



Environmental Compliance Assurance: Trends and Good Practices
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**Building a Cooperative Relationship
Between Industry and Regulatory
Authorities**

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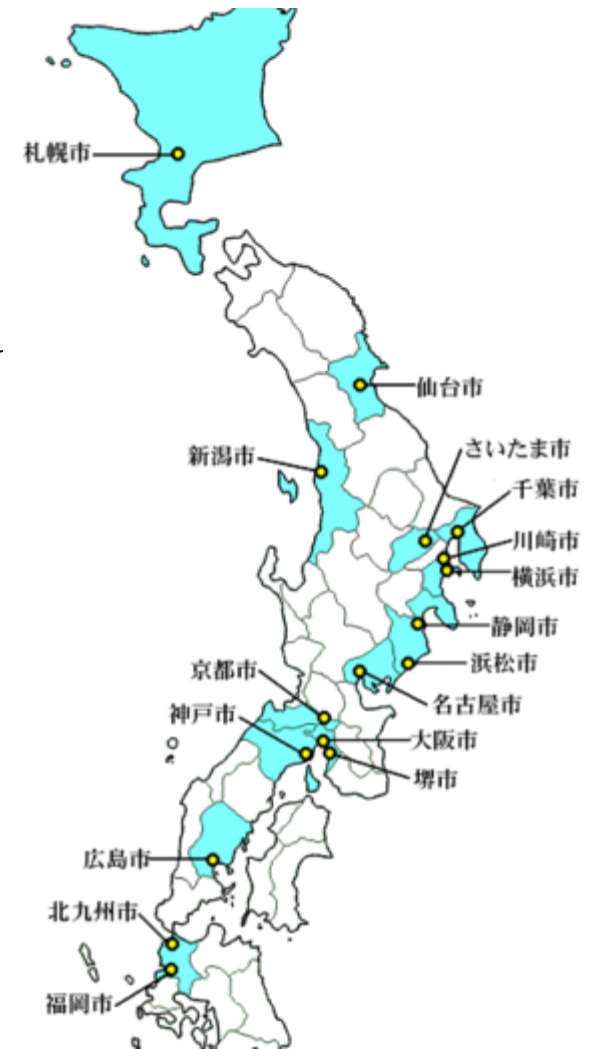
Introduction

Japan

47 prefectures

15 designated cities (>500 thousand people)

1822 cities and municipalities





Japanese Environmental Laws

Legislative Framework

National Framework Law

- Pollution Control Law (1967, amended in 1971)
- → Basic Environmental Law (1994)

National Specific Laws

- Air Pollution Control Law
- Water Pollution Control Law
- Health Damage Compensation Law
- ...

Local Ordinances

- Prefectures and municipalities can set more stringent standards than national laws

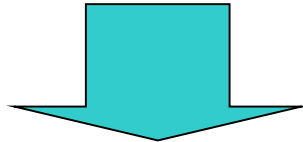
Standards

- Ambient Air/Water Standards – objectives
- Emission/Effluent Standards – “obligatory” standards



Cooperative Relationship Between Industry and Regulatory Authorities

- ✿ Historical background
- ✿ Social and cultural background
- ✿ Environmental background



- ✿ Special relