

SUMMARY OF LEGISLATIVE AND REGULATORY MECHANISMS FOR THE PROTECTION OF CORAL REEFS AND ASSOCIATED ECOSYSTEMS



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The summary proposed in this document is an inventory at a given time and might be non-exhaustive. It was produced by Dr. P. Ricard - *pascale.ricard@univ-amu.fr* For any comments, send your questions/comments to *fstaub@icriforum.org*

GENERAL OVERVIEW

CONTEXT OF THE STUDY

This study is conducted in the context of the implementation of the ICRI Plan of Action 2018-2020, and more particularly in the frame of the first theme, which is to "promote effective and adaptable solutions to improve the protection of coral reefs". The aim of this study is to underline good practices of Japan, which is a pilot country in this project, as regards the direct and indirect protection of coral reefs.

Those good practices are to be found in the legislations and regulations of the country, but also in the other means of implementation of the several international and regional instruments important in this issue, including soft law and the work done by private actors and civil society. The purpose of the study is not to assess and evaluate the efficiency of the action of the country, but only to point out the positive elements collected and to identify the potential lacks.



LAWS AND REGULATIONS DIRECTLY OR INDIRECTLY PARTICIPATING IN THE PROTECTION OF CORALS

The legislation and regulations of Japan are particularly rich and developed, especially in the context of biodiversity conservation and the protection of the environment in general. A lot of texts are easily available, and deal with marine species, fisheries, national parks, ecotourism, climate change, etc. Environmental impact assessment is the object of particular acts, and promoted with great details. Protected areas framework is well developed and allow for an effective conservation of marine biodiversity, as well as the regulations dealing with endangered species protection. The Japanese Government, but also businesses and citizens are systematically included and concerned by the obligations set in the acts. As regards the protection of corals and coral reefs more precisely, the texts are not always very precise. This can be explained by the fact that a lot of regulations are decided and detailed at the local level, by the local governments.

Some punctual or partial lacks in the legislative framework could be found, as for instance regarding the prohibition of sunscreens and the regulation of specific activities as for instance bioprospecting. The restoration of corals is not precisely addressed in the legal framework, although the restoration of environment is generally and interestingly considered. This specific restoration is taken into account, in fact, at the local level: the national and local levels have very specific competences and the broad legal framework needs to be developed at the local scale.

GOOD PRACTICES AND OTHER OBSERVATIONS

Many good practices may be stressed. The very general and complete legal framework is to be developed at the local level. Very important issues regarding the protection of corals specifically are settled by soft law, as the National Biodiversity Strategy. All the society is responsible and mobilized in the conservation of coral reefs: public and private actors, as well as scientists and politicians. The material available online is particularly rich and easy to access, also in English, which is an interesting way of developing public awareness and education. The international legal framework is taken into consideration with due care.

Photo: ©DR

| Ļ | EXISTENCE OF POLICY | | |
|--|---|-------------|--|
| THEME | ΑCΤΙVITY | OBLIGATIONS | |
| Climate change | Activities resulting in emissions of greenhouse gases in the atmosphere | Yes | |
| Production from living resources | Harvesting of living resources by large-scale/industrial operators | Yes | |
| | Harvesting of living resources by small-scale and/or subsistence Operators | Yes | |
| | Harvesting of living resources by recreational operators | Partial | |
| | Hunting and collecting of living resources for other purposes (including 'bioprospecting') | Partial | |
| | Coastal aquaculture (including 'ranching', seaweed cultivation) | Yes | |
| | All activities related to production from living resources | Yes | |
| | Production and disposal of plastics | Yes | |
| Generation of land-based sources of pollution | Waste treatment and disposal | Partial | |
| | Urban or industrial activities | Partial | |
| | Agriculture | Partial | |
| | All activities generating marine pollution | Partial | |
| Extraction | Extraction of minerals (e.g. sand, coral mining) | Partial | |
| of non-living resources | Extraction of oil and gas (including infrastructure) | Partial | |
| | Extraction of water (i.e. desalination) | No | |
| Due due tien of | Transmission of electricity and communications (cables) | Partial | |
| Production of energy | Renewable energy generation (wind, wave and tidal power), including infrastructure | Partial | |
| | Coastal land claim (e.g. mangrove loss) | No | |
| Physical restructuring of the coastline, rivers or seabed | Canalization and other watercourse modifications | No | |
| | Coastal defence and flood protection | Partial | |
| | Restructuring of seabed morphology, including dredging and depositing of materials | Partial | |
| Tourism | Tourism and recreation activities (e.g. resulting in anchor use on reefs, vessel groundings, diving and snorkeling) | Yes | |
| and recreation | Tourism and recreation infrastructure | Yes | |
| | Marine biota souvenirs to sell to tourists, exporters | Partial | |
| Transport | Transport – shipping | Partial | |
| | Transport – infrastructure | No | |

Table 1. Table of principal Reef Relevant Policy Obligations per Human Activity Driving Changes in Coral Reef Ecosystems, inspired by the Analysis of Global and Regional Policy Instruments Related to the Conservation and Sustainable Management of Warm Water Coral Reef Ecosystems. Research Team, Nicholas Institute for Environmental Policy Solutions, Duke University On behalf of the United Nations Environment Programme November, 2018.

