

(3) Legal Systems of Japan

3-1) Concept and Outline of the Environment Law System

a) Environment Laws in Japan

Environment laws aim to protect, maintain and improve the environment. The concept of the environment laws first appeared in the latter half of the 1960s and the 1970s and the laws eventually came to be recognised under the scope of legislation.

In Japan, prevention of pollution became an urgent topic in the due to the pollution problems accompanying the rapid development of industry. Public protest movements and lawsuits for pollution occurred in many parts of the country, and preparation of legal restrictions on pollution progressed. The “Basic Law for Environmental Pollution Control” was established in 1967 and several laws for pollution control were enacted to prevent and control pollution.

Following this, the need began to be felt to extend this effort to protection and improvement of the natural environment, as well as pollution. To this effect, the Environment Agency was established in 1971 as an extra-ministerial bureau of the Prime Minister’s Office; the result of which was the establishment of environment laws in Japan which include both aspects of the pollution control laws and the nature conservation laws.

b) Environment Laws: Measures for Environment Conservation (Zoning)

Japan has only small area of potential as residential areas where the population is concentrated. In order to maintain the country’s leading industrial edge and the present standard of living, it is important rationalise the nation’s land use while preserving the natural environment. In the current national land policies, particularly for environmental conservation, a zoning method is widely used as an important legal measure. In this zoning system, an area is designated as a particular zone, such as industrial zone, nature conservation zone and residential zone, and activities in this zone are regulated in accordance with the land use objective.

There are three such nature laws the Natural Parks Law, the Nature Conservation Law and the Wildlife Protection and Hunting Law, all of which are directed at conservation of nature through the zoning method.

1) Natural Parks Law

This law succeeded the “National Parks Law” of 1931 and aims to conserve prime natural scenic areas as natural parks and to contribute to health, recreation and enlightenment of the people. This law effects strict control over the land use in natural parks. However, there are still limitations in the natural park system as for people-based nature conservation, as the primary objective of the Law remains to secure places of recreation for the people in scenic areas rather than conservation of the natural environment.

2) Nature Conservation Law

This law was established as a basic law to ensure the provision of conservation areas for prime areas of natural environment around the country. This law provided the basic concept, the legal system and the administration organs for nature conservation. To secure integrated conservation measures for natural environment, the “Basic Policy for Natural Environment Conservation” was created and Wilderness Areas and Nature Conservation Areas were established.

However, actual measures taken by the administration are limited to conservation of natural parks and a few natural forests remaining that are not included in the protection forests covered under the Forest Law. It must therefore be said that this law does not fully meet the objective of providing a comprehensive legal framework for conservation of the natural environment.

3) Wildlife Protection and Hunting Law

This law aims to conserve wild animals that are important components of the natural environment. Under this Law, the Director General of the Environment Agency designates areas recognised as being of importance for the protection and reproduction of birds and mammals in Wildlife Protection Areas, where hunting is prohibited. Landowners in the areas are generally prohibited from performing activities with the potential to adversely affect protection and breeding of birds and mammals, unless a permit is issued by the Director General or Prefectural Governors.

4) Other Laws

Other legal systems in place that, while their primary objective is other than nature conservation, nevertheless indirectly contribute to it are the designation of protection forests under the “Forest Law” and a permit system for diversion of farms by the “Law Concerning the Improvement of the Agricultural Promotion Area”. These systems still serve their original objectives in the administration but are worth noting as measures that contribute to the conservation of forests

加藤 一郎 (1980): 環境法、環境科学大辞典 (佐々学監修)、講談社
原田 尚彦 (1981): 環境法、弘文堂

(3) Legal Systems of Japan 3-1) Concepts and Outlines of the Environment Law System

[Laws Related to Conservation of Wildlife Habitat and Designated Conservation Area]			
Law,	Categories,	Number of Areas	Total Size of Areas (ha)
Nature Conservation Law (1972)	① Wilderness Area	5	5,631
	(1) Entry Restricted Zone	1	367
	② Nature Conservation Area	10	21,593
	(1) Special Zone	9	17,266
	(2) Wildlife Protection Zone	7	14,868
	(3) Special Marine Zone	1	128
	(4) Ordinary Zone		4,199
	③ Prefectural Nature Conservation Area	514	73,279
			(as of March, 1993)
	Natural Park Law(1952)	① National Park	28
(1) Special Zone			1,454,124
Special Protection Zone			255,488
Marine Park Zone			1,087
(2) Ordinary Zone			597,213
② Quasi-national Park		55	1,332,532
(1) Special Zone			1,242,183
Special Protection Zone			66,439
Marine Park Zone			1,352
(2) Ordinary Zone			91,354
③ Prefectural Natural Park	301	1,951,112	
		(as of March, 1993)	
Wildlife Protection and Hunting Law (1918)	① Wildlife Protection Area		477,235
	(1) National Wildlife Protection Area	56	194,978
	Special Protection Zone		104,978
	(2) Prefectural Wildlife Protection Area	3,430	2,923,269
	Special Protection Zone		141,015
		(as of March, 1993)	
Law for the Conservation of Endangered Species of Wild Fauna and Flora (1992)	① Natural Habitat Conservation Area	5	260
	(1) Conservation Area	5	114
	Strict Protection Area	1	39
	(2) Monitoring Area		146
		(as of June, 1996)	

水谷 知生 (1996) : 野生動物の保護制度に関する一考察、ワイルドライフ・フォーラム 2 (3)

(3) Legal Systems of Japan

3-2) Legal Systems for Nature Conservation

a) Legal Systems for Natural Environment Conservation

There are many laws for conservation of natural environment. The Environment Agency synthetically promotes sound conservation for natural environment in cooperation with other government ministries and agencies.

b) Administration and Legislation for Nature Conservation

Administration for nature conservation is covered by various government offices since the wide scope of nature conservation has to be undertaken within the jurisdiction of each office. The administrative positions are roughly divided into two types. One is administration whose mission is nature conservation: e.g. nature conservation by the Environment Agency and protection of scenic places and natural monuments by the Agency for Cultural Affairs. Another is administration for other purposes but indirectly contributes to nature conservation as results or as means for its activities: e.g. management of protection forests and afforestation by the Forestry Agency, erosion control and green tracts by the Ministry of Construction, and land use plans by the National Land Agency.

Administration concerning development used to be opposed to nature conservation but recently started showing interests in this area. Now it is usual that national plans such as Comprehensive National Development Plans and other regional development plans pay consideration to natural environment. In the process of planning and implementing the programmes, it is required to endeavour to avoid negative impact on natural environment by pre-surveys, assessment and countermeasures for the environmental impact.

c) Outline of Conservation Measures for Natural Environment by Environment Agency

The Environment Agency takes various measures to conserve diverse natural environment and wildlife species in the country based on the four laws: the Nature Conservation Law, the Natural Parks Law, the Wildlife Protection and Hunting Law, and the Law for the Conservation of Endangered Species of Wild Fauna and Flora.

1) Nature Conservation Law

Based on this law, the “National Surveys on the Natural Environment” (Green Census) are implemented to acquire comprehensive understanding on the present states of natural environment and its alternation in the country; the survey subjects include vegetation, wild plants and animals, rivers, lakes, marshes, and marine areas. The survey has been conducted about every five years since 1973. Results of the survey are widely used as basic references

for policy making for natural environment conservation and environmental assessment.

Based on this law, natural areas keeping primeval conditions are designated to “Wilderness Areas” and those maintaining excellent natural environment to “Nature Conservation Areas”, Natural ecosystems of these areas are conserved by imposing regulations on certain activities and conducting academic research.

2) Natural Parks Law

Based on this law, areas of outstanding natural scenery are designated to “National Parks” or “Quasi-national Parks”, which are managed to conserve nature and utilised as places for outdoor recreation. A park plan is established for each natural park, which are divided into two plans: the conservation plan for conservation measures and zoning and the utilisation plan for regulation of park uses and provision of visitor facilities.

3) Wildlife Protection and Hunting Law

This law aims at conservation and management of wild birds and mammals in the country, which are divided into two groups: game and non-game. “Wildlife Protection Areas” are established to prohibit hunting and “Special Wildlife Protection Areas” are designated within the Wildlife Protection Areas to conserve the habitats of wildlife by regulating alteration beyond set standards.

4) Law for the Conservation of Endangered Species of Wild Fauna and Flora

The Environment Agency conducted research to understand the state of endangered species of wildlife, and the results were made public in 1991 as the Red Data Book, “Threatened Wild Fauna and Flora in Japan”. This book reveals a fact that many species of mammals, birds, reptiles, amphibians, fishes, and insects are in serious conditions.

Since the Wildlife Protection and Hunting Law covered only bird and mammal species, the Law for the Conservation of Endangered Species of Wild Fauna and Flora (Endangered Species Law) was enacted in 1993 to systematically protect endangered species of wildlife. In this law, “Endangered Species of Wild Fauna and Flora” and “Natural Habitat Conservation Areas” are designated and necessary regulations and programmes are provided based on three principles: protection of individuals, conservation of habitats, and breeding and rehabilitation programmes.

環境庁自然保護局（1997） 人と自然との共生をめざして、環境庁自然保護局、 - その役割と仕事 -

宇野 佐（1980）: 自然保護、環境科学大辞典（佐々学監修） 講談社

酒向 貴子（1994） 生物多様性保全のためのわが国の取り組み、環境庁の活動を中心として、地球環境ハンドブック（不破敬一郎編） 朝倉書店

(3) Legal Systems of Japan 3-2) Legal Systems for Administration of Nature Conservation

Laws Relating to Nature Conservation

<p>Basic Law for Environment Conservation The Basic Environment Law (Central Environment Council) (Basic Environment Plan)</p>	<p>Basic Law for National Land Use Law concerning the National Land Use (Basic Land Use Plan) (National Land Use Plans)</p>
<p>Basic Law for the Natural Environment Conservation Nature Conservation Law (Nature Conservation Council) (Basic policy for natural environment conservation) (National Survey on the Natural Environment)</p>	
<p>Designation and conservation of wilderness areas, nature conservation areas, and prefectural nature conservation areas</p>	<p>Nature Conservation Law (Environment Agency)</p>
<p>Designation and conservation of national parks, quasi-national parks, and prefectural natural parks</p>	<p>Natural Parks Law (Environment Agency)</p>
<p>Wildlife protection and regulation of hunting</p>	<p>Law for the Conservation of Endangered Species of Wild Fauna and Flora (Environment Agency) Wildlife Protection and Hunting Law (Environment Agency)</p>
<p>Protection of hot springs and regulation of their use</p>	<p>Hot Spring Act (Environment Agency)</p>
<p>Designation and conservation of historic spots, places of beauty and natural monuments</p>	<p>Law for the Protection of Culture Properties (Ministry of Education-Agency for Cultural Affairs)</p>
<p>Designation and conservation of historic, natural features</p>	<p>Law Concerning Special Measures for the Preservation of Ancient Cities (Ministry of Construction)</p>
<p>Designation and conservation of agricultural areas</p>	<p>Law concerning the Improvement of the Agricultural Promotion Area, Agricultural Land Law (Ministry of Agriculture, Forestry and Fisheries)</p>
<p>Designation and conservation of forestry areas</p>	<p>Forest Law (Forestry Agency)</p>
<p>Designation and conservation of forest reserves</p>	<p>Forest Law (Forestry Agency)</p>
<p>Designation and conservation of coastal conservation areas</p>	<p>Coast Law (Ministry of Transportation, Ministry of Construction, Ministry of Agriculture, Forestry and Fisheries)</p>
<p>Designation and conservation of green zones</p>	<p>City Green Zone of Conservation Act (Ministry of Construction)</p>
<p>City Parks Law (Ministry of Construction)</p>	<p>Law for the Conservation of Green Belts around the National Capital Region and Law for the Development of Conservation Areas in Kinki Region (National Land Agency)</p>
<p>Establishment and maintenance of urban parks</p>	<p>City Parks Law (Ministry of Construction)</p>
<p>Designation and conservation of scenic areas</p>	<p>City Planning Law (Ministry of Construction)</p>
<p>Designation and conservation of urban trees and forests</p>	<p>Law concerning Preservation of Trees for Conservation of Scenic Beauty of Cities (Ministry of Construction)</p>
<p>Designation and conservation of productive green areas</p>	<p>Productive Green Land Law (Ministry of Construction)</p>

Nature Conservation Bureau, The Environment Agency (1999): Nature Conservation in Japan

(3) Legal Systems in Japan

3-3) Basic Environment Law

a) Basic laws

Basic laws are established to specify directions of the basic policies for important subjects for the government. The contents of the provisions are mainly for a basic philosophy, obligations, programmes and concrete measures, such as basic plans, annual reports and deliberative councils. The basic laws play a role to link between the Constitution and individual laws. The specific measures are undertaken by individual laws, budgetary measures, and implementation guidelines for administration. The basic laws are the same as the individual laws in terms of the legal form but, in essence, are superior to other laws. At present, there are 12 basic laws including the “Basic Environment Law”.

b) Basic Philosophy of the Basic Environment Law

In Article 3 of the Basic Environment Law, based on the basic recognition for environment and people, the basic philosophy for environmental conservation is stated as follows:

- Environment is limited and depends on the delicate balance in ecosystems;
- Environment is the basis for life of human being and common property sharing with the future generations;
- Human being receives a lot of benefits from environment, as well as affects the environment in various ways. Therefore, we must make every effort for environmental conservation to enjoy blessing from the environment and to succeed the sound and rich environment to the future generations.

Article 4 provides the vision of what the Japanese society should be like, which is environmentally friendly and sustainable, and how to approach such society. Article 5 provides that Japan must actively work on conservation of global environment.

c) Guidelines for Planning Measures

Article 14 of the Basic Environment Law states directions and methods for planning and implementation of conservation measures. In relation to conservation of natural environment, the following points are given:

- To secure biodiversity at three levels: ecosystems, species and genes;
- To conserve diversified natural environment systematically following natural and social conditions in each area, from primeval natural areas to green spaces and watersides in the urban areas;
- To keep rich commune between nature and people, which benefits recovery of mental health,

relaxation and promotion of environmental education.

d) Basic Environment Plan

The Law provides that the Prime Minister shall consult to the Central Environment Council and establish, by a Cabinet decision, the “Basic Environment Plan” to indicate the basic direction of measures for environment conservation. The Basic Environment Plan was adopted in December 1994.

e) Promotion of Environmental Impact Assessment

The Law provides to take necessary measures to legally take in environmental impact assessment, which is vital to prevent negative impact of human activities on the environment.

