents**

**2 Original decision: Nondisclosure**

**Main reasons: personal information of workers**

**confidential corporate data**

**knowhow data to investigate by inspector**

**3 Review by the Board: *Ex officio* examination**

**(1) Requests to the authority for detailed research about existence/nonexistence of the factories**

**(2) Examination by the official of the Board**

**(3) Inquiry to the concerned corporations**

**4 Recommendations in 2013**

**(1) Documents concerning the closed workplaces shall be disclosed (except personal data) (Kishiwada Case).**

**(2) Old Documents concerning production process etc.: 19 documents of 25 requested documents shall be partially disclosed (Amagasaki Case).**



## Recent Cases: Fukushima Accident

- 1 Request: documents concerning work at Fukushima nuclear power plants with exposure to radiation**
- 2 Original decision: Partial disclosure**  
**Main reason: confidential corporate data**
- 3 Recommendations on 14 March 2013:**  
**expanding the extent of partial disclosure**
  - (1) Data concerning high-dose radiation areas in the Fukushima Plants**
  - (2) Some parts of roadmap for controlling the accident and cold shutdown of nuclear reactors**



# Hottest Issues

## 1 Confidential cooperate information

(1) Information on emissions which is relevant for protection of:

- ① a person's life, health, livelihood, or property (LAI),
- ② the environment (Aarhus)

**Aarhus > LAI**

(2) Information which has been voluntarily provided in response to a request by the Administrative Organ on the condition of non-disclosure: Aarhus = LAI

## 2 Non-Existence

(1) No preparation of documents

(2) Elapse of the statutory period for retaining the records





## Next Challenges

- 1 Accountability and Transparency have been dramatically improved after the LAI enforcement.**
- 2 It is time for next step. However, the bill for revision of LAI in 2011 was blocked in the Diet.**
- 3 Some options for the next steps**
  - (1) Expanding applicable organizations**
  - (2) Strengthening discretionary disclosure of non-disclosure information**
  - (3) Strengthening control of management of public documents**
  - (4) Strengthening legal obligation to submit relevant environmental information to the administrative agency**
  - (5) Strengthening system of collection and dissemination of environmental information based on the relevant environmental legislation**