| | CONVENTIONS RATIFIED BY FIJI | Signature / Ratification | Entry into force |
|----------|--|------------------------------|--------------------------------------|
| REGIONAL | Southern Indian Ocean Fisheries Agreement (SIOFA) | 17/06/14 (A) | 17/07/14 |
| | Agreement for the establishment of the Indian Ocean Tuna Commission (IOTC) | 26/06/96 (A) | 26/06/96 |
| | Agreement for the establishment of the Asia-Pacific Fishery Commission (APFIC) | 03/10/52 (A) | 03/10/52 |
| | Convention on the conservation and management of fishery resources in the South East Atlantic Ocean (SEAFO) | 10/01/10 (A) | 10/01/10 |
| | International convention for the conservation of Atlantic Tunas (ICCAT) | 28/10/66 (S) 24/08/67 (A) | 10/01/10 |
| | Commission for the conservation of Southern Bluefin Tuna (CCSBT) | 10/05/93 (S) 08/04/94 (R) | 20/05/94 |
| | Convention on the Conservation and Management of Pollock Ressources in the Central Bering Sea (CCBSP) | 16/06/94 (S) 21/11/95 (R) | 21/12/95 |
| | Convention for the conservation of Anadromous Stocks (NPAFC) | 11/02/92 (S) 08/06/92 (R) | 16/02/93 |
| | North Pacific Fisheries Commission (NPFC) | 16/07/13 (A) | 19/07/15 |
| | Western and Central Pacific Fisheries Convention Implementation Act (WCPFC) | 08/07/05 (A) | 07/08/05 |
| | Convention on Future Multilateral Cooperation in the North- West Atlantic Fisheries (NAFO) | 22/12/78 (S) 04/01/80 (A) | 04/01/80 |
| | Inter-American Tropical Tuna Commission (IATTC) | 25/06/70 (A) | 01/07/70 |
| GLOBAL | Convention on Biological Diversity | 13/06/92 (S) 28/05/93 (A) | 29/12/93 |
| | Cartagena Protocol on Biosafety | 21/11/03 (A) | 19/02/04 |
| | Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity | 11/05/11 (S) 22/05/17 (A) | 20/08/17 |
| | UNCLOS | 07/02/83 (S) 20/06/96 (R) | 20/07/96 |
| | FAO (constitution) Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing | 19/05/17 (A) | 18/06/17 |
| | IMO Convention on the Prevention of Marine Pollution by Dumping of Wastes and other matter (London Convention) | 15/10/80 (A) | 14/11/80 |
| | Convention for the Prevention of Pollution from Ships (MARPOL) (with reservations) | 09/06/83 (A) | 02/10/83 |
| | Convention on Civil Liability for Oil Pollution Damage (CLC) | 03/06/76 (A) | 01/09/76 Denunciation 15/05/98 |
| | International Convention for the Safety of Life at Sea (SOLAS) | 15/05/80 (A) | 25/05/80 |
| | International Regulations for Preventing Collisions at Sea (COLREG) | 21/06/77 (A) | 15/07/77 |
| | Ballast Water Management Convention (BWM) | 10/10/14 (A) | 08/09/17 |

| Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and Their Disposal | 17/09/93 (A) | 16/12/93 |
|---|--|--|
| Montreal Protocol on Substances that Depletes the Ozone Layer | 16/09/87 (S) 30/09/88 (A) | 01/01/89 |
| United Nations Framework Convention on Climate Change (UNFCCC) | 13/06/92 (S) 28/05/93 (A) | 21/03/94 |
| Kyoto Protocol to the UNFCCC | 28/04/98 (S) 04/06/02 (A) | 16/02/05 |
| Paris Agreement | 22/04/16 (S) 08/11/16 (A) | 08/12/16 |
| Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) | 06/08/80 (A) | 04/11/80 |
| UNESCO Convention for the Protection of the World Cultural and Natural Heritage | 30/06/92 (A) | 30/09/92 |
| Convention on the Wetlands of International Importance Especially as Waterfowl Habitat (RAMSAR) | 2/2/71 (S) | 17/10/80 |
| Convention on Persistent Organic Pollutants (POPS) | 30/08/02 (A) | 17/05/04 |
| Minamata Convention on mercury | 10/10/13 (S) 02/02/16 (A) | 16/08/17 |
| | Movements of Hazardous Wastes and Their DisposalMontreal Protocol on Substances that Depletes the Ozone LayerUnited Nations Framework Convention on Climate Change (UNFCCC)Kyoto Protocol to the UNFCCCParis AgreementConvention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)UNESCO Convention for the Protection of the World Cultural and Natural HeritageConvention on the Wetlands of International Importance Especially as Waterfowl Habitat (RAMSAR)Convention on Persistent Organic Pollutants (POPS) | Movements of Hazardous Wastes and Their DisposalMontreal Protocol on Substances that Depletes the Ozone Layer16/09/87 (S) 30/09/88 (A)United Nations Framework Convention on Climate Change (UNFCCC)13/06/92 (S) 28/05/93 (A)Kyoto Protocol to the UNFCCC28/04/98 (S) 04/06/02 (A)Paris Agreement22/04/16 (S) 08/11/16 (A)Convention on International Trade in Endangered Species of |

Table 2. Table of regional and international conventions ratified by Japan

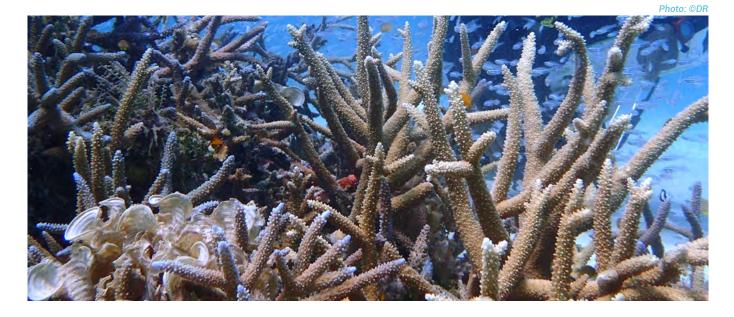
LAWS AND REGULATIONS DIRECTLY OR INDIRECTLY PARTICIPATING IN THE PROTECTION OF CORALS

Several instruments could have a direct or indirect impact as regards corals' protection. They are referred to by themes, according to Table 1.