自然保護年鑑刊行会 (1996): 環境基本法で自然保護はどうとりあげられているか?、
自然保護年鑑4、日生社
木原 啓吉 (1998): 環境基本法、自然保護ハンドブック (沼田真 編) 朝倉書店

(3) Legal Systems of Japan 3-3) Basic Environment Law

<p>Examples of Specific Measures under the Basic Environment Law</p> <ul style="list-style-type: none"> o The Basic Environment Plan o The Environmental Quality Standard Environmental quality standard related to air, water, soil, and noise. o Pollution Control Program Formulation of Environmental Pollution Control Program o Implementation of Policy for Environmental Conservation by the State <ul style="list-style-type: none"> o Consideration in Formulation Environmental consideration upon the formulation of Policies by the State o Environmental Impact Assessment General Plan of Environmental Impact Assessment etc. o Regulations <ul style="list-style-type: none"> o Regulations on emission Air Pollution Control Law, and Water Pollution Control Law etc. o Regulations on land use and construction of facilities Building Standard Law, and Factory Location Law etc. o Regulations on development for pollution control Nature Conservation Law, and Natural Parks Law etc. o Regulations for the protection of natural objects such as wildlife and Hot Springs Law etc. o Regulations concerning both issues of pollution and of nature conservation etc. o Economic Measures <ul style="list-style-type: none"> o Measures of Economic Assistance and measures to impose economic surcharges Loans made by Japan Environment Cooperation, and preferential tax measures etc. o Establishment and Development of Facilities, and Other Projects Promotion of the establishment and development of various public facilities and other projects o Promotion of Use of Products etc. Law concerning the Encouragement of Use of Recyclable Resources, and Project on the Eco-mark system etc. o Education and learning, etc. Provision of information, facility reinforcement, and development of human resources etc. o Promotion of Voluntary Activities by Private Organizations etc. Grant by the Global Environment Fund and others o Provision of Information To publish environmental monitoring data and to introduce a variety of cases etc. o Researches Surveys using pollution research money etc. o Improvement in Systems for Monitoring and others Aid to the establishment and development of pollution monitoring systems etc. 	<ul style="list-style-type: none"> o Promotion of Science and Technology Experiments and researches at the National Institute for Environmental Studies etc. o Settlement of Environmental Pollution Disputes and Relief of Damage Law concerning the Settlement of Environmental Pollution Disputes, and Pollution related Health Damage Compensation and Prevention Law etc. o International Cooperation for Global Environmental Conservation etc. <ul style="list-style-type: none"> o International cooperation for global environmental conservation etc. Implementation of environmental ODA, and collaboration with international organization etc. o International Cooperation for Monitoring, Observation and Others Mutual exchanges of observation results through international organizations etc. o Promotion of Activities by Local Governments and Private Organizations etc. Provision of information, and financial securement etc. o Considerations in Implementation of International Cooperation and Others Guidelines of environmental considerations of the Japan International Cooperation Agency etc. o Cost Bearing and Financial Measures etc. <ul style="list-style-type: none"> o Cost Bearing by Causers Law concerning Entrepreneurs' Bearing of the Cost of the Public Pollution Control Works, etc. o Cost Bearing by Beneficiaries Nature Conservation Law, Natural Parks Law, etc. o Financial Measures for Local Governments etc. Law concerning Special Government Financial Measures for Pollution Control Projects etc. o Cooperation between the State and Local Governments
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Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "Basic Policies"

(3) Legal Systems of Japan

3-4) Nature Conservation Law: Law No 85, 1972 enacted on June 22, 1972

(a) Purpose

This Law is a general law that stipulates basic policies of natural conservation. The Law has built up, at the same time, a system of designating natural conservation areas, for which the Act provides measures for conservation. Future administrative measures for nature conservation will be taken in accordance with the purpose of the Law.

(b) Substance

1) Stipulation of basic policies of natural conservation (Article 12)

The provision stipulates that the State make basic policies of nature conservation. A Cabinet decision was made on October 26, 1973 in accordance with this provision, and the decision was made public on November 6 in the same year.

2) Organisation of the Nature Conservation council (Article 13)

The Nature Conservation Council investigates and discusses matters under its control, empowered by the Nature Conservation Law, the Natural Parks Law, Wildlife Protection and Hunting Law, Law for the Conservation of Endangered Species of Wild Fauna and Flora. The Council also investigates and discusses important matters on nature conservation, in response to inquiries from the Director General of the Environment Agency or the Ministries concerned. The Council is empowered to give its views on important matters relating to nature conservation.

3) National surveys on the natural environment (Article 4)

The Law stipulates that basic surveys be made on topography, geology, fauna and flora, and wildlife almost once every five years, with the view of obtaining basic data necessary for the planning of measures to be taken for nature conservation (Refer to Chapter 4)

First survey	: 1973
Second survey	: 1978 and 1979
Third survey	: 1983 to 1987
Fourth survey	: 1988 to 1992
Fifth survey	: 1993 to 1998

4) Wilderness areas (Articles 14, 17 and 19)

The Director General of the Environment Agency designates wilderness areas from among the state-, prefecture- or municipal-owned land where wilderness is

maintained without any influence of human activities and whose environment the Director considers especially necessary to conserve.

In wilderness areas, all deeds that may give impact to the natural environment are prohibited in principle, with a view to preserving wilderness. The Director General of the Environment Agency is empowered to designate entry restricted zones in wilderness areas, if he considers it especially necessary to do so.

5) Nature conservation areas (Articles 22, 25, 26 and 27)

The Director General of the Environment Agency designates nature conservation areas from among areas (other than wilderness areas) where forests, grasslands, rivers, lakes, and/or the sea sustain good natural environment and which especially need to be conserved in view of natural and social conditions there.

In nature conservation areas, special zones (including wildlife protection zones) and special marine zones are designated according to the condition in the area. Specific deeds are prohibited in these zones until permission is obtained from the Director General of the Environment Agency.

6) Prefectural Nature Conservation Areas (Article 45)

Prefectural nature conservation areas are designated by Prefectural Governors in accordance with the prefectural regulations, from among areas that are almost equivalent in natural environment to nature conservation areas and whose environment especially needs conservation in view of natural and social conditions there.

7) Conservation plans (Articles 15 and 23)

Conservation plans include plans on regulations or facilities for nature conservation in wilderness areas or nature conservation areas.

The Director General of the Environment Agency makes plans accepting advice from the Prefectural Governors concerned and the Nature Conservation Council.

Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "Basic Policies"

(3) Legal Systems of Japan 3-4) Nature Conservation Law

Structure of the Nature Conservation Law

<p>Purpose (Art 1)</p> <p>The Law synthetically promotes national nature conservation, coupled with other laws for nature conservation.</p>	<p>Execution of National surveys on the natural environment (Art. 4)</p> <p>i. National surveys have been made almost once every five years ii. National surveys are made on topography, geology, flora and fauna.</p>	
<p>Basic policies for nature conservation (Art. 12)</p> <p>(Prime Minister → Nature Conservation Council → Cabinet decision → Official announcement)</p> <p>i. Basic initiative on nature conservation ii. Basic matters on the designation, etc. wilderness areas and nature conservation areas</p>		<p>Notification No. 30 of the Prime Minister's office, November 6, 1973</p>
<p>Wilderness areas (Art. 14 to 21)</p>	<p>(Designation)</p> <p>Director General of the Environment Agency ↔ The Prefectural Governors concerned ↔ Nature Conservation Council → Public announcement</p> <p>i. Maintenance of wilderness ii. Area requirement (1,000 hectares or more, as a rule) iii. Lands Owned by the State, prefectures or municipality (excluding reserved forests)</p>	<p>(Restriction of activities)</p> <p>i. Construction and expansion of structures, changing configuration or quality of land → Permission from the Director General of the Environment Agency ii. Entry restricted zones may be designated.</p>
<p>Nature conservation areas (Art. 22 to 30)</p>	<p>Director General of the Environment Agency ↔ The heads of the local public bodies concerned ↔ Nature Conservation Council Residents interested → Public announcement</p> <p>i. Alpine or subalpine forests, grasslands, excellent natural forests, singular topographic or geological features, excellent coasts, lakes, and marshes ii. Area requirements iii. Excluding natural parks</p>	<p>i. Special zones</p> <p>a. Construction and expansion of structures, changing configuration or quality of land → Permission from the Director General of the Environment Agency (Permission is mostly entrusted to Governors.) b. Wild life protection zones may be designated.</p> <p>ii. Special marine zones Permission required, as in the case of special zones</p> <p>iii. Ordinary zones Construction of structures larger than the stipulated scale → Notification to the Director General of the Environment Agency (Notification is submitted to the Governor in most cases.)</p>
<p>Prefectural nature conservation areas (Art. 45 to 50)</p>	<p>Prefectural Governors designate areas in accordance with the prefectural regulations.</p>	<p>Designated in accordance with prefectural regulations, with the same requirements as for nature conservation areas</p>

Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "Basic Policies"

(3) Legal Systems of Japan

3-5) Natural Parks Law : Law No.161, 1957 enacted on June 1, 1957

(a) Purpose

The Natural Parks Law intends to conserve excellent scenic beauty of Japan with characteristic ecosystems or configuration forever in its original state as much as possible. In accordance with the law the Director General of the Environment Agency designates areas of natural beauty as National, Quasi-national, which, open to the public, will contribute to peoples health, recreation, and culture.

The Law stipulates that Prefectural Governments can designate Prefectural Natural Parks equivalently in accordance with the prefectural regulation.

(b) Substance

1) Designation of Parks (Articles 10 and 41)

National Parks are designated by the Director General of the Environment Agency accepting advice from the Nature Conservation Council. Also the Director General of the Environment Agency designates Quasi-national Parks in response to application from the Prefectural Government concerned, accepting advice form the Nature conservation Council. Prefectural Natural Parks are designated by the Prefectural government in accordance with prefectural regulations.

2) Park Plan (Articles 2 and 12)

Park Plan refers to regulations for protection or use of parks, or plans of park facilities. Park Plan forms the basis of protection, maintenance, and management of natural parks as well as the basis of facilities maintenance. Regarding National Parks, the Director General of the Environment Agency decides the park plan, accepting advice from the Nature Conservation council. Regarding Quasi-national Parks, the Director General of the Environment Agency decides major parts of the plan in response to application from the Prefectural Governor concerned, accepting advice from the Nature Conservation council. The other parts of the plan are decided by the Governors.

Park plans are classified into protection plans and utilisation plans. Protection plans are aimed at restricting such activities as injure scenic beauty or ecosystems of natural parks, while utilisation plans are intended for effective and appropriate use of natural parks for outdoor recreational activities.

3) Park Permissions (Articles 2, 14 15 and 16)

Park Permissions are executed in accordance with the park plan. It includes, for

example, construction of roads, picnic area, lodgings, rest-place, and facilities for vegetation restoration by State, prefectural government or private enterprise.

In principle, Park Permissions are executed by the State regarding National Parks, and by the Prefectural Governments regarding Quasi-national Parks. It is, however, difficult for the State or Prefectural Governments alone to execute Park Permissions, and hence it is stipulated that part of Park Permissions may be executed by local public bodies, with consent of the Director General of the Environment Agency or Prefectural Governors, or may be executed by private enterprises, with approval from the Director General of the Environment Agency or Prefectural Governors.

4) Restriction of activities in natural parks, etc.

The natural park system of Japan is built on what is called a zoning system. It is assumed that economic activities and daily deeds are performed in the park. However, if these activities or deeds cause considerable hindrances to scenic beauty, they need to be restricted from the viewpoint of park protection.

The Law stipulates, in protection of natural parks, that special zones, special protection zones, or marine park zones designated in National or Quasi-national parks, in accordance with park plan (i.e. plans concerning the regulation for the protection), with the view of controlling specific deeds under a license system. The Law also stipulates that notification be submitted regarding specific deeds in ordinary zones other than those zones mentioned above.

Characteristics and restrictions in each zone are described below.

Special protection zones (Article 18)

Special protection zones refer to those zones where the excellent scenic beauty or wilderness is maintained in a park. They are the most important place of special zones in a park.

Special zones (Article 17)

Special zones refer to those places with landscape and ecosystem that are important from the viewpoint of protection or utilisation of parks. Emphasis is laid on harmony between development and nature conservation in these zones. At the necessity of natural beauty conservation considerably differs from place to place, the Law stipulates that special zones (excluding special protection zones) be classified into three types, namely, class I, class II and class III special zones, in making plans concerning the regulation for the protection to maintain landscape and ecosystem of these zones (Enforcement Regulations Article 9-2)

Marine park zones (Article 18-2)

Marine park zones refer to those underwater spheres having landscape and ecosystem.

Ordinary zones (Article 20)

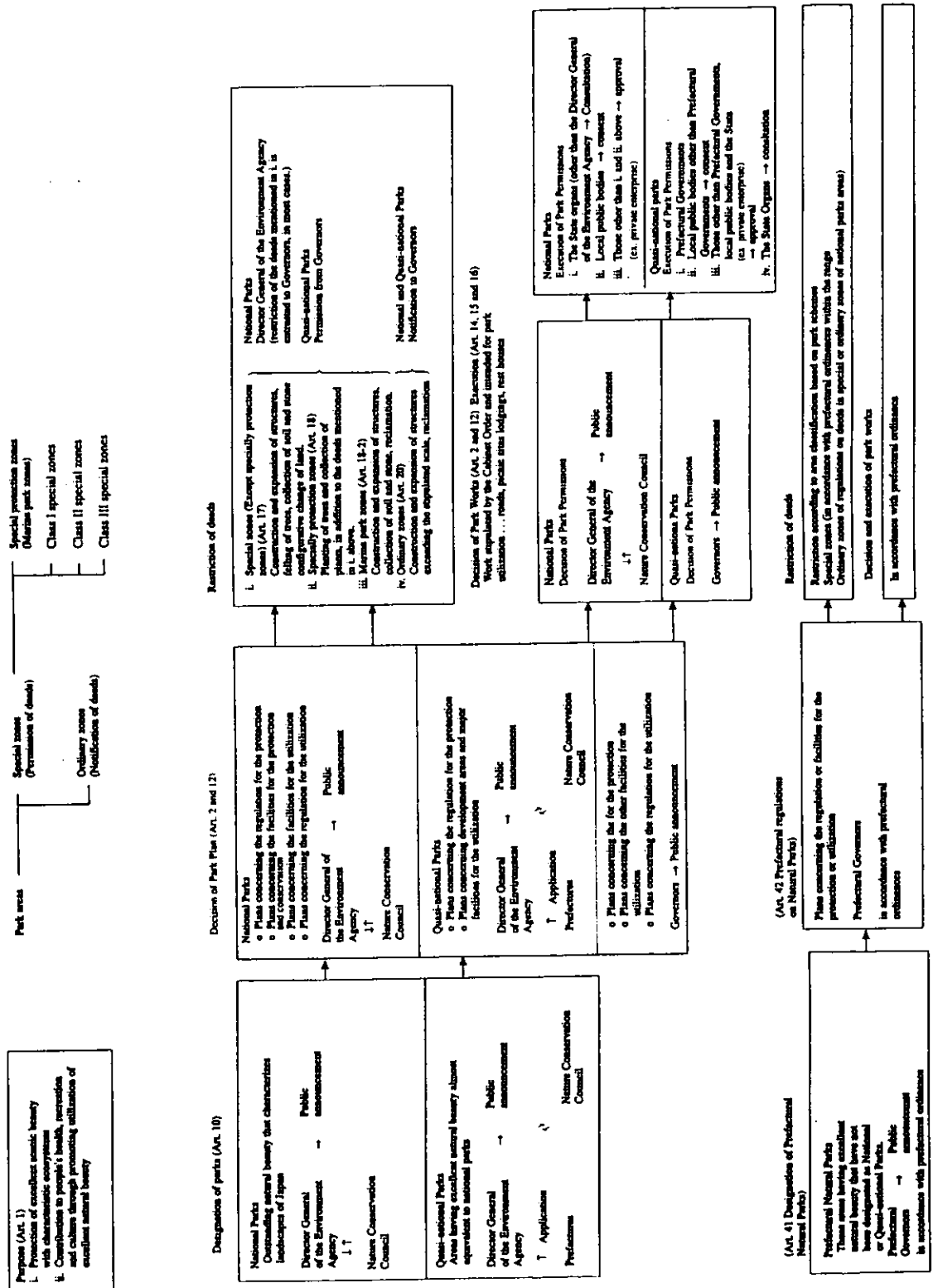
Ordinary zones refer to park zones that are not designated as special zones or marine park zones. Ordinary zones are those zones inseparable from special zones indispensable for utilisation of parks. Change in natural conditions of these zones needs to be restricted, though to a smaller extent than in the case of special zones, with the view of protecting scenic beauty.

5) Town Sites (Article 23)

Town sites are designated with the view of preventing facilities scattered over a park from injuring landscape and ecosystem of the park. These areas are designated also for effective use of various facilities maintained in group in specified sites, with a view to promoting appropriate use of parks.

(3) Legal Systems of Japan 3-5) Natural Parks Law

Structure of the Natural Parks Law



Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "Basic Policies"

(3) Legal Systems of Japan

3-6) Wildlife Protection and Hunting Law (Law No 32, 1918)

(a) Purpose

The purpose of this Law shall be to protect and increase wildlife, to control pest and prevent the danger caused by hunting through the execution of wildlife protection projects and effectuation of hunting for the purpose of the improvement of living environment and contribution to the promotion of agriculture, forestry and fisheries.

(b) Substance

1) Wildlife protection project plan (Articles 1-2 and 1-3)

The prefectural governor shall establish a full-scale plan of projects for wildlife, in accordance with the standard specified by the Director-General of the Environment Agency, in order to actively promote and coordinate wildlife protection projects, from the medium-term point of view and taking into consideration regional characteristics.

The eighth plan is presently underway (FY 1997 – FY 2001).

2) Regulations for the protection of wildlife (Articles 1-14, 2 etc.)

In addition to the prohibition of the capture of wildlife, except the capture of game species, the following measures have been taken to protect and increase game species, including the establishment of restrictions on the type, area, period, hunting method, etc.

Restriction on game species

Restriction on hunting area

Restrictions on hunting period and the number of captures

Restriction on hunting methods and means of hunting

Prohibition of the capture of young birds and collection of eggs

3) Hunting license and hunter's registration (Articles 3 through 8-17)

Any individual who intends to practice hunting must be granted an appropriate hunting license issued by the prefectural governor of his/her place of residence and, in addition, register with the prefectural governor who governs place of his/her intended hunting.

4) Wildlife Protection Area, Special Protection Area, Designated Special Protection Area (Article 8-8)

Wildlife Protection Area

The Director-General of the Environment Agency or the prefectural governor, when he deems it necessary for protection and reproduction of wildlife, may establish the

wildlife protection area for a duration not exceeding 20 years. Wildlife protection areas are established to protect and to promote the reproduction of birds and mammals, and the hunting of wildlife is prohibited within such areas. Persons who hold any rights regarding the land or standing trees have to give precedence to any actions of the Director-General of the Environment Agency and/or the prefectural governors aiming at providing facilities for nest building, supply of water and food on land and in standing trees for wildlife.

Special Protection Area

The Director-General of the Environment Agency or the prefectural governor, when he deems it necessary for protection and reproduction of wildlife, may designate a special protection area within a wildlife protection area for a duration not exceeding that of the wildlife protection area in which such a special protection area is placed. Felling of standing trees and/or bamboo, construction of any structures, reclaiming wetlands and the like shall require permission of the Director-General of the Environment Agency or the prefectural governor, unless such action is of minor scale.

Establishment and designation of wildlife protection area and special wildlife protection area.

When establishing a wildlife protection area and when designating a special wildlife protection area, the opinions of local groups making their livelihood in agriculture, forestry and fisheries, as well as hunters and wildlife protection groups, and any others who are concerned will be heard. The case is then reviewed by the Nature Conservation Council in the government or prefecture concerned, and then in accordance with the Law, the area is established or designated as such for a maximum of 20 years (subject to renewal). The Director-General of the Environment Agency establishes a wildlife protection area where the protection of wildlife is of particular importance from a national viewpoint, and such cases shall be discussed as necessary with the Minister of Agriculture, Forestry and Fisheries.

5) Restriction on Circulation of Wildlife (Articles 13-2 and 20-1 and 20-2)

It is prohibited to circulate wildlife captured and/or eggs of bird collected in violation of the provisions of this Law. The sales of copper pheasant are also prohibited.

Importing/exporting certain wildlife and eggs of bird is regulated.

6) Hunting area (Article 14)

The hunting area is the area where active protection and reproduction of wildlife subject to hunting are pursued through releasing wildlife and the like, in which the number of hunters entering the area, hunting period, wildlife permitted for hunting and the number of captures are restricted. The person who intends to establish a hunting

area is required to obtain permission from the Director-General of the Environment Agency.

7) Surveillance/control System (Articles 19-1 and 19-2)

While surveillance/control is exercised by officers of the Environment Agency or the prefecture, the prefectural officials who are responsible for actual surveillance/control are designated as special judicial policemen (1,212 as of FY 1997). A wildlife protection official (part-time prefectural employee; 3,253 as of FY 1994) who is placed for each town/village is responsible for controlling hunting, as well as promoting/spreading the philosophy of protecting wildlife.

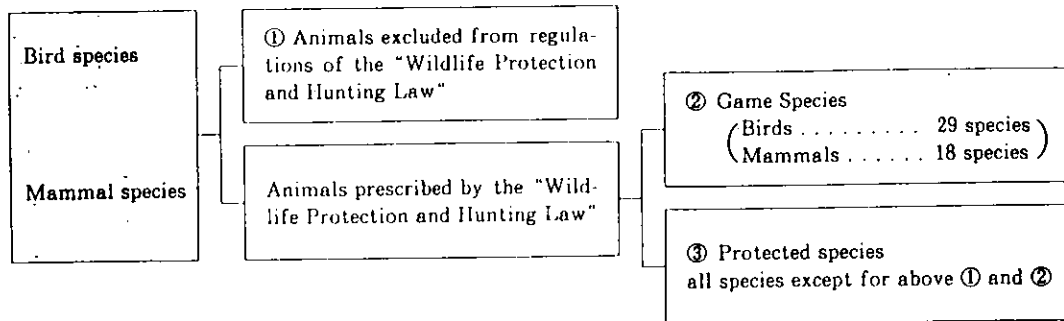
8) Permission to Pest Control (Articles 12 and 13)

Pest, which may cause damage to agricultural and forestry products, may be captured for repellent purposes under permission by the Director-General of the Environment Agency or the prefectural governor in order to minimise the damage. Capture for special purposes, such as capture for scientific research, as well as capture of certain species for breeding as a pet, and the like, is also approved.

Breeding following capture is subject to additional approval by the prefectural governor.

(3) Legal Systems of Japan 3-6) Wildlife Protection and Hunting Law

Game Species and Protected Species



Hunting Licenses

License classification	Hunting tackles	Number of licenses issued (as of 1991)
A class	Net, Trap	16,000
B class	Shotgun, Rifle	228,000
C class	Airgun, Firearm using compressed gas	15,000

Nature Conservation Bureau, The Environment Agency (1995): Nature Conservation in Japan

(3) Legal Systems of Japan

3-7) Law for the Conservation of Endangered species of Wild Fauna and Flora (Law No 75, 1992)

a) Purpose

Recognising that species of wild fauna and flora are important components of ecosystems, as well as having essential value for humanity, the Law for the Conservation of Endangered Species of Wild Fauna and Flora (LCES) aims to ensure the conservation of endangered species of wild fauna and flora, and contribute to the conservation of natural surroundings for present and future generations.

b) Substance

1) The National Guidelines for Conservation of Endangered Species

The Government must adopt “The National Guidelines for the Conservation of Endangered Species”. These guidelines include the fundamental concept and basic approaches for protection of organisms, protection and rehabilitation of natural habitats, maintenance of viable population, and other items necessary for the conservation of Endangered Species.

2) Definition

“Endanger” means that there is a threat of extinction. In other words, the population of a species has decreased, or is decreasing, to the level at which its survival is at risk, or the habitat of a species has degraded or decreased or is degrading or decreasing.

“Endangered Species” refers to all species in danger of extinction. They are divided into four categories, “National Endangered Species”, “Designated National Endangered Species”, “International Endangered Species” and “Temporarily Designated Species”.

“National Endangered Species” means endangered species known to exist in Japan. They are designated by the government. Migratory species would also be so designated if it is considered to be in danger of extinction in Japan.

“Designated National Endangered Species” means species whose population in the wild is in danger of extinction, even though the commercially domesticated or cultivated population is ample. This type of species may be in danger of extinction due to illegal overexploitation because of their commercial value.

“International Endangered Species” means species that are listed in CITES Appendix or in Japan’s bilateral convention or agreement with the U.S., Australia and Russia. Although these conventions and agreements request the contracting parties to regulate

only the international trade of these species, transferring within Japan should also be regulated so as to ensure the enforcement of the conventions and agreements.

“Temporarily Designated Endangered Species” means species that are designated by the Director General of the Environment Agency.

If a new species, or a species thought to be extinct, is found, the Director General of the Environment Agency will designate the species as “Temporarily Designated Endangered Species”. The duration of the designation is limited to three years.

3) Prohibition on Acquisition, Transfer and Trading of Endangered Species

Hunting, gathering, killing or damaging (hereafter “acquisition”) of live Endangered Species except International Endangered Species is prohibited unless the Director General of the Environment Agency permits the acquisition for the purpose of research, investigation, instruction or rehabilitation. Acquisition of live organisms without permission is allowed in case of emergency, or if it is necessary for their protection.

Transfer of organisms of Endangered Species including eggs, seeds, live and processed intact organisms, parts and processed parts (specified by cabinet order, hereafter “organisms and others”) either on a commercial or non-commercial basis, is prohibited.

The exception is allowed in such cases as,

- when the Director General of the Environment Agency permits transfer for the purpose of research, investigation, instruction or rehabilitation,
- when organisms and others of Designated National Endangered Species are transferred,
- when Designated Specific Parts which are parts of International Endangered Species and their processed parts, are transferred,
- when live organisms of National Endangered Species which are “taken” without permission in case of emergency or for their protection, and their parts and processed parts are transferred, or when organisms and others of registered International Endangered Species and specific materials with prior-registration are transferred.

International Trading of organisms and others of National Endangered species (except those of Designated National Endangered Species) is prohibited either on a commercial as well as non-commercial basis except if conditions adopted by the Government have been fulfilled. The Director General of the Environment Agency will permit international trading so long as it does not threaten the survival of the Endangered Species.

4) Registration of Organisms and Their Parts of International Endangered Species

To ensure the enforcement of CITES, those who intend to transfer an International Endangered Species in Japan must first register the organisms and others. Transfer of a registered International Endangered Species, either on a commercial or non-commercial basis, must be made with the registration certificate corresponding to the said organism and others.

5) Registration of Businesses, which deal in Designated National Endangered Species

Designated National Endangered Species are in danger of extinction because of their commercial value. For that reason, businesses which deal in Designated National Endangered Species must ensure that they will not deal in Designated National Endangered Species taken illegally.

Businesses which deal in Designated National Endangered Species, whether they are retail businesses or wholesale businesses, must be registered. If they do not deal in Designated National Endangered Species in an appropriate manner, the Director General of the Environment Agency must order the business to improve their business practices, or order suspension of the business for three months.

6) Habitat Conservation

For the purpose of ensuring the conservation of National Endangered Species, the natural habitats of National Endangered Species are designated by the Director General of the Environment Agency as “Natural Habitat Conservation Areas”.

One type of Natural Habitat Conservation Area is the “Conservation Area”. In this area, construction, modification of land, mining, reclamation, changing of the water level, tree felling and other habitat modifications are prohibited without the permission of the Director General of the Environment Agency. If it is necessary and appropriate, the Director General may designate “Protection Areas” and “Strict Protection Areas” in Conservation Areas. In a protection area, in addition to the prohibited actions listed above, introduction of alien species and the taking of any other species are also prohibited without prior permission. In a “Strict Protection Area”, the Director General prohibits entrance to the area without prior permission.

Another type of Habitat Conservation Area is a “Monitoring Area”, which functions as a buffer zone. In this area, construction, modification of land, mining, reclamation and changing of the water level are regulated. Those who intend to engage in these actions in the area must first give notice to the Director General. If the Director General finds that the action may affect the conservation of the National Endangered Species, he/she will order the party in question to take necessary and appropriate measures or to stop the action.

Before designation of the Natural Habitat Conservation Areas, the Director General must hold a public hearing.

7) Programmes for Rehabilitation of National Habitats and Maintenance of Viable Population

Since the stable survival of Endangered Species may not be achieved by the protection of each organism or its natural habitat alone, the Government may promote the rehabilitation of natural habitats and the maintenance of viable populations of National Endangered Species. The Environment Agency will establish a programme promoting the rehabilitation of natural habitats and maintenance of viable population in cooperation with other Ministries and Agencies if appropriate.

Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "Wildlife Management"

(3) Legal Systems of Japan

3-7) Law for the Conservation of Endangered species of Wild Fauna and Flora

Extinct Species in Japan

	Scientific name	English name
Mammals	<i>Canis lupus hodophilax</i>	Japanese wolf
	<i>Canis lupus hattai</i>	Ezo wolf
	<i>Zalophus californianus japonicus</i>	Japanese sea lion
	<i>Pteropus loochoensis</i>	Okinawa flying fox (Okinawa fruit bat)
	<i>Pipistrellus sturdeeii</i>	Bonin pipistrelle
Birds	<i>Nycticorax caledonicus crassirostris</i>	Rufous night heron (Ogasawara island subspecies)
	<i>Tadorna cristata</i>	Crested shelduck
	<i>Poliolimnas cinereus brevipes</i>	White-browed crane (Iwo islands sub-species)
	<i>Columba jouyi</i>	Ryukyu wood pigeon
	<i>Columba versicolor</i>	Bonin wood pigeon
	<i>Halcyon miyakoensis</i>	Miyako kingfisher
	<i>Dryocopus javensis richardsi</i>	White-bellied black woodpecker (Far east subspecies)
	<i>Troglodytes troglodytes orii</i>	Wren (Daito island subspecies)
	<i>Turdus terrestris</i>	Bonin island thrush
	<i>Cettia diphone restrictus</i>	Borodino bush warbler (Daito islands subspecies)
	<i>Parus varius orii</i>	Varied tit (Daito islands subspecies)
	<i>Apalopteron familiare familiare</i>	Bonin islands honeyeater (Mukoshima islands subspecies)
	<i>Chaunoproctus ferreorostris</i>	Bonin islands grosbeak
Brackish-water or fresh-water fishes	<i>Oncorhynchus kawamurae</i>	
	<i>Pungitius kaibarae</i>	
Insects	<i>Ishikawatrechus intermedius</i>	
	<i>Rakantrechus elegans</i>	

<http://www.eic.or.jp/canet/cn/soc/reddata.html>

(3) Legal Systems of Japan

3-8) Environmental Impact Assessment

3-8-1) System of Environmental Impact Assessment in Japan

a) Environmental Impact Assessment

Environmental Impact Assessment (EIA) is the process of: i) surveying, predicting and assessing the possible impact that a project will have on various aspects of environment; ii) studying the possible measures for environment conservation relating to the project; and iii) assessing the possible overall environmental impact of such measures.

b) Development of EIA System

Since the establishment of National Environment Policy Act (NEPA) in USA in 1964, EIA systems have been developed in many countries. At present, all the OECD member nations (29) have the legal systems outlining procedures for EIA.

Japan started working on EIA at a Cabinet meeting in June 1972, which stipulated “Environmental Protection Measures for Public Works”. This agreement provided that the administrative agencies instruct the project undertakers to survey and examine potential environmental impact, countermeasures and alternative plans and to take the necessary measures based on the studies.

After that, regulations for EIA were provided in the Port and Harbour Law and the Public Water Areas Reclamation Law (both amended in 1973). A policy for EIA was prescribed in the Basic Policy for Natural Environment Conservation based on the Nature Conservation Law (1972). EIAs were also undertaken for such sites as power stations (1977) and superexpress trains (1979) following administrative guidance. For local public organisations, the establishment of a local ordinance in Kawasaki (1976) and the provision of guidelines by Fukuoka Prefecture (1973) are examples. As the result, EIAs were carried out for a large-scale national project, Honshu-Shikoku Connecting Bridge, and large-scale local projects for industrial development in the Eastern Tomakomai, Mutsuogawara, etc.

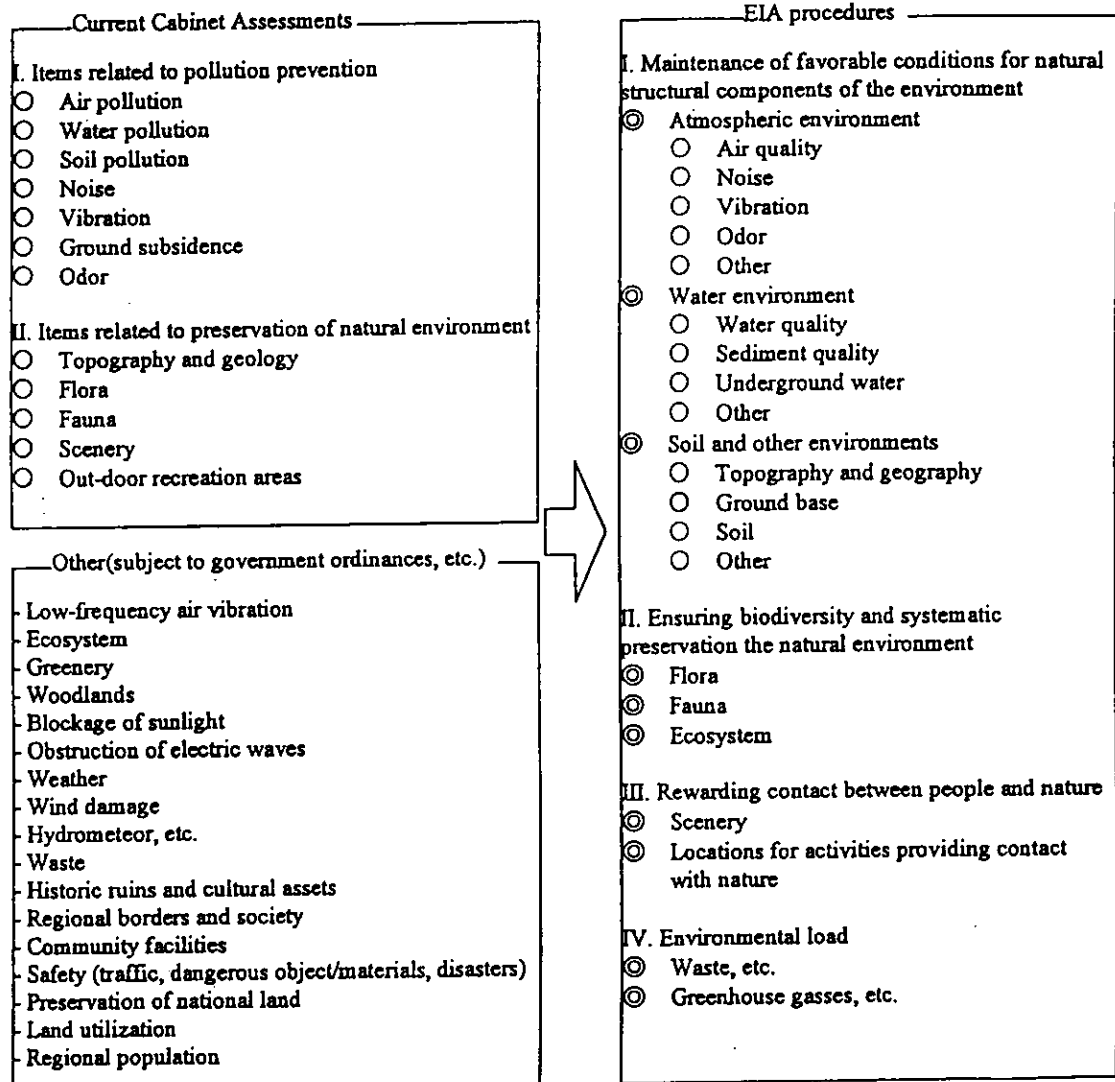
While EIAs were conducted based on the individual laws and administrative guidance, the proper and smooth implementation of EIA through unified procedure became a significant policy issue. The Environment Agency therefore started working toward institutionalisation of EIA based on a report by the Central Environmental Pollution Control Council, however the bill for EIA was eventually shelved and withdrawn. To undertake effective measures in this situation, a Cabinet decision for “Implementation Scheme for Environmental Impact Assessment”, based on the bill, was made in 1984, following which a total of 426 cases of EIA were carried under the guidelines.

Following the Earth Summit in 1992, the Basic Environment Law was established the following year in 1993, and included a clause concerning promotion of EIA; This provided the first legal justification for EIA as a national policy. Based upon this clause, the Environment Agency worked on examining and analysing EIA comprehensively to set up an EIA system in cooperation with other authorities concerned. After receiving a report by the Central Environment Council and making a Cabinet decision for the government bill for EIA, the Environmental Impact Assessment Law (EIA Law) was eventually adopted into law in June 1997.

生物の多様性分野の環境影響評価技術検討会（1999）：生物の多様性分野の環境影響評価技術検討会中間報告書、生物の多様性分野の環境影響評価技術（1） - スコーピングの進め方について - 環境庁

(3) Legal Systems of Japan 3-8) Environmental Impact Assessment 3-8-1) System of Environmental Impact Assessment in Japan

Scope of Environmental Factors Used as Items for Surveys, etc.



Japan International Cooperation Agency (JICA) (1999) : Textbook for the Group Training Course in Nature Conservation and Natural Parks Management,, FY99, "E.I.A."

(3) Legal Systems of Japan

8) Environmental Impact Assessment

3-8-2) Purposes and Projects Concerned for Environmental Impact Assessment Law

a) Purposes of EIA Law

Article 20 of the Basic Environment Law requires the government to take necessary measures to promote EIA. Based on this article, the EIA Law provides concrete procedure for EIA as a national system. Purposes of the EIA Law are as follows:

- To recognise that EIA is extremely important for environment conservation;
- To secure measures for environment conservation relating to the projects by providing the EIA procedures and assessing the possible overall environmental impact;
- To contribute to securing healthy and culturally-meaningful life for the people of present and future generations.

b) Projects Concerned for EIA Law

Projects subject to the EIA Law are large-scale ones that may cause serious impact on environment and that are implemented, authorised or approved by the national government. This law provides a screening system to determine the necessity of implementing EIA in consideration of the project and local characteristics. There are two classes for the projects as follows:

- Class-1 Project: a project of a scale for which EIA must be conducted;
- Class-2 Project: a project with an environmental impact corresponding to that of Class-1 Project, for which whether an EIA is to be conducted or not shall be determined on an individual basis by the authorities concerned.

生物の多様性分野の環境影響評価技術検討会（1999）：生物の多様性分野の環境影響評価技術検討会中間報告書、生物の多様性分野の環境影響評価技術（1） - スコーピングの進め方について - 環境庁

(3) Legal Systems of Japan 3-8) Environmental Impact Assessment 3-8-2) Purposes and Projects Concerned for Environmental Impact Assessment Law

Projects Subject to EIA Law

■ indicates differences between Cabinet Assessment and EIA Law

Projects subject to Cabinet Assessment	Projects subject to EIA Law		
	Type of project	Class-I Project scale	Class-II Project scale
1. New construction of roads, etc. • National expressways • Metropolitan Expressway, Hanshin Expressway, specified municipal expressways (four lanes or more) • National roads (four lanes and 10 km or more)	1. Roads • National expressways • Metropolitan Expressway, etc. • National roads • Large-scale roads for forestry	All All (four lanes) Four lanes and 10 km or more Two lanes and 20 km or more	 At least 7.5 and under 10 km At least 15 and under 20 km
2. New dam construction and other river projects • Dams (capacity water area of 200 hectares or more, first-class rivers) • Bank and watergate to control water level floodway under the jurisdiction of the Ministry of Construction (capacity water area of 100 hectares or more, after completion of new construction or renovation) • Lake and reservoir development (changes in shape of land of 100 ha or more) • Flood way (changes in shape of land of 100 ha or more)	2. Rivers • Dams • Bank and watergate to control water level floodway • Lake water level adjustment facilities • Flood way	Capacity water area of 100 ha or more Capacity water area of 100 ha or more Changes in shape of land of 100 ha or more Changes in shape of land of 100 ha or more	At least 7.5 and under 100 km At least 7.5 and under 100 km At least 7.5 and under 100 km At least 7.5 and under 100 km
3. Railroad construction, etc. • Shinkansen super-express railway railroad	3. Railroads • Shinkansen super-express railway railroad (including standard Shinkansen super-express railway) • Railroads	All 10 km or more	 At least 7.5 and under 10 km
4. Airports (runways of 2,500 m or longer)	4. Airports	Runways of 2,500 m or longer)	At least 1,875 m and under 2,500 m
	5. Power plants • Hydraulic • Thermal (excluding geothermal) • Thermoelectric (geothermal) • Nuclear	30,000 kw of power or more 15,000 kw of power or more 10,000 kw of power or more All	At least 2,500 and under 30,000 kw At least 12,500 and under 150,000 kw At least 7,500 and under 10,000 kw
5. Land-fill and land reclamation • Land-fill or land reclamation exceeding 50 ha in area • Final waste disposal sites of 30 ha or more in area	6. Final waste disposal sites 7. Public water land-fill or land reclamation	30 ha or more Exceeding 50 ha	At least 7.5 ha and under 30 ha At least 41 ha and under 50 ha
6. Land readjustment work (100 ha or more in area)	8. Land readjustment work	100 ha or more	At least 7.5 ha and under 100 ha
7. Development of new urban residential area (100 ha or more in area)	9. Development of new urban residential area	100 ha or more in area	At least 7.5 ha and under 100 ha
8. Creation of industrial complex (100 ha or more in area)	10. Creation of industrial complex	100 ha or more in area	At least 7.5 ha and under 100 ha
9. Urban infrastructure development (100 ha or more in area)	11. Urban infrastructure development	100 ha or more in area	At least 7.5 ha and under 100 ha
10. Development of distribution complex (100 ha or more in area)	12. Development of distribution complex	100 ha or more in area	At least 7.5 ha and under 100 ha
11. Land creation by public cooperation • Agricultural land improvement corporations (500 ha or more in area) • Environment cooperation (100 ha or more in area) • Housing and urban improvement corporations (100 ha or more in area) • Regional redevelopment promotion corporations (100 ha or more in area)	13. Land creation by public cooperation • Environment cooperation • Housing and urban improvement corporations • Regional redevelopment promotion corporations	 100 ha or more in area 100 ha or more in area 100 ha or more in area	At least 7.5 ha and under 100 ha At least 7.5 ha and under 100 ha At least 7.5 ha and under 100 ha
	• Port and harbor plan	Land-fill or dredging area of 300 ha or more	

Japan International Cooperation Agency (JICA) (1999) : Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "E.I.A."