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1. GENERAL RIGHTS AND OBLIGATIONS RELATED TO ENVIRONMENTAL PROTECTION



CONSTITUTION OF JAPAN 1946

Chapter II of this Constitution provides for the fundamental rights and freedoms of the individual. Chapter II recognizes and guarantees right to life, right to vote, right to peaceful petition, freedom of thought and conscience, freedom of religion, freedom of assembly, work, freedom movement, right to education, academic freedom, right to get married and form a family. Chapter II further guarantees the privacy of home. No provision concerns environmental rights.

NATURE CONSERVATION LAW

Law n°85 of 1972 https://www.env.go.jp/en/nature/npr/ncj/section4. html

This Act sets the basic concepts regarding **conservation** of the natural environment and the promotion of **conservation, health and culture, for future generations** (Articles 1 and 2). The State is responsible for taking measures related to conservation and promotion of the environment (Articles 4 to 7).

Enterprises are also obliged to take necessary measures for properly conserving the natural environment while carrying out its activities, and cooperate with the State and public bodies in their implementation of the plans of conservation of the environment (Article 10). The people have the same obligation of conservation and cooperation with the State and local public bodies (Article 11).

THE BASIC ENVIRONMENTAL LAW Law n°91 of 1993

http://extwprlegs1.fao.org/docs/pdf/jap4747.pdf

According to Article 1, "The purpose of this law is to comprehensively and systematically promote policies for environmental conservation to ensure healthy and cultured living for both the present and future generations of the nation as well as to contribute to the welfare of mankind, through articulating the basic principles, clarifying the responsibilities of the State, local governments, corporations and citizens, and prescribing the basic policy considerations for environmental conservation".

Article 4 promotes **environmental conservation and sustainable development** "by fostering sound economic development with reduced environmental load, through practices on environmental conservation such as reducing as much as possible the environmental load generated by socio-economic and other activities, which are voluntarily and positively pursued by all the people sharing fair burden; and so that interference with environmental conservation can be anticipatively prevented through enhancing scientific knowledge". Article 5, in the same spirit, promotes the active conservation of the global environment, in cooperation with other countries.

The Japanese State as well as local Governments are responsible for formulating and implementing fundamental and comprehensive policies on environmental conservation, pursuant to the basic principles on environmental conservation, following Articles 6 and 7.

The **responsibility of corporations** is consecrated in Article 8: they are responsible for taking necessary measures to prevent environmental pollution resulting from their activities, *"and to properly conserve the natural environment, pursuant to the basic principles".* They also have to ensure proper disposal of the wastes generated from the products and goods related to their activities, as well as to make efforts to reduce their environmental impact in general and use recyclable resources.

Finally, **citizens are also pointed as responsible to "reduce the environmental loads associated with their daily lives"**, and to make efforts to conserve the environment and cooperating with the policies implemented by the State, pursuant to the basic principles.

Noteworthy and among other measures, the Government shall submit to the Diet an annual report on the state to the environment and the policies implemented with regard to environmental conservation (Article 12); it also shall establish a "basic environment plan", "in order to comprehensively and systematically promote the policies for environmental conservation" (Article 15). Moreover, the Government shall establish environment quality standards with regard to the environmental conditions related to air pollution, water pollution, soil contamination and noise (Article 16). The Government can formulate stronger measures through the environmental pollution control program concerning specific areas (Article 17) and shall take the necessary measures to promote environmental impact assessment (Article 20). Information sharing, science and technologies are also promoted, as well as international cooperation.

As regards air pollution, water pollution and soil contamination caused by radioactive substances, the Law refers to the Atomic Energy Basic Law (n°186 of 1955) and other related legislation.

ENVIRONMENTAL IMPACT ASSESSMENT ACT Act n°81 of 1997

http://www.japaneselawtranslation.go.jp/law/ detail/?id=3375&vm=&re=

This Act aims at setting the framework for the conduct of environmental impact assessment. Environmental impact assessment are defined as "survey, forecast and evaluation of the possible changes (the environmental impact in association of the activities is included, if the purpose of the project includes business activities and other human activities scheduled in the land or the structure after the implementation of a project; hereinafter referred to simply as «environmental impact») in environment caused by implementation of a project (changes in the shape of the terrain (including dredging being conducted simultaneously) and the newly establishment, extension and reconstruction of a structure for specific purpose; the same applies hereinafter) in individual components of the environment; considering measures for environmental conservation related to the implementation of the project in the process of assessment; and evaluating comprehensively the environmental impact when the measures are taken" (Article 2). The types of projects concerned by the Act are then listed and categorized.

According to Article 3, "the national government, local governments, project proponents, and citizens must endeavor from their respective positions to ensure that such an environmental impact assessment and other procedures specified in this Act are conducted appropriately and smoothly, to avoid or to reduce as much as possible the environmental burden by the implementation of the project, and to ensure that the consideration for environmental conservation is performed properly". The procedure is then explained, with, first of all, the preparation and submission of a Document on Primary Environmental Impact Consideration to the Minister of the Environment and the competent Minister, a review process, the preparation and submission of a scoping document regarding the project, which is made available for the public and public inspection. The opinion of the Prefectural Governor is required. The conduct of a complete environmental impact assessment is then possible (Chapter V, Articles 12 and following) and starts with the preparation of a Draft Environmental Impact Statement and an Environmental Impact Statement, detailing the content of the assessment and following the same review, publication and inspection process than the document on primary consideration.