(3) Legal Systems of Japan

8) Environmental Impact Assessment

3-8-3) Outlines of Procedure for Environmental Impact Assessment

a) Screening

The screening system is to determine whether an EIA is to be conducted or not for Class-2 Projects by the administrative agencies that authorise the projects. For each project type, criteria for determination are provided for in the relevant ministerial ordinances, based on the basic items provided by the Director General of the Environment Agency.

b) Scoping

Scoping is a system to select the items of EIA and the methods for surveys, prediction and assessment for each project; environmental impact by each project is different due to the characteristics of projects and localities. Project undertakers are required to make a proposal for the scoping document, which outlines the items and methods for EIA, in consideration of these characteristics. After hearing and accounting the views of governors, municipal heads and residents (no limitation in localities) with public announcements and inspections, the undertakers finalise selecting the items and methods. This process makes it possible to change the project plans at the early phase of the projects.

c) Implementation of EIA and Draft Environmental Impact Statement

The undertakers are required to survey, predict and assess the environmental impact, to examine the measures for environmental conservation, to prepare a draft Environmental Impact Statement (EIS) and to hear the views of governors, municipal heads and residents (no limitation on localities) through public announcements and inspections. The draft EIS includes the results of the EIA, follow-up surveys and a comprehensive assessment of the environmental impact.

d) Environmental Impact Statement

The undertakers are required to put their views against the views on the draft EIS, to revise or supplement the contents of the project plans or EIA and to prepare an EIS. The Director General of the Environment Agency provides his/her views on the EIS to the administrative agencies authorising the projects as the need arises. Considering the views, the administrative agencies provide their views to the undertakers. Following this, the undertakers re-examine the EIS in consideration of these views, revise or supplement the contents as necessary and make a final EIS open to public announcements and inspections as the output of the EIA

procedure.

e) Examination of Environment Conservation for Authorisation

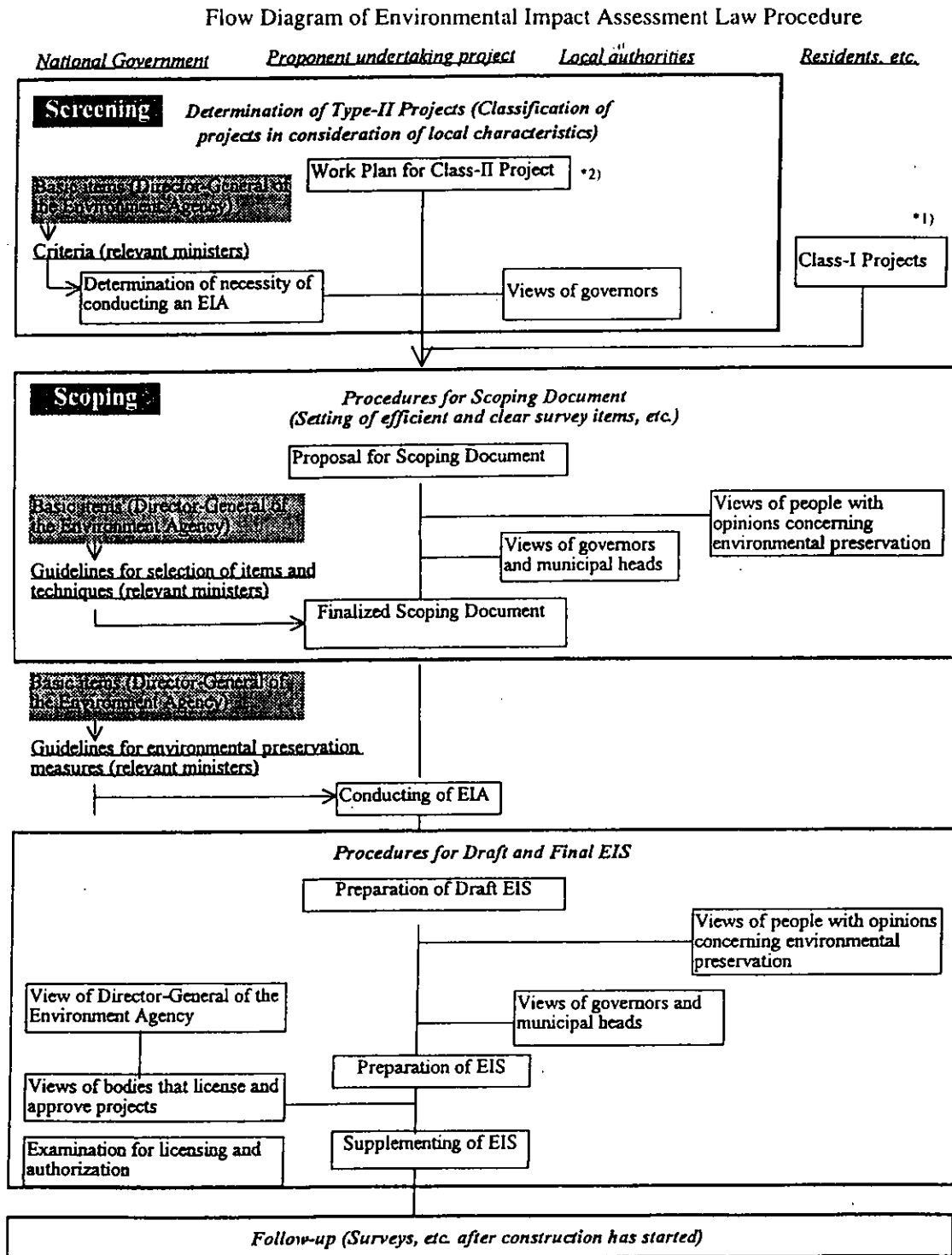
The administrative agencies concerned examine whether the projects are properly designed for environment conservation based on the final EIS for licensing and approval of the projects. Depending on the results, the administrative agencies can reject the projects or impose the conditions concerning environment conservation on the authorisation.

f) Follow-up Surveys

As a measure for environment conservation, the follow-up surveys to understand the environmental conditions after undertaking the projects are to be described in the draft and final EIS due to the uncertainties inherent in the prediction.

生物の多様性分野の環境影響評価技術検討会（1999）：生物の多様性分野の環境影響評価技術検討会中間報告書、生物の多様性分野の環境影響評価技術（1） - スコーピングの進め方について - 環境庁

(3) Legal Systems of Japan 3-8) Environmental Impact Assessment
 3-8-3) Outlines of Procedure for Environmental Impact Assessment



Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training Course in Nature Conservation and Natural Parks Management, FY99, "E.I.A."

(3) Legal Systems of Japan

3-9) Law for the Protection of Cultural Properties, Hot Spring Law, Forest Law

a) Law for the Protection of Cultural Properties

This law aims at contributing to the promotion of cultural awareness in Japan and the rest of the world by preserving and utilising cultural properties. There are five categories of cultural properties provided under the law as follows:

- Tangible cultural properties: buildings, pictures, sculptures, industrial arts, ancient documents, archaeological specimens, etc.;
- Intangible cultural properties: dramas, music, industrial techniques, etc.;
- Folk-cultural properties: manners, customs and daily utensils, works of art, religions, etc.;
- Monuments: ruins, scenic beauty places, animals, plants, geological features and minerals;
- Groups of historic buildings: traditional or historic scenic villages and rows of houses.

These cultural properties are those important cultural assets of the Japanese people created and nurtured throughout our long history, and the nature and scenery of the country that are closely related to these assets. “Monuments” and “Groups of historic buildings” can be regarded as nature in a broad sense. Monuments with high value can be designated as “historic sites”, “places of scenic beauty” or “natural monuments” for national protection by the Minister of Education, Science and Culture.

For animals and plants, the natural monuments are designated by either species or area. Although the system of natural monuments has played some role as a law in the preservation rare species, the designation is restricted to academically significant species or areas while no distinction is made between the level of designation for wild animals and domestic varieties. There are also no standards for habitats and no provision for conservation and management of rare species.

b) Hot Spring Act

Japan is one of those countries in the world blessed with a remarkably large number of hot springs. The vastly-popular hot spa as a health resort is a top recreational attraction for the Japanese people. Hot springs are regarded highly as natural resource, and in July 1948, the Hot Spring Law was established to preserve in perpetuity our hot springs, regarded nationally ensure their wise use, and in so doing serve for the welfare of the Japanese public. To achieve this end, the Law institutes certain regulations. For instance, there is a need to acquire a permit when exploitation of a hot spring is newly commenced or extended from the prefectural governor or from the mayor of the city where a responsible health centre is located, when a hot spring is offered as a public bath or as drinking water.

c) Forest Law

This law is aimed at increasing the productivity of the nation's forests by systems of forestry schemes, protection forests and cooperative associations of forest owners; with the aim of conserving the land as a resource for the healthy growth of the national economy. Although the law is not directly targeted at conservation of natural environment, it nevertheless does provide that "Nation-wide Forest Plan" should take into consideration conserving the natural environment and promotion of the functional role to the public played by forests. In Protection Forests designated by the Minister of Agriculture, Forestry and Fisheries, permits are required for the cutting of trees and alterations to landforms.

Furthermore, although not a law in itself the system of Protected Forests designated by the Forestry Agency plays a highly important role for conservation of natural environment. These Protected Forests come in several categories, and are nevertheless regarded as such having a role to play in the conservation of nature and logging for timber production generally does not occur in these forests. Forest Biosphere Reserves are aimed at the preservation of virgin natural forests and the protection of wildlife comprises 26 areas totalling approximately 320,000 ha as of 1997. Specific Animal Habitat Reserves are aimed at the protection of breeding areas and habitats of specific categories of animals species whose numbers are declining, that congregate in a specific location, and which are in need protection for some other reason, which collectively serve as a vehicle for academic studies, and comprise 27 small areas totalling some 12,000 ha as of 1997.

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日本哺乳類学会

Japan International Cooperation Agency (JICA) (1999): Textbook for the Group Training
Course in Nature Conservation and Natural Parks Management, FY99, "Basic Policies"

(3) Legal Systems of Japan

3-9) Law for the Protection of Cultural Properties, Hot Spring Law, Forest Law

Number of Cultural Properties Designated by the Japanese Government. (as of April 1, 1999)

Designation	Important cultural properties	12,087	National treasures	1,050
	Fine and applied arts	9,920	Fine and applied arts	841
	Buildings	2,167	Buildings	209
Designation	Historic sites, places of scenic beauty and/or natural monuments	2,585	Special historic sites, places of scenic beauty and/or natural monuments	157
	Historic sites	1,402	Special historic sites	57
	Places of scenic beauty	264	Special places of scenic beauty	28
	Natural monuments	919	Special natural monuments	72
	Important tangible folk-cultural properties	194		
	Important intangible folk-cultural properties	194		
	Important intangible cultural properties	(individuals)	(groups)	
	Performing arts	31 specific skills	47 individuals	11 (collective recognition)
	Craft techniques	37 specific skills	46 individuals	13 (group recognition)
Selection	Important Preservation districts for groups of historic buildings	52		
	Selected Conservation Techniques	(individuals)	(groups)	
		36 specific skills	38 individuals	16 specific skills 18 groups
Listing	Listed Tangible Cultural Properties	1,103		

Note: A given place may fall into more than one of the three categories of historic site, place of scenic beauty, and natural monument. To avoid repetition, any such place is only counted in one category

(3) Legal Systems of Japan

3-10) National Biodiversity Strategy

a) Background

During the late 1980's there developed a strong awareness of the need to devise international measures to conserve biodiversity. To this effect the "Convention on Biological Diversity" was adopted in 1992, and came into effect in 1993. In Japan, although various authorities had hitherto initiated policies on biodiversity conservation, the signing of the Treaty brought about the conviction that these disparate efforts should be brought into league with each other under single, comprehensive national basic policy. To this effect, the Basic Environment Law, which serves a guiding principle for the planning and implementation of conservation measures, was established in 1993. This was followed by the Basic Environment Plan adopted in 1994, in which is outlined in the National Biodiversity Strategy

b) Basic Policy of the National Strategy

1) Basic concept

The modern day phenomenon of mass production, mass consumption and mass disposal has come under question as we attempt to realign our existence towards sustainability. Central to this is the concept that mankind is an integral part of the planet's ecosystem.

Conservation and sustainable use of biodiversity are vital not only for the present generation but also for the future generations. To conserve biodiversity on a global scale, it is essential to implement conservation measures and programmes by all countries as well as through regional and international cooperation.

2) Long-term objectives and immediate political objectives

Long-term objectives to be achieved by the mid 21st century are as follows:

- To ensure conservation and sustainable use of biodiversity at both national and local level, from prefectures to villages, with regard to regional characteristics of the country and its wildlife distribution;
- To ensure the proper management of comparatively large areas as protected areas, and interconnected with each other so as to maintain reproduction and biomass production as well as diversity, and in so doing enable the wildlife to evolve and adapt to future conditions to the maximum extent Immediate political objectives to achieve the above objectives are as follows:
 - Protect wildlife from the threat of extinction;
 - To properly conserve important areas for biodiversity conservation;
 - To utilise the components of biodiversity (i.e. species and their habitat) in a sustainable

manner.

Furthermore, since biodiversity conservation and its sustainable use are matters of equal concern to all mankind, promotion of conservation measures fitting Japan's international status, at international level and in cooperation with other countries.

c) Development of Measures Based on the National Strategy

1) Conservation measures

Promoting the designation of protected areas and further improvement in their management: e.g. Nature Conservation Areas, Natural Parks, Wildlife Protection Areas, Protected Forests, Protected Waters and Natural Monuments. In addition, pursue efforts to conduct proper development in the surrounding areas as well as to conserve secondary natural environment and biodiversity in the urban areas. Conservation and management of endangered species of wildlife is reinforced and further improved.

2) Countermeasures for development

As far as social and capital development is concerned, biodiversity conservation is taken into consideration by proper environmental impact assessment and mitigation of negative impact on environment. Rehabilitation and creation of wildlife habitats are actively promoted mainly in the secondary natural areas and the urban areas.

3) Research and information

Enrichment of scientific knowledge on biodiversity, the fundamental basis of conservation measures are promoted, as well as research activities for evaluation and monitoring of biodiversity. In addition, the networking of professional expertise and the preparation inventories of wild plants and animals are promoted.

4) Local activities

Activities at local level, from prefectures to villages, are supported to promote proper conservation measures for biodiversity in due accordance with the particular local environmental socio-economic conditions.

5) International cooperation

Biodiversity conservation is a subject of common concern for all mankind, contributions at a global level leads to its enhancement. These efforts include international cooperation with developing countries together with joint participation in international research and, monitoring projects and the networking of information. The economic activities of Japan should be done in a manner as not to adversely affect the biodiversity of the world.

d) Review and Revision of the National Strategy

The national strategy and its implementation are reviewed every year by the "Inter-ministerial

Coordinating Committee for the Convention on Biological Diversity” and the results are made public. Revision of the national strategy is made about every five years, after hearing the views of people from a range of backgrounds and occupations.

自然保護年鑑刊行会 (1996): 生物多様性の保全をどう進めるか?、自然保護年鑑 4、日生社

(3) Legal Systems of Japan 3-10) National Biodiversity Strategy

Function of the Biodiversity Center of Japan
(Nature Conservation Bureau, Environment Agency)

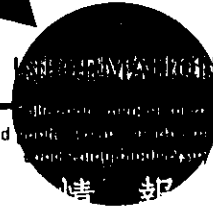
■ Functions

The center organizes and carries out basic national surveys of vegetation, flora and fauna distribution, surface water conditions (including rivers, ponds, lakes, and marshes), and coastal areas (including tidal flats and coral reefs). These surveys aim to ascertain the current status and monitor changes in the nation's natural ecosystems.



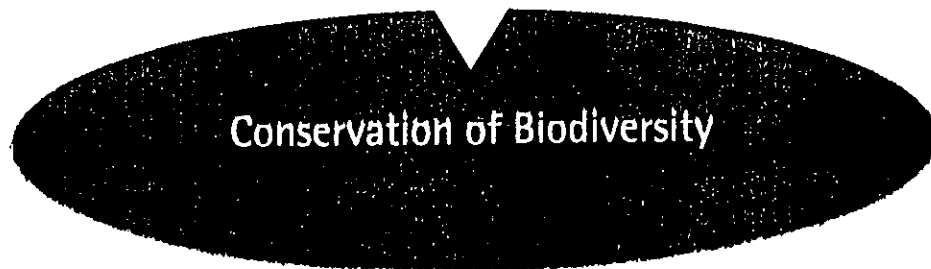
The center holds the Green Census results and other documents related to biodiversity. It also keeps specimens of rare plants and animals, including the Japanese Crested Ibis.

Materials gathered by the center are made available to the public. Other information relating to Japan's natural environment and biodiversity, as well as conservation activities, are publicized through the center's exhibition hall and web site.



The center has developed the Japan Integrated Biodiversity Information System (J-IBIS), a database of Japan's natural environment and biodiversity. The information held, which includes the Green Census results, is available to the public through the Internet and other means.

- Support for the conservation policies of national /local governments and NGOs
- Environmental assessments
- Surveys and research, etc.



Nature Conservation Bureau, Environment Agency: Biodiversity Center of Japan

(3) Legal Systems of Japan

3-11) International Conventions

3-11-1) CITES

a) Purposes and Contents of the Convention

The “Convention on International Trade in Endangered Species of Wild Fauna and Flora” (CITES) was adopted in Washington, USA in March 1973 to conserve endangered species of wildlife through regulating the collection and international trade by both exporting and importing countries. The convention came into effect in 1975. Japan ratified the convention in 1980 and in Japan the convention is usually referred to as the “Washington Convention”. There are 146 countries of the party ratifying the convention as of December 1999.

The convention controls international trade in threatened species of wild plants and animals by listing them on Appendix I, II and III, which are principally not only for live specimens, eggs and seeds but also for partial, derivative and processed items. The countries of the party are given a right to seek “reservation” on some particular species, in which case, those countries are regarded as the non-party countries as for the species on reservation. The countries of the party are required to designate “Management Authority” to issue export and import permits and “Scientific Authority” to advise scientifically to the Management Authority.

b) Measures for CITES in Japan

1) Systems

In Japan, the Management Authority is the Ministry of International Trade and Industry for the export and import and the Fisheries Agency for the introduction from the sea, while the Scientific Authority is the Environment Agency and the Ministry of Agriculture, Forestry and Fisheries. In order to implement the convention properly, the “Liaison Meeting for Government Offices Concerning CITES” was established with the chair of the Environment Agency.

2) Control of export and import

Control of exports and imports based on the convention is implemented through the Foreign Exchange and Foreign Trade Control Law, the Customs Law and the Ordinances for Export and Import Trade Control.

3) Control of domestic trade

To implement trade control more effectively, the Endangered Species Law includes provisions for the control of domestic trade and transfer in Appendix I species of CITES that are designated as “International Endangered Species”.

4) Role of Japan

Japan had been internationally criticised as an insincere and unenthusiastic country as regards obeying the convention. An example is resolution criticism presented at the Asia-Pacific Regional Seminar in 1984. One of the reasons for the criticism was that Japan had placed nine items on reservation at the time of ratification of the convention and at one time placed the maximum of 14 items to protect its domestic industries.

In view of this, Japan established a liaison meeting for the government offices concerned and started making efforts to resolve the outstanding issues and improve its trade management system. As a result, the number of items on reservation was reduced to six species of whale in 1995. Japan has been internationally gaining trust in recent years and was selected as a chair country of the CITES Standing Committee at the 9th Conference of the Parties. It is expected that Japan will continue actively contribute to proper implementation of the convention in the future.

自然保護年鑑編集委員会編 (1996): ワシントン条約とは?、世界と日本の自然は今 自然保護年鑑 3、日正社

(財) 国立公園協会編 (1998): 1998 自然公園の手引き、国立公園協会

(3) Legal Systems of Japan 3-11) International Conventions 3-11-1) CITES

Number of Species on the CITES Appendices

	Appendix I	Appendix II	Appendix III
Mammals	219 spp. + 21 sspp. + 14 popns.	364 spp. + 54 sspp. + 14 popns.	56 spp. + 11 sspp.
Birds	145 spp. + 13 sspp. + 2 popns.	1263 spp. + 32 sspp. + 1 popn.	149 spp.
Reptiles	62 spp. + 4 sspp. + 5 popns.	383 + 10 sspp. + 3 popns.	19 spp.
Amphibians	13 spp. + 1 ssp.	68 spp.	—
Fish	8 spp.	28 spp.	—
Invertebrates	64 spp. + 5 sspp.	2006 spp. + 1 ssp.	—
Plants (estimate)	310 spp. + 3 spp. + 1 popn.	24881 spp. + 3 spp. + 1 popn.	5 spp. + 1 popn.
Total	821 spp. + 47 sspp. + 22 popns.	28993 spp. + 100 sspp. + 18 popns.	229 spp. + 11 sspp. + 1 popn.

The most endangered species

Appendix I: Includes all species threatened with extinction which are or may be affected by trade.

Other species at serious risk

Appendix II: a) Includes all species which although not necessarily currently threatened with extinction may become so unless trade is subject to strict regulation; and b) Other species which must be subject to regulation in order that trade in certain specimens of species referred to in sub-paragraph (a) above may be brought under effective control, i.e., species similar in appearance.

Appendix III: All species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation. The cooperation of other Parties, is therefore, needed.

CITES: <http://www.wcmc.org.uk/cites/eng/append/species.shtml>

(3) Legal Systems of Japan

3-11) International Conventions

3-11-2) Ramsar Convention

The “Convention on Wetlands of International Importance Especially as Waterfowl Habitat” (Ramsar Convention) was adopted in Ramsar, Iran in February 1971 to conserve internationally important wetlands as the habitats of waterfowls and other diversified wildlife. In the convention, a wetland is defined as marshes, swamps, moors, peat bogs and bodies of water, including off-shore coastal areas to a depth of less than 6 m at low tide. As far as wetlands importance as waterfowl habitat, a wetland includes most water-related areas, including mangrove woodlands, tidal flats, lakes, rivers, wet woodlands, rice fields and dams.

The convention states that the countries of the party have an obligation to designate at least one internationally important wetland in terms of ecology, botany, zoology, limnology and hydrology and to register it on a list managed by the Convention Secretariat. The countries of the party also have an obligation to take measures to conserve and utilise the registered wetlands and to report ecological changes and other threats to those wetlands to the Convention Secretariat. 117 countries have ratified the convention as of December 1999 and a total of 1,011 sites comprising approximately 72 million hectares are registered as the Ramsar wetlands around the world.

Japan ratified the convention in October 1980 and registered Kushiro Marsh, an important breeding area for red-crowned cranes, as the first Ramsar wetland in Japan. Ten more wetlands were registered by 1999: The Lakes of Izu/Uchi, Lake Kutcharo, Lake Utonai, Kiritappu Marsh, Lake Akkeshi/Bekanbeushi Marsh, Yatsu Tideland, Katano-kamo Pond, Lake Biwa, Sakata and Manko. These wetlands provide important wintering, transit or breeding areas for waterfowls, such as swans, geese, ducks, snipes and plovers.

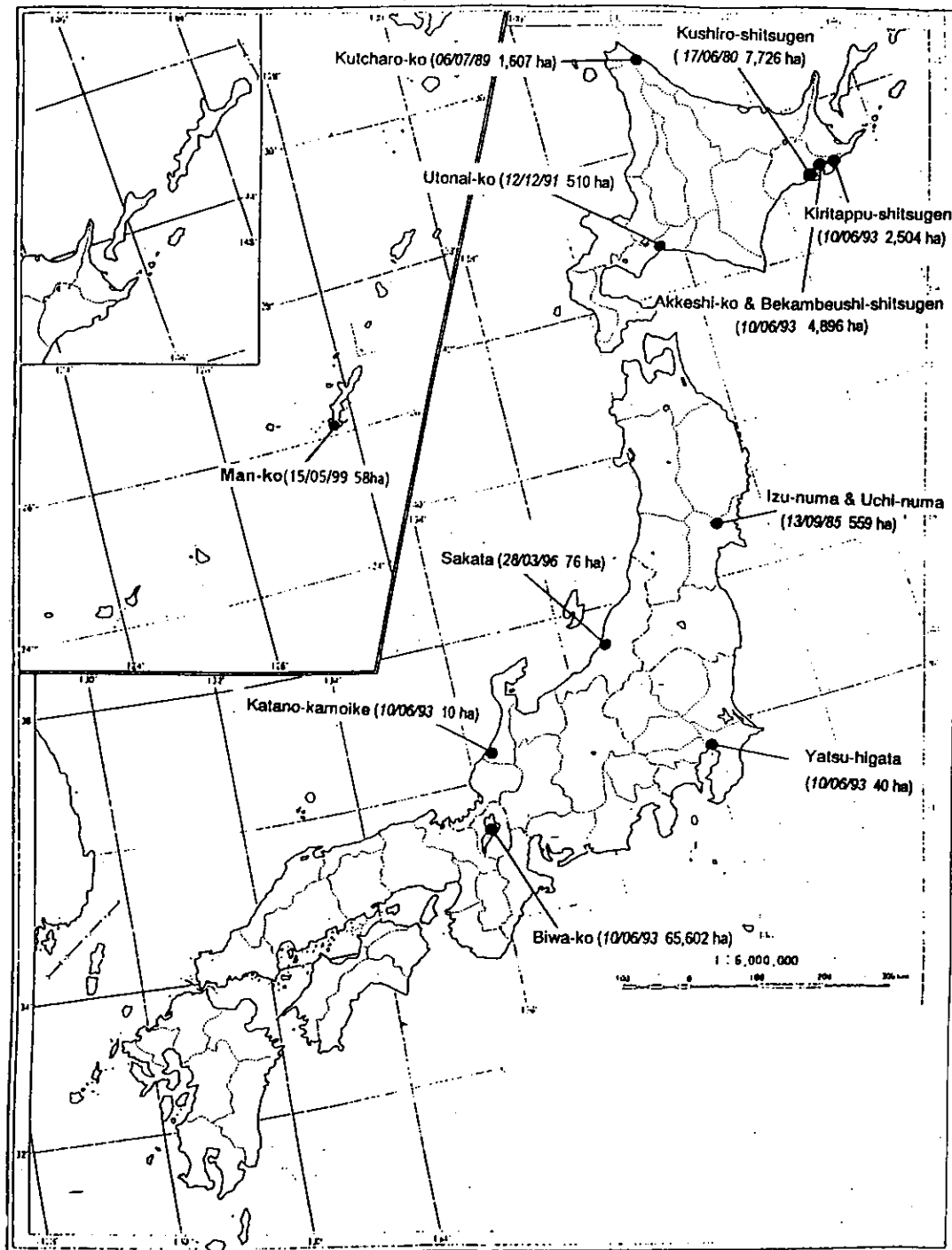
The Conference of the Parties for the convention is held every three years, at which the countries of the party report and discuss the present state of the wetlands, conservation programmes and wise use of the wetlands, as well as the implementation of the convention itself and international cooperation. At the 4th Conference of the Parties in 1989, the need for technical support for proper conservation and management of the wetlands in developing countries led to the establishment of a “wetland conservation fund”. The Standing Committee Meetings are held by the Convention Secretariat, which also manages and applies the fund to the wetland conservation projects in cooperation with governments and NGOs. The 5th Conference of the Parties was held in Kushiro in June 1993, attended by about 1,200

participants from 95 countries. 9 resolutions and 15 recommendations were adopted.

不破 敬一郎 編著 (1994): ラムサール条約、地球環境ハンドブック、朝倉書店
ほかに ; 山下 弘文 (1998): 湿地の保護と共生 (ラムサール条約) 自然保護ハンドブ
ック (沼田 眞 編) 朝倉書店

(3) Legal Systems of Japan 3-11) International Conventions 3-11-2) Ramsar Convention

Wetlands of International Importance (Ramsar Sites) in Japan



井上 晋 (1998):ラムサール条約への登録のための新たな湿地の指定、野生生物保護行政、野生生物保護行政研究会

(3) Legal Systems of Japan

3-11) International Conventions

3-11-3) Convention on Biological Diversity

a) Putting the Convention into effect

Conservation of wildlife and the threats of extinction for species were mentioned in “Declaration on the Human Environment” at the UN Conference on the Human Environment in 1972 and ten years later in the Nairobi Declaration at the UNEP High Level Committee in 1982. UNEP first started working to establish a comprehensive framework for wildlife conservation by introducing the concept of “biodiversity” in 1987. After several meetings and conferences, the “Convention on Biological Diversity” was adopted in Nairobi, Kenya in May 1992 and signed by 157 countries including Japan in the UN Conference on Environment and Development (UNCED: Earth Summit) in June 1992. Japan ratified the convention in May 1993 and the convention came into effect in December 1993.

b) Biodiversity

The convention seeks to conserve biological diversity at three levels, ecosystems, species and genetic, and to ensure its sustainable use.

1) Diversity of ecosystems

The survival of all species depends on the health of the ecosystems they inhabit, and as such maintenance of diversity species also demands maintenance of diversity of ecosystems.

2) Species diversity

The fact that at present the rate of extinction of species is progressing faster than has ever experienced. No amount of human effort can recreate a species once it has become extinct. A species once extinct takes with into extinction its unique adaptations to its environment, adaptations which may have been of indispensable use for human existence in the future, such as for development of medicine and crops. Also, species not only depend on their environment, but also contribute to it, and the greater the variety of species on Earth, the richer that environment, on which we also depend, becomes

3) Genetic diversity

Genetic diversity is vital for the maintenance of adaptive ability of a species. It is the variation in genetic structure that enables a species to evolve and adapt to changes in its environment such as disease outbreaks, climatic change. Without a wide genetic pool to resource, a species chances of survival weaken

c) Discussions at the Convention Negotiations

Major issues discussed through negotiations for the convention are as follows:

1) Objectives of the Convention

Although developing countries asserted that technical transfers and funding assistance should be also be treated as objectives of the convention, these items were instead regarded as measures. The objectives were finally limited to three points: i) conservation of biodiversity; ii) sustainable use of biodiversity; and iii) fair distribution of benefits derived from the genetic resources.

2) Conservation measures

Provision of a global list, which would select internationally important areas and species and give priority for conservation and international cooperation, was deleted after objections from the developing countries and a few developed countries. However, it appears that significance of the conservation was not missed since the conservation measures by each country were comprehensively provided for in the convention.