This process is very elaborated and detailed, ensuring the transparency and consideration for the environment of the projects concerned.

2. CLIMATE CHANGE

CLIMATE CHANGE ADAPTATION ACT

Act n°50, 13 June 2018

http://extwprlegs1.fao.org/docs/pdf/jap184648.pdf

Article 1 sets the purpose of this Act, which is "to promote Climate Change Adaptation through establishing necessary measures such as formulating plans for Climate Change Adaptation and providing information on the Climate Change Impact and Climate Change Adaptation, thereby contributing to the health and cultural life of the Japanese people both at present and in the future in recognition of the impact that global warming has on daily life, society, economics, and the natural environment, and the risk that this impact will increase over the long term".

The responsibilities and role of the Government, local Governments, as well as businesses and the general public are pointed out in articles 3 to 6. For instance, and interestingly, **"businesses shall endeavor in Adapting to Climate Change in accordance with the content of their business activities, and in cooperating with national and local governmental programs for Climate Change Adaptation"**; "general public shall endeavor to increase their interest in and understanding of the importance of Climate Change Adaptation and to cooperate with national and local governmental programs".

Climate Change Adaptation Plan is established and revied by the government. Local climate change adaptation centers and regional councils of climate change (Articles 13 and 14) are organized to collect, organize, analyze, and provide information regarding the Climate Change Impact and Climate Change Adaptation, and also to give technical advice in order to promote Climate Change Adaptation in their local area and in order to carry out necessary consultations on Climate Change Adaptation through wide-scale cooperation and if necessary in cooperation with the National Institute for Environmental Studies.

Several laws are also dealing with ozone depletion, especially the Law concerning the protection of the ozone layer through the control of specified substances and other measures of 20th May 1988, and the Law concerning the recovery and destruction of fluocarbons of June 2001. The aim of those laws is to implement the provisions of the Vienna Convention for the protection of the ozone layer and the Montreal Protocol on substances that deplete the ozone layer (Article 1 of the Law of 1988). The volume and production of specified substances are regulated under these laws, as well as the setting of responsibilities of relevant operators involved.

Photo: ©DR



3. PRODUCTION FROM LIVING RESOURCES: FISHERIES AND BIODIVERSITY/SPECIES CONSERVATION

3.1. Conservation of living resources and ecosystems in general

LAW FOR THE PROMOTION OF NATURE RESTAURATION

Law n°148, December 11, 2002

https://www.env.go.jp/en/laws/nature/law_pnr.pdf

According to Article 3 of this Law, "Nature restoration shall be carried out appropriately for the purposes of maintaining and passing on a sound and bountiful natural environment to future generations, realizing a society in harmony with nature through the protection of biodiversity, and contributing to the conservation of the global environment". The cooperation of the various actors of the community is required, as well as transparency. A "**Basic Policy for Nature Restoration**" is to be formulated by the government, for comprehensively promoting nature restoration measures (Article 7). The public opinion is to be sought, and an Implementation plan of the nature restoration project to be settled and reviewed.

It specifies that restoration should be undertaken

- co-operatively and with the input of affected stakeholders,
- · using the best available scientific information,
- with the inclusion, where possible, of monitoring of the outcomes of restoration following implementation, and
- with the inclusion of feedback, in a context of adaptive management.

Preliminary researches for restoration of coral communities are underway in Sekisei Lagoon in Okinawa Prefecture, and in Tatsukushi Bay in Kochi Prefecture, respectively.

ACT ON CONSERVATION OF ENDANGERED SPECIES OF WILD FAUNA AND FLORA

Act n°75, June 5 1992 http://www.japaneselawtranslation.go.jp/law/ detail/?id=2103&vm=04&re=02

This Act recognizes that wild fauna and flora are not only important constituent elements of ecosystems, but are also essential for enriching the lives of human being as an important part of the natural environment. It sets, therefore, the **responsibility of the whole nation to** monitor the status of wild fauna and flora species and to formulate and implement comprehensive measures for conservation (Article 2). Local public entities as well as citizens are also to contribute to this conservation and cooperate. The designation of endangered species may intervene with a special procedure if the Minister of the Environment finds it urgent (Article 5). The Minister of the Environment, moreover, shall draft national guidelines for the conservation of endangered species, with the advice of the Central Environmental Council (Article 6). The guidelines provide for the conservation measures, the selection of endangered species, the protection of habitats, individual organisms, the rehabilitation of natural habitats and maintenance of viable population, and other important matters.

According to Article 9, for nationally endangered species, the capture, collection, killing or damaging of living individual organisms is forbidden, except if a permit is provided by the Minister of the Environment, under several conditions. Either nationally or internationally endangered species, the transfer, as well as export or import, are also prohibited (Article 12,15) but may be permitted in certain circumstances by the Minister of the Environment and export/import is required to follow the Foreign Exchange and Foreign Trade Act.

The Minister of the Environment, additionally, may designate any area within a natural habitat protection area which is particularly necessary for the conservation of a nationally endangered species of wild fauna or flora, as a managed area (Article 37). A special protection is provided to those areas, and restricted areas can be designated within those managed areas (Article 38). The entry in those areas is forbidden. Reporting and onsite inspections are part of this conservation process, as well as compensation.