3) Access to and technical transfer of genetic resources

Many developing countries strongly demanded that the developed countries the return benefits derived from the genetic resources collected in those developing countries and to promote technical transfer of biotechnology. On the other hand, developed countries insisted that protection of the intellectual property rights is indispensable for the advancement of technical development by private corporations. As a result, both the requests were provided for in the convention.

4) Financial issues

Developing countries requested the establishment of a new fund while developed countries insisted on the use of existing mechanisms, such as the Global Environmental Facility. It was concluded that until proper reforms were in place, the Global Environmental Facility would temporarily provide the machinery for the interim, and financial management would until then function under administration and guidance by the Conferences of the Parties.

渡辺 綱男 (1994): 生物多様性条約、地球環境ハンドブック (不破 敬一郎 編)、朝倉書店

(3) Legal Systems of Japan 3-11) International Conventions
3-11-3) Convention on Biological Diversity

Content of the Convention on Biological Diversity

1. Purpose of the Convention (Article 1)
 - i. Conservation of biological diversity
 - ii. Sustainable use of the elements of biological diversity
 - iii. Equitable distribution of benefits drawn from genetic resources
2. Measures for Conservation (Articles 6-14)
 - i. Establishment of national strategies for conservation of biological diversity and integration of the strategies into related plans and policies
 - ii. Selection and monitoring of the important area and species
 - iii. *In-situ* conservation: Establishment of the system for protected areas, conservation and restoration of the ecosystems
 - iv. *Ex-situ* conservation: preservation under captivity, breeding, and reintroduction to the wild
 - v. Sustainable use and management of biological resources
 - vi. Socio-economic measures to promote conservation of biological diversity
 - vii. Research, training, education and information dissemination
 - viii. System for environmental impact assessment
3. Access to Genetic Resources and Technology Transfer (Articles 15, 16, and 19)
 - i. Acknowledge the sovereignty of the country possessing genetic resources and access to the resources should be based on mutual agreement
 - ii. Secure participation of the resource-providing country to research, and benefit from the resource should be distributed equitably
 - iii. Technology transfer to developing country should be done under conditions that are fair and advantageous to the developing countries. The Convention acknowledges the protection of intellectual property rights.
4. Financial Mechanism (Articles 20, 21, and 39)
 - i. Developed countries are to provide new and additional funding to cover additional costs on the developing countries resulting from signing the Convention
 - ii. Global Environmental Facility (GEF) was designated as the temporal mechanism for fund-giving
5. Safety regarding Biotechnology
 - i. Establish measures to regulate the use and release of biotechnologically manipulated organisms
 - ii. Consider the appendix regarding the safe transport and handling procedures of biotechnologically manipulated organisms. Exporting country of such organisms are to provide information on proper use and handling measures to the importing countries.

渡辺 綱男 (1994) : 生物多様性条約、地球環境ハンドブック (不破 敬一郎 編)、朝倉書店

(3) Legal Systems of Japan

3-11) International Conventions

3-11-4) Desertification Convention

According to the International Convention to Combat Desertification, 'desertification' is defined as deterioration of the land due to factors such as climatic change and human activity, in arid, semi-arid and arid semi-wet areas. In this case, 'land' includes soils, water resources, ground surfaces and vegetation. 'Deterioration' refers to a decline in the resource potential of the land by one or more influencing processes, such as soil erosion, siltation and rising salinity.

There are two main causes of desertification. One factor is climatic atmospheric circulation around the globe, and the other is a human impact through actions that exceed the land capacity in fragile ecosystems. Once the land has become a desert an enormous and costly amount of effort is required for its restoration. For this reason protection of those lands as yet unaffected or having being affected very little is the more feasible and effective approach for anti-desertification measures

According to a UNEP report made in 1991, approximately 3.6 billion ha of land is affected by desertification, comprising quarter of all land area the Earth. Furthermore, approximately 70% of the arable land in arid, semi-arid and arid semi-wet areas suffer desertification. The land affected by desertification in Africa is about 1.0 billion hectares (73% of the arable land) and in Asia is about 1.3 billion hectares (71% of the arable land); the two areas of which combined comprise two thirds of all the areas affected by desertification throughout the world. The population affected by desertification is estimated 900 million - equal to one sixth of the world's population. These figures indicate that desertification is a serious threat to human existence in the developing countries.

International measures for desertification started in earnest at the 'UN Conference on Desertification' in 1977. In this conference, a Plan of Action to Combat Desertification was adopted, and actions to be taken by each country and international institute were recommended. Following this, a centre for planning and taking action on combating desertification was established in UNEP.

However, according to an evaluation made in 1991, the situations of desertification had not been improved because of insufficient basic knowledge on desertification and thus prevented the implementation of measures that were effective. Specifically, the following were indicated as causes:

Low priority assigned at both internal and international level;

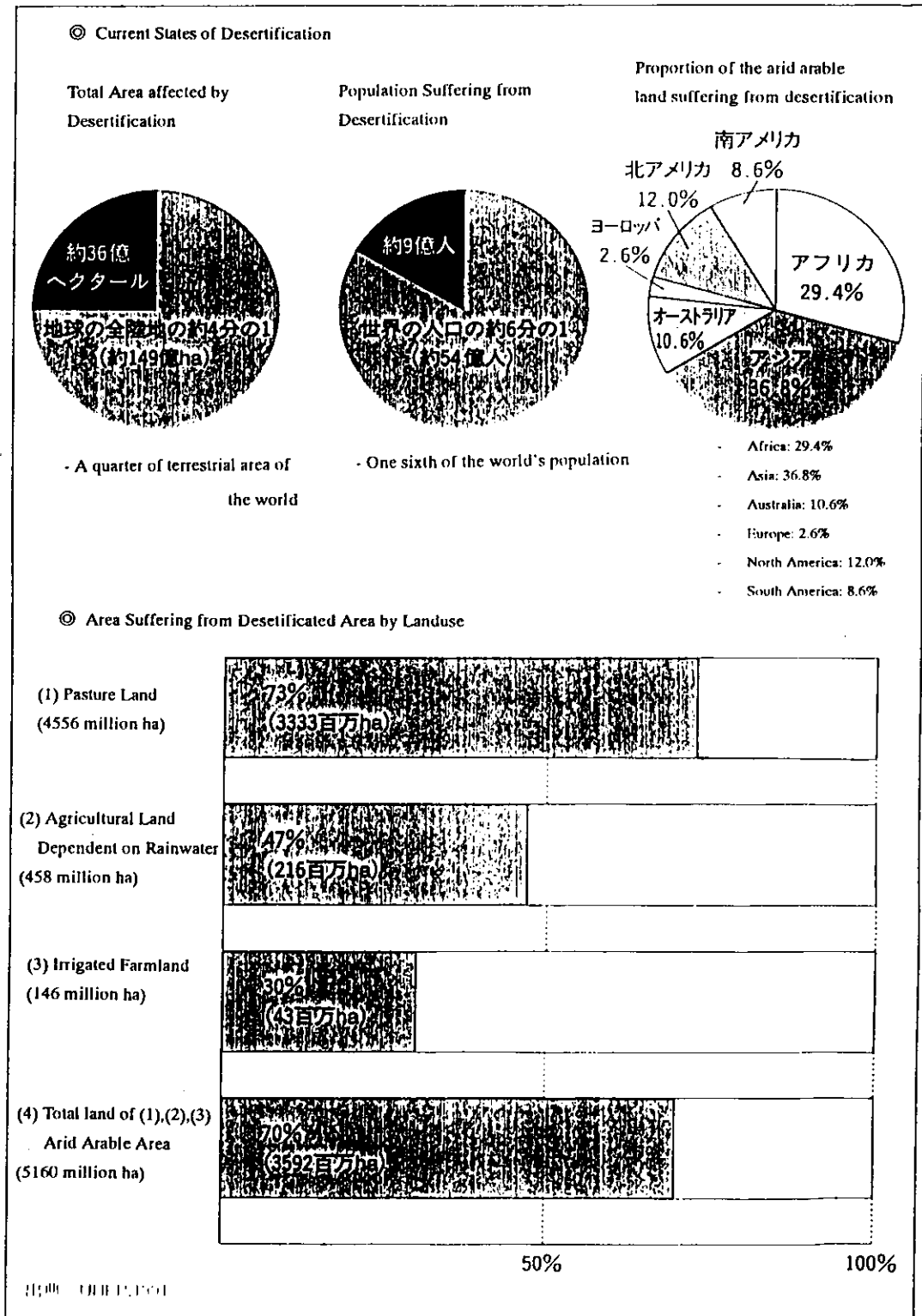
Lack of funding support;
Lack of coordination with socio-economic development plans;
Little participation from local people;
Lack of consideration for political and social factors.

In the Earth Summit in June 1992, it was adopted in the “Agenda 21” to request the UN General Assembly to adopt the Convention on Combating Desertification. After establishment of the Inter-governmental Negotiating Committee for the Convention on Combating Desertification, the convention was adopted in June 1994 and came into effect in December 1996.

The Convention consists of a preamble, a main body and appendices to implement control of desertification in four regions: Africa, Asia, Latin America/Caribbean and North Mediterranean. Two additional resolutions were adopted following the Convention: provisional measures and urgent actions for Africa. The Convention provides the framework for measures for both developed and developing countries. In addition, other significant aspects of the Convention are:

- To indicate direction of the basic measures as 'principles';
- To require the countries of the party affected by desertification to establish the action plans;
- To require all the countries of the party to report measures for controlling desertification to the Conference of the Parties;
- To deal with fund provision as a central issue;
- To establish a Scientific Committee to provide information and advice on science and technology.

(3) Legal Systems of Japan 3-11) International Conventions
 3-11-4) Desertification Convention



環境庁地球環境部編 (1998) : 地球環境キーワード辞典、中央法規出版

(3) Legal Systems of Japan

3-11) International Conventions

3-11-5) World Heritage Convention

a) Outlines of the Convention

The “Convention Concerning the Protection of the World Cultural and Natural Heritage” was adopted at the 17th UNESCO General Assembly in November 1972 and came into effect in December 1975. The objective of the Convention was to preserve cultural and internationally valuable cultural resources and the natural environment by making a list of the world heritage and providing financial assistance to conservation measures each country.

The world heritage has two categories: cultural heritage and natural heritage. Cultural heritage is defined as monuments, buildings and ruins with historically or academically outstanding universal value, while the natural heritage is defined as characteristic natural areas, threatened wildlife habitats and natural landscape with aesthetically or academically outstanding universal value. There are 153 countries of the party ratifying the Convention as of 1998 and a total of 552 sites listed as world heritage: 418 cultural heritages, 114 natural heritages and 20 complex heritages.

b) Systems of the Convention

- Obligations to the countries of the party
- To recognise, protect, preserve, maintain and pass on the national heritage to the future generations.
- To avoid measures that harmful to the national heritage of other countries.
- To present a list of the national heritage to qualify for listing as world heritage to the World Heritage Committee.
- To Regularly pay contributions to the World Heritage Fund.
- To support fund-raising efforts by UNESCO for the World Heritage Fund.
- To encourage their citizens to value and respect their national heritage through education and public relations programmes.

2) Recommendation for world heritage listing

Based on the Criteria for Inclusion in the World Heritage List, the World Heritage Committee examines listing of the areas recommended for the world heritage by each country; Prior to this, the IUCN examines the natural heritage and ICOMOS examines the cultural heritage. World heritage that is extremely threatened and requires urgent measures for conservation are registered in the “threatened world heritage list” and examined for financial assistance with the World Heritage Fund.

c) World Heritage in Japan

Japan ratified the World Heritage Convention in 1992 and recommended Yaku Island and the Shirakami Mountains as natural heritage and the Buddhist Monuments in the Horyuji Area and Himeji Castle as cultural heritage; these sites were registered in the world heritage list in 1993. Other cultural heritages are the Historic Monuments of Ancient Kyoto (1994), Historic Villages of Shirakawago/Gokayama (1995), Itsukushima Shrine (1995) and the Hiroshima Atomic-bomb Dome (1995). In November 1998 the 22nd Conference of the World Heritage Committee was held in Kyoto, Japan.

d) Conservation and Management of Natural Heritage in Japan

1) Outline

Yaku Island

Yaku Island has a unique ecosystem and outstanding natural scenery: Yaku cedars several thousand years old, numerous endemic and endangered species of plants and animals and a distinctive vertically stratified vegetation zones. The heritage site is strictly protected through its designation as a Wilderness Area, National Park (Special Protection Zone and Special Zone) and Natural Monument.

The Shirakami Mountains

The Shirakami Mountains is an internationally unrivalled area of beech forest, renowned for its well-preserved pristine state and the diversity of its flora and fauna. The area is a noteworthy model of the ecologically ongoing process within the various stages of plant communities. The heritage site is strictly protected as a Nature Conservation Area (Special Zone and Wildlife Protection Zone), National Park (special protection zone) and Forest Biosphere Reserve (preservation zone).

2) Conservation measures

To conserve these natural heritages, a number of measures have been introduced in the form of patrols, research, provision of signboards and allocation of ecological management officers, under a system started in 1995. Two World Heritage Centres have also been established on each of both Yaku Island and in the Shirakami Mountains. Furthermore, a Liaison Meeting was established by administrative agencies of the central and local governments to ensure proper and smooth management of these natural heritage sites. Management plans for these sites were produced by the Environment Agency, the Forestry Agency and the Agency for Cultural Affairs and submitted to the Convention Secretariat in November 1995.