Coral reefs related species, such as sea turtles and dugongs, are considered as "endangered" based on the IUCN Red List, as well as several species of hermatypic corals, which need a permission from the government of the exporting country, **in accordance with the Foreign Exchange and Foreign Trade Act.**, However, coral reefs in general are not internationally endangered species based on the Act on Conservation of Endangered Species of Wild Fauna and Flora.

ACT ON THE PROTECTION OF FISHERY RESOURCES

Act n°313 of 1951

http://extwprlegs1.fao.org/docs/pdf/jap1715.pdf

The provisions of this Law prescribe various measures for the **conservation of aquatic animals** and plants. It applies to aquatic animals and plants undertaken by fishing or a specific method for fishing, which is very large but no mention is made to corals and coral reefs. Measures may be taken in respect of the following: **Restrictions on catching** in general, on **fishing methods** (for instance, the use of explosives or poisonous substances is prohibited according to Article 5), number of licensed vessels, etc. (Chap. II, sect. 1); **Import Quarantine of aquatic animals** (sect. 2) **protected water surfaces** (sect. 3); protection of anadromous fish (sect. 4); research of fishery resources (Chap. III); national subsidies (Chap. IV).

BASIC ACT ON BIODIVERSITY

Act n°58, June 6, 2008 http://extwprlegs1.fao.org/docs/pdf/jap100101.pdf

This Act recalls first the importance of biodiversity of human life, as well as the serious crises biodiversity is currently facing, "including extinction of species and destruction of ecosystems due to development and other activities by human beings". The effects of climate change are adding complexity. Therefore, the Act starts setting that "Now is the time to mark a first step toward realizing a sustainable society, in which human beings can continue enjoying benefits from biodiversity in the future, while comprehensively promoting policies to ensure biodiversity and avoiding or minimizing impacts on biodiversity. This Act is established here with the aim of clarifying the fundamental principles for conservation and sustainable use of biodiversity and thereby indicating the direction thereof and promoting related policies in a comprehensive and planned manner".

The purpose of the Act is, in this context, to set the fundamental principles for conservation and sustainable use of biodiversity. Fundamental principles of the Act are (Article 3 and followings):

- the conservation of biodiversity which shall be carried out for the purpose of ensuing the conservation of endangered species and of the diversified natural environment;
- the **use of biodiversity** which shall be carried out for the purpose of using national land and natural resources in a **sustainable** manner to ensure that impacts on biodiversity are avoided or minimized.

The government shall formulate a National Biodiversity **Strategy** in order to promote policies for the conservation and sustainable use of biodiversity in a comprehensive and planned manner. Policies of the government include: conservation of regional biodiversity where unique ecosystems have been maintained through agriculture, forestry and fisheries; conservation of diversity of wildlife species by conserving their habitat, regulating their capture, their transfer, etc.; prevention of damages by alien species; promotion of appropriate use or management of national land and natural resources; promotion of rational use of biological resources; promotion of biodiversity-friendly business activities; promotion of policies that contribute to the prevention of global warming; promotion of science and technology; and promotion of environmental impact assessment pertaining to biodiversity at the stage of planning business plans.

Local governments, businesses, citizens and private bodies are all concerned by the Act.

INVASIVE ALIEN SPECIES ACT Law n°8, June 2, 2004 http://extwprlegs1.fao.org/docs/pdf/jap65793.pdf

This Act shall have the purpose of preventing adverse ecological impacts caused by designated invasive alien species. Therefore, it regulates raising, growing, storing carrying, importing, andother handling of designated invasive alien species in order to help stabilize and improve national life through contributions to conservation of biodiversity, human safety, and sound development of agriculture, forestry and fisheries. It consists of 7 chapters divided into 41 articles.

Designated invasive alien species shall mean individuals including eggs, seeds, etc. which are to cause or likely to cause adverse ecological impacts because of their different properties from organisms having original habitats in Japan. Chapter II regulates handling of designated invasive alien specie. Chapter III deals with control of designated invasive alien species. Chapter IV is about unevaluated alien species. Chapter IV-II deals with inspection of imported goods.

ECOTOURISM PROMOTION ACT Act n°105 of 2007, 27. June 2007

http://extwprlegs1.fao.org/docs/pdf/jap153728.pdf

This Act promotes ecotourism *"comprehensively and effectively"* (Article 1) with consideration of conservation of natural environment, regional promotion of tourism and environmental education.

According to Article 2, the term "Ecotourism" "means the activities through which tourists receive guidance or advice from a person with knowledge on Natural Tourism Resources, come into contact with said Natural Tourism Resources, while giving consideration to the protection of said Natural Tourism Resources, and deepen their knowledge and understanding thereof". The Act provides that Municipalities can establish Ecotourism Promotion Councils to prepare overall concepts for promoting ecotourism as well as play a coordinator role among different related sectors. This council also has to disseminate the certified overall concept of ecotourism and support ecotourism businesses to improve promptly. The Municipalities also can designate Specified Natural Tourism Resources which are in danger, for special protection. Accordingly, the Act provides for specific regulations prohibiting certain activities in these areas. The Act also specifies the obligations of the competent ministers to announce the Council's activities, provide necessary technical advice, and collect and analyze relevant information. Public relations, financial matters and appropriate reaction to any violation to the mentioned-rules are included in the Act.

It does not mention coral or coral reefs directly, but seems to apply in coastal areas and is therefore very important for their protection.



Photo: ©DR

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3.2. Instruments dealing with fisheries and other forms of exploitation

FISHERIES ACT

Act n°267, December 15, 1949 http://extwprlegs1.fao.org/docs/pdf/jap1710.pdf

According to Article 1, the purpose of this Act is to ensure sustainable utilization of fishery resources and promote comprehensive utilization of waters by specifying measures for the **preservation and control of fishery resources** and establishing systems for permissions and licenses of fisheries and other basic systems for fishery production, and thereby to develop fishery productivity. A "fishery" refers in this Act to "the business of gathering, catching or culturing aquatic animals and plants", which is a broad definition. However, corals and coral reefs do not appear explicitly in the text.

Article 6 sets that "the national and prefectural governments have the responsibility to appropriately preserve and control fishery resources and to take necessary measures for preventing and resolving disputes concerning the use of fishing grounds".

Chapter II is dedicated to the preservation and control of fishery resources, based on the traditional quotas and total allowable catch as well as a system of licenses and permits.

Photo: ©DR



FISHERIES BASIC ACT

Act n°89, June 29, 2001 http://www.japaneselawtranslation.go.jp/law/detail_ main?id=115&re=02&vm=02

This Act aims at stabilizing the supply of quality of marine products, at reasonable prices, as a basis for a healthy and fulfilling life (Article 2). Following Article 3, the sound development of fisheries shall be promoted, "while maintaining sustainable utilization of fishery resources, by fostering efficient and stable fishery management for the fishery production, processing of marine products and distribution that meet the sophisticated and diversified demands of the citizens, keeping coordination among fishery, fishery processing industry and fishery products marketing, and developing fishing ports, fishing grounds and other infrastructure".

This Act **does not deals with bycatch or corals precisely**, but the objectives and measures of conservation of fisheries in general are a prerequisite for the conservation of coral reefs.

The responsibilities of the States, the Local Governments, the fisheries Household and of consumers are then pointed. The State is required to formulate and implement comprehensive measures with the purport of the basic principles of the policies for fisheries, and to enhance the citizen's better understanding of them (Article 4). As regards consumers, they are encouraged "to gain better understanding of fisheries to positively improve their consumption of marine products" (Article 8).

A "Basic Plan" is elaborated by the Government to settle the basic direction of the policies on fisheries, the target rate of marine-product self-sufficiency, and the measures that the Government shall implement comprehensively and systematically for fisheries, as well as other elements for the promotion of fisheries policies (Article 11). Articles 13 and 14 set the measures dealing with an appropriate conservation and management of fishery resources in and outside the EEZ, in conformity with the dispositions of UNCLOS. International cooperation as well as stable and efficient management and rational utilization of fishing grounds. Articles 35 and following establish a Fishery Policy Council.

3.3. Designation and management of marine protected areas

NATURAL PARKS ACT

Act n°161 of 1957, revised in 2021 https://www.env.go.jp/en/laws/nature/law_np.pdf

The objective of this Act is to protect "places of natural scenic beauty", and, through the promoted utilization, to "contribute to the conservation and sustainable use of biological diversity as well as to the health, recreation and culture of the people" (Article 1). Different categories of natural parks are defined: the National Parks, which are the places of greatest natural scenic beauty including of sea areas, "representing the model scenic beauties of our country"; Quasi-national Parks, which are places of great natural scenic beauty next to the Nations Parks; and, finally, Prefectural Natural Parks, which are the places of great natural scenic beauty designated by the prefectures and not by the Minister of the Environment (Article 2). The following articles provide for the designation and management of those parks.

Article 22 is specially dedicated to Marine Park Areas. Activities in those areas are submitted to an authorization from the Minister of the Environment or the Prefectural governor (except in case of emergency measures after a disaster, or activities that are necessary for fishery operations such as the setting up of fishing gear). The capturing, killing or wounding, gathering or damaging of corals thus need a special authorization, as well as the reclaiming of the surface of the sea, the changing of the feature of the seabed, the discharging of polluted or waste water or any other activity which may affect the scenic beauty of the Marine Park Areas and is prescribed by the Cabinet Order. "Regulated utilization areas" may be designated within the Marine Park Areas. In those areas, "no one shall enter" within a period designated by the Minister without an approval.

Article 33 provides for activities that need to be notified to the Minister of the Environment or the Prefectural Authority: causing increase or decrease of the waterlevels of the rivers, lakes, marshes, swamps and wetlands within the Special Zone, reclaiming the surface of the sea, mining minerals and changing the feature of the seabed in areas within one kilometer of the Marine Park Area.

According to Article 37, other activities are forbidden *"without due cause"*: dumping of wastes and letting remarkably offensive odors exhale, rending out or disturbing noises. Sanctions and punitions are provided by Articles 86 and following.

NATURE CONSERVATION ACT Act n°85 of 1972

https://www.env.go.jp/en/nature/npr/ncj/section4. html

This Act also provides for the **designation of wilderness areas and nature conservation areas** (Article 12), by the Prime Minister and the Government in general in coordination with the Nature Conservation Council (established by Article 13). Those areas are restricted and subjects to several prohibitions: construct, rebuild, etc. any structure, exploit minerals, fill in the water surface, capture animals... (Article 17 and 25). These restrictions are particularly important as regards the protection of corals and coral reefs.

Moreover, according to Article 27, the Minister of the Environment may designate **special marine areas within the zones of the nature conservation areas**, on the basis of their conservation plans. It is also **prohibited to capture tropical fish, coral, seaweed or other animals or plants.** Reports, inspection, sanctions are settled notably in Article 29, as well as a procedure of adjudication by pollution (Article 32) and compensation for loss (Article 33).