自然保護年鑑編集委員会編(1996):世界遺産条約とは?、世界と日本の自然は今 自然保護年鑑3、日正社

(財)国立公園協会 編 (1998):1998 自然公園の手引き、国立公園協会

(3) Legal Systems of Japan 3-11) International Conventions
3-11-5) World Heritage Convention

A List of Some World Heritage Sites

- ARGENTINA: 1984 Iguazu National Park
- AUSTRALIA: 1981 Great Barrier Reef
- CANADA: 1984 Canadian Rocky Mountain Parks
- CHINA: 1987 The Great Wall, 1987 Mount Taishan
- COSTA RICA/PANAMA: 1983 Talamanca Range-La Amistad Reserves/ La Amistad National Park
- ECUADOR: 1978 Galapagos National Park
- EGYPT: 1979 Memphis and its Necropolis - the Pyramid Fields from Giza to Dahshur, 1979 Nubian Monuments from Abu Simbel to Philae
- FRANCE: 1979 Palace and Park of Versailles, 1981 Palace and Park of Fontainebleau
- GERMANY: 1984 The Castles of Augustusburg and Falkenlust at Brühl
- GREECE: 1987 Archaeological Site of Delphi, 1987 The Acropolis, Athens
- HONDURAS: 1982 Río Platano Biosphere Reserve
- HUNGARY: 1987 Budapest, including the Banks of the Danube with the district of Buda Castle
- INDIA: 1983 Ajanta Caves, 1983 Taj Mahal, 1987 Sundarbans National Park
- ITALY/HOLY SEE: 1980 Historic Centre of Rome, the properties of the Holy See in that city enjoying extraterritorial rights, and San Paolo fuori le Mura
- ITALY: 1980 Church and Dominican Convent of Santa Maria delle Grazie with "The Last Supper" by Leonardo da Vinci
- NEPAL: 1979 Sagarmatha National Park, including Mt. Everest, 1984 Royal Chitwan National Park
- NEW ZEALAND: 1998 New Zealand Sub-Antarctic Islands
 - * Westland/Mount Cook National Park and Fiordland National Park, previously inscribed on the World Heritage List, are part of this site.
- PAKISTAN: 1980 Archaeological Ruins at Moenjodaro
- PERU: 1983 City of Cuzco, 1987 Manu National Park
- SPAIN: 1984 Alhambra, Generalife, and Albayzin, Granada
- UNITED KINGDOM: 1987 Palace of Westminster, Abbey of Westminster, and St. Margaret's Church, 1988 The Tower of London
- UNITED REPUBLIC OF TANZANIA: 1979 Ngorongoro Conservation Area, 1981 Serengeti National Park
- UNITED STATES OF AMERICA: 1978 Yellowstone National Park, 1979 Grand Canyon National Park, 1979 Independence Hall, 1984 Yosemite National Park
- DEMOCRATIC REPUBLIC OF THE CONGO: 1979 Virunga National Park, 1981 Kahuzi-Biega National Park
- RUSSIAN FEDERATION: 1990 Kremlin and the Red Square

自然保護年鑑編集委員会編 (1996) : 世界遺産条約とは?、世界と日本の自然は今 自然保護年鑑3、日正社

(3) Legal Systems of Japan

3-11) International Conventions

3-11-6) MAB and Biosphere Reserves

Biosphere Reserves are established not being based on a specific convention but as a part of the international scientific plan of “Man and the Biosphere Programme” (MAB) by UNESCO.

a) Man and the Biosphere Programme (MAB)

The Man and the Biosphere Programme (MAB) began in 1971 as an international joint programme following the International Biological Programme. MAB has implemented research, training, demonstration and information services for the relationship between human activities and biospheres. The objective of the programme was to establish scientific bases and train specialists to work on conservation and rational use of natural resources together with issues concerning human settlement and activities. Fourteen projects were started with establishment of the project areas in the early 1970s. Results of the projects were evaluated in 1990 and the decisions were reached:

- Development and utilisation of a network of Biosphere Reserves;
- Activities to coordinate biodiversity conservation with sustainable use, including social, and economic development and the maintaining cultural values;
- Strengthening the development of human resources and research institutes as well as cooperation with programmes conducted by the United Nations and other international institutes.

In Japan the main activities related to MAB are academic research within Japan, overseas academic joint research, publicity work and international cooperation within the Asia-Pacific region.

b) Biosphere Reserves

Biosphere Reserves have a number purposes such as nature conservation, research, training and sustainable use of resources. It is crucial that human activity is regarded as a fairly important component in the reserves. The reserves are divided into the following three zones, each with a specific conservation objective:

- Core area: in the central area, for preservation of biodiversity without human interference;
- Buffer zone: in the outer areas, for human habitation and limited resource usage ;
- Transition area: the outermost areas without specific boundaries, for activities for sustainable development.

Biosphere Reserves are categorised by the IUCN as Type IX Protected Areas, and often

registered to cover existing National Parks. There were 57 areas registered as the first reserves in 1976. By 1990 however this had increased to a total of 285 areas in 71 countries. In Japan, four areas totalling 116 116,000ha were registered in 1980: Shiga Highlands, Hakusan, Odaigahara/Mt. Omine and Yaku Island. These areas are covered under all or part of the Special Protection Zones in National Parks or Wilderness Areas. All the buffer zones in these areas fall under the categories of Special or Ordinary Zones in National Parks; however no Transition Areas have been designated in Japan.

c) Biosphere Reserves in Japan: Hakusan

Hakusan National Park was designated as a Biosphere Reserve in 1981 principally because of the extensive size of its Special Protection Zone and its existing system of nature conservation and management, research and education. The Special Protection Zone of the park was designated as the core area of the reserve and the Special Zones as the buffer zone.

However, this designation did not attract much attention either at national or local level, and neither has the reserve has not been taken up as a subject for “Basic Studies for Human Existence and Natural Environment” sponsored by the Ministry of Education, Science and Culture. There was also very little publicity or educational work directed at the public and no budget was allocated for any of the programmes concerned.

National efforts for the conservation of the Hakusan area have resulted in the establishment of four separate protected areas, all overlapping one another: Hakusan National Park (47,700 ha: Environment Agency), Hakusan Wildlife Protection Area (35,912 ha: Environment Agency), Hakusan Forest Biosphere Reserve (14,826 ha: Forest Agency) and Hakusan Japanese Serow Nature Reserve (53,662 ha: Agency for Cultural Affairs)

All these areas, with the exception of the Forest Biosphere Reserve, were established without any of the land being in possession by the authorities concerned. This is a factor that makes control of the land use difficult. Many protected areas duplicated each other and the boundaries are not integrated because of differing standards imposed institution. Administrative systems at the field level are also complicated by the various offices concerned for each protected area: the national park office, prefectural offices, regional forestry offices and the boards of education. One area that has been left particularly unclear is that which agency is responsible for protection and management of wild animals populations and their habitats.

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(3) Legal Systems of Japan 3-11) International Conventions
 3-11-6) MAB and Biosphere Reserves

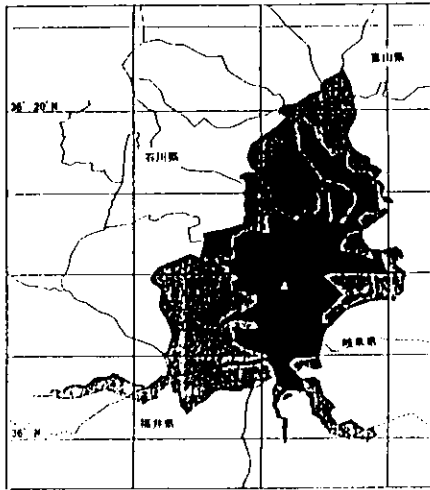


Fig-1 : Hakusan National Park・MAB

Biosphere Reserve
 ■ Core Area = National Park
 Special Protected Zone
 □ Buffer Zone = National Park
 Special Zone

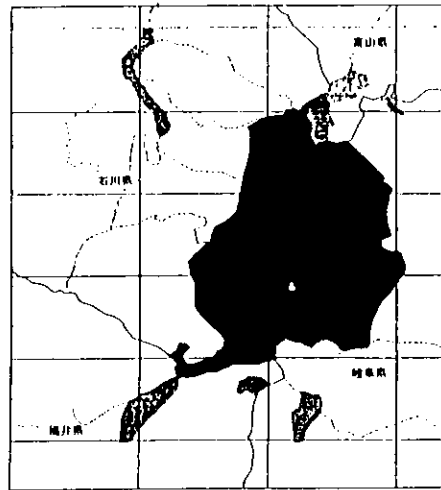


Fig-2 : Hakusan National Wildlife
 Protection Area

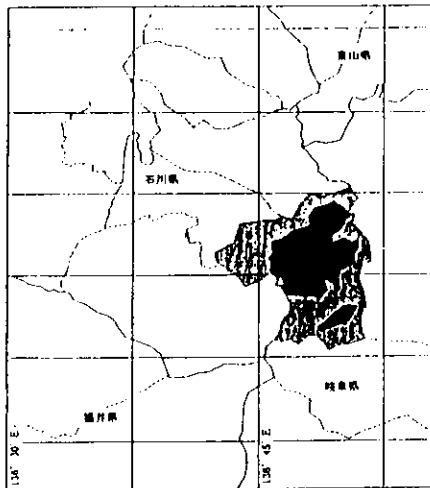


Fig-3 : Hakusan Forest Biosphere

Reserve
 ■ Preservation Area
 □ Utilisation Area

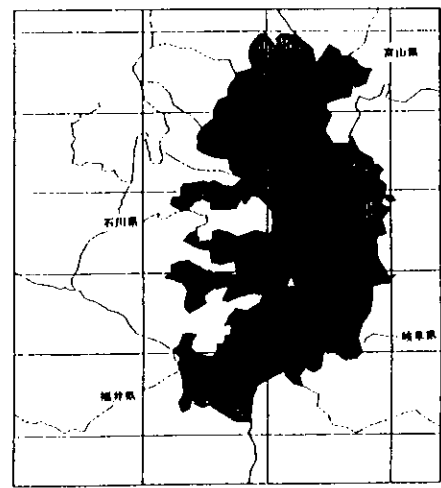


Fig-4 : Hakusan Japanese Serow
 Nature Reserve

水野 昭憲 (1996) : 白山生物圏保存地域と野生動物保護、ワイルドライフ・フォーラム 2 (3)、野生生物保護学会

(3) Legal Systems of Japan

3-11) International Conventions

3-11-7) Conventions and Agreements for Protection of Migratory Birds

Japan concludes bilateral conventions or agreements for protection of migratory birds, birds in danger of extinction and their environment with USA, Australia, China and Russia.

a) Convention between Japan and USA for Protection of Migratory Birds

This convention was signed in 1972 and came into effect in 1974. Main contents of the Convention are; control of the capturing of migratory birds (190 species), protection of endangered species of birds (67 species/subspecies), exchange of information and conservation of the environment. In order to evaluate implementation of the Convention and to exchange the information, Japan and USA alternately hold the bilateral meeting every two to three years.

b) Agreement between Japan and Australia for Protection of Migratory Birds

This convention was signed in 1974 and came into effect in 1981. Main contents of the agreement are: control of the capture of migratory birds (76 species), protection of endangered species of birds (36 species/subspecies), exchange of information and conservation of the environment. Japan and Australia alternately hold bilateral meetings every two years. At the 9th meeting in Tokyo in 1997, both the countries exchanged information on the conservation measures those were taken following the previous meeting and agreed to tackle snaring of albatrosses by longline fishing as a new agenda. In addition, results of the research for one species of snipe were reported and new joint research project for snipe and tern species was planned.

c) Convention between Japan and Russia for Protection of Migratory Birds

This convention was signed in 1973 and came into effect in 1988. The main contents of the convention are: control of the capture of migratory birds (287 species), protection of endangered species of birds (29 species/subspecies), exchange of information and conservation of the environment. Japan and Russia alternately hold bilateral meetings every two years. At the 4th meeting in Tokyo in 1996, Japan reported the results of a joint research for an eagle species, and both the countries agreed to continue to implement similar joint research in the future. Research on a species of snipe started in 1997.

d) Agreement between Japan and China for Protection of Migratory Birds

This convention was signed and came into effect in 1981. The main contents of the

agreement are: control of the capture of migratory birds (227 species), exchange of information and conservation of the environment. In order to evaluate the conservation measures of the previous meeting, Japan and China alternately hold bilateral meetings every two years. Apart from this agreement, both countries have been implementing a joint programme for the protection and captive breeding of the Japanese crested ibis, one of the most endangered species in the world.

(財)国立公園協会編 (1998): 1998 自然公園の手びき、国立公園協会
環境長 編 (1997): 平成9年版「環境白書、各論」 大蔵省印刷局

(3) Legal Systems of Japan 3-11) International Conventions
 3-11-7) Conventions and Agreements for Protection of Migratory Birds

Wild Birds in Japan

- Resident Birds: Species that stay in Japan year around

- Migratory Birds

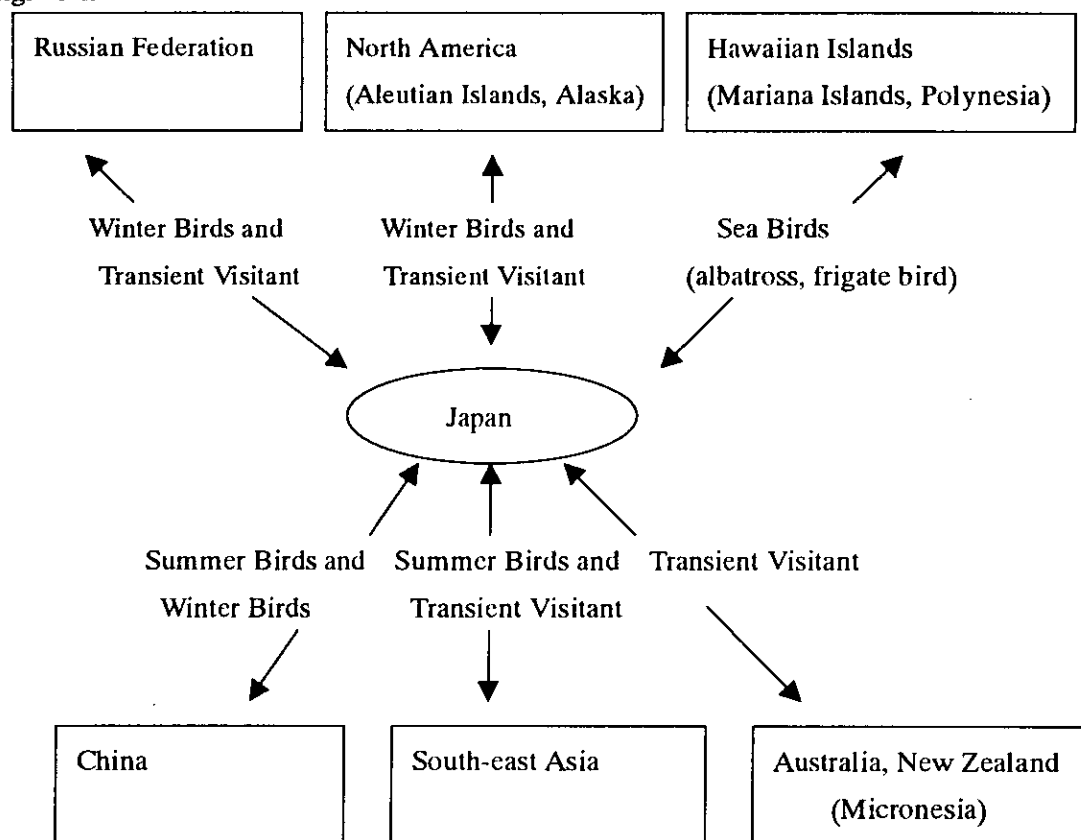
Summer Birds: Species that come from the south to breed in Japan in the spring and go back to the south in the fall.

Winter Birds: Species that come from the north in the fall to overwinter in Japan and go back to the north in the spring.

Transient Visitant : Species that temporarily stay in Japan during their migration between their breeding sites in the north and overwintering sites in the south.

Occasional Visitant: Species whose natural range does not include Japan but visit Japan by accident.

Bird Migration



(財)国立公園協会編 (1998) : 1998 自然公園の手びき、国立公園協会