A part of Sakiyama Bay off Iriomote Island, Okinawa (totaling 128 ha), is an example of a Marine Special Area, designated for its diverse coral communities (Sakiyama Bay Natural Environment Conservation Area).

In addition, Article 35-2 stipulates "Offshore Seabed Nature Conservation Area." The Nature Conservation Act includes, moreover (amendment of 2019) a description of these "Offshore Seabed Nature Conservation Areas". These areas are designated by the Minister of the Environment to conserve areas where the natural environment is considered to be in excellent condition, mainly targeting the deep-sea floor with a depth of more than 200 meters. Among them, zones characterized by its uniqueness or rarity, vulnerability for disturbances, importance for endangered species, are specifically designated as "Offshore Seabed Special Zone." In these zones, activities that might disturb the deep-sea floor environment such as Mineral mining and bottom trawl fishing are regulated (notification or permission required) in order to conserve them.

4. GENERATION OF POLLUTION

WATER POLLUTION PREVENTION ACT

Act n°138 of 1970

http://extwprlegs1.fao.org/docs/pdf/jap2490.pdf

The Water pollution prevention Act is dedicated to the water prevention from land-based source. Article 1 sets the purpose of the Act, which is to prevent the water (including deterioration of the condition of water in ways other than of its quality), "in Areas of Public Waters and in groundwater by regulating Effluent discharged by factories and workplaces into Areas of Public Waters and the permeation of Effluent underground, and promoting Domestic Wastewater measures and other related measures, thereby protecting public health and preserving living conditions, and protecting injured parties by providing the liability of businesses for compensating for loss or damage where public health is negatively affected by polluted water or wastewater discharged from factories and workplaces run by those businesses".

The term *«Areas of Public Waters»* in this Act means areas of waters for public use such as rivers, lakes, ports and harbors, **coastal seas**, etc. (Article 2).

It deals with the maximum permissible level for each harmful substances or other polluting items.

The installation of specified facilities by factories that discharge water is regulated. Moreover, "Businesses must, in addition to measures as to regulations for discharging Effluent, etc. prescribed in this Chapter, ascertain the state of the discharging of polluted water or wastewater accompanied by such business activities into Areas of Public Waters or permeation of water underground, and take necessary measures in order to prevent water pollution in Areas of Public Waters or in groundwater by the polluted water or wastewater" (Article 14-4)

AIR POLLUTION CONTROL ACT

Act n°97 of June 10, 1968 http://www.japaneselawtranslation.go.jp/law/ detail/?id=2146

The Air Pollution Control Act deals with the **regulation** of air pollutants, in order to protect the health of citizens and the living environment. It provides for the regulation of soot and smoke emissions, volatile organic compound emissions, particulates associated with the business activities of factories and workplaces and with the demolition, remodeling, and renovation of buildings etc. It promotes measures against hazardous air pollutants and sets maximum permissible limits for automobile exhaust and for air pollution levels. The liability for damages of the business operators is also provided.

BASIC ACT ON OCEAN POLICY

Act n°33, 27 April 2007

http://extwprlegs1.fao.org/docs/pdf/jap75593.pdf

According to Article 1, "The purpose of this Act is, with regard to the oceans, to stipulate the basic principles, to clarify the responsibilities of the State, the local governments, business operators and the citizens as well as to formulate the basic plan with regard to the oceans". It aims moreover at preserving marine biological diversity and conserving the marine environment by prescribing measures for the positive development and use of the oceans and their resources. It could be placed either in this part dealing with marine pollution or in the part consecrated to the protection of the marine biodiversity. Following Article 2 (Harmonization of the Development and Use of the Oceans with the Conservation of Marine Environment) and Article 3 (Securing the Safety and Security on the Oceans), safety and security at sea must be promoted.



The Government shall formulate a **Basic Plan on Ocean Policy** as provided for in the text and shall take necessary measures for the conservation of the oceans including: **conservation and management of aquatic living resources**; increase of the fishing ground productivity; promotion of the development and use of mineral resources, etc.; promotion of research and development of ocean science and technology; and protection of coastal sea areas and land areas from disasters such as tsunamis, storm surges, etc. The Act further provides for the establishment of the Headquarters for Ocean Policy in the Cabinet, for its composition and for its duties. It is in line with the concept of *"blue economy"*, which consists on promoting the sustainable development of activities at sea.

More specifically, Article 18 provides that "The State shall take necessary measures to conserve the marine environment including securing the biodiversity in the oceans with conservation and improvement of the habitat, reduction of the pollution load caused by water flow into the oceans, prevention of the discharge of waste materials to the oceans, prompt prevention of the oil spill caused by accidents of the vessels and others, conservation of the seascape and others, in consideration of the fact that the oceans make a great impact on the conservation of the global environment such as the prevention of global warming and others".

Article 20 is dedicated to maritime transport and Article 25 to the integrated management of the coastal zone.

ACT ON PROMOTION OF RESOURCE CIRCULATION FOR PLASTICS Act n°11 June 2021

This Act addresses the entire lifecycle of plastics, from the production to the disposal. It involves all stakeholders and promotes the "3R" principles: reduce, reuse and recycle and **promotes a circular economy.** It contains reduction of single-use plastics by retailers and service providers, as well as separation, collection and recycling of plastic waste by municipalities and private sectors and, design for the environment by manufacturers, with mechanisms for the certification of products. Marine plastic pollution being an important threat to coral reefs, this very recent Act is particularly relevant as regards the protection of corals.

This Act is however not yet into force: it is expected to take effect in April 2022.

5. EXTRACTION OF NON-LIVING RESOURCES

MINING ACT

Act n°289 of December 20, 1950 http://extwprlegs1.fao.org/docs/pdf/jap40744.pdf

"The purpose of this Act is to provide for the basic system of mining to contribute improvement of public welfare by **developing mineral resources in a reasonable manner**" (Article 1).

This Act provides for the basic rules for mining in Japan. The Act consists of 9 Chapters divided into 194 articles: General Provisions (I); Mining Right (II); Mining Lease Right (III); Recommendation and Consultation (IV); Use and Expropriation of Land (V); Compensation for Mining Pollution (VI); Local Mining Council (VI-ii); Appeal (VII); Auxiliary Provisions (VIII); Penal Provisions (IX). The Act sets out procedures and requirements to apply for mining rights and mining lease rights. Mining rights entitle to mine registered minerals in registered mining areas. Compensation for damage or pollution to land shall be paid by holders of mining rights to landowners in the mining area concerned.

The Act provides for the establishment of the **Local Mining Council** in the Regional Bureau of Economy, Trade and Industry and defines its organization.

OTHER INITIATIVES AND GOOD PRACTICES FOR THE PROTECTION OF CORALS

In March 2002, the Japanese government formulated the '**New National Biodiversity Strategy**', with the aim of achieving a society that can coexist with nature.

This strategy presents a future of Japan as "across the coral reefs of the southern islands, myriad brightly colored fish will form schools, while herds of dugong will passthrough lush seagrass". In the Strategy, the government proclaim of implementation nature restoration projects to rehabilitate degraded environment, while strengthening conservation efforts to preserve healthy environment.

The National Biodiversity Strategy of Japan was revised for the period 2012-2020 and is entitled: "Roadmap towards the establishment of an enriching society in harmony with nature".

It constitutes the basic plan for the conservation of biodiversity and the sustainable use of its components. It was formulated by the government based on the stipulations in article 11 of the Basic Act on Biodiversity. After setting with great details including the legal **status for the conservation of biodiversity in Japan**, it highlights the **main challenges** toward the conservation of biodiversity and the sustainable use of its components, in the context of the decreasing population and lack of scientific knowledge. Finally, it sets the targets for the future conservation of biodiversity, in conformity with the **Aichi Targets**.

The **conservation and restoration of coral reefs** is part of the measures and policies decided for national land, with the development of indicators in order to understand changes in coral reefs ecosystems and in a socio-economic aspect. Restoration projects are also mentioned. More generally, the comprehensive conservation of biodiversity in coastal and oceanic areas, the promotion of conservation in the fishery infrastructures and the control measures for marine pollution. A cross-sectoral approach is promoted, and all the aspects of biodiversity management and conservation are included, as regards national but also international legal framework. All the aspects of biodiversity conservation are concerned by this Strategy.

The first Action Plan to Conserve Coral Reef Ecosystem in Japan was established in April 2010 by the Ministry of the Environment. The revised plan, namely the Action Plan to Conserve Coral Reef Ecosystem in Japan 2016-2020, was formulated in 2016 based on the experience of the implementation of the former one.

The revised plan aims to translate into reality and the achievements of the goals stated in the National Biodiversity Strategy of Japan 2012 - 2020 and the Basic Plan on Ocean Policy, and lays out major actions that are to be implemented within 5 years, with the participation of various organizations. The plan intends to facilitate conservation of the coral reefs ecosystem efficiently and smoothly by identifying the problems to be mainly addressed and taking measures in a focused manner to solve them on the basis of the current status of coral reefs and the social situation surrounding thereof. The plan identifies three priority issues: «Action to Promote Measures against Runoff of Red Soil sediments and Nutrient Salts from the Land.» «Action to Promote Sustainable Tourism in Coral Reef Ecosystems,» and «Action to Establish Relationship between Community Life and Coral Reef Ecosystems».

As regards **climate change**, 479 local governments including Tokyo, Kyoto, and Yokohama announced their commitment to net zero carbon emissions by 2050.

These local governments represent 112 million people (88.2% of Japan's population). The Japanese government is also promoting financial mechanism and technology mechanism under UNFCCC, through the Climate Technology Centre and Network which delivers technical support on climate technologies.

The Global Coral Reef Monitoring Network (GCRMN) published the Status of Coral Reefs in the East Asian Seas Region, 2018, in cooperation with the Ministry of the Environment and the Japan Wildlife Research Center.

This report, coordinated by the International Coral Reefs Initiative, contains special issues on the mass coral bleaching event that occurred from 2014 to 2017 in the East Asian seas region, country by country.

Other information on coral reefs in Japan, as the distribution of coral reefs, the main disturbances (coral bleaching, predation damage, coral diseases or terrestrial inflow and soil nutrient), and their status, monitoring and conservation strategy as well as restoration techniques are available online: http://www.env.go.jp/nature/biodic/coralreefs/reference/contents. html

Local protection: the case of Okinawa prefecture

The local prefectures take more precise and restrictive measures than the measures adopted at the national level and are in charge of an important part of the work on protection.

In 2010, after the significant event of coral bleaching, the Okinawa prefectural government issued a "21st century vision for Okinawa" that aimed to develop a new framework for its conservation and restoration while recognizing economic and public values of coral reefs and natural coastlines. The Okinawa prefectural government conducted a project for the technical development and research on coral reef restoration, and other projects dealing with public awareness and education. NGOs are also participating to the restoration effort.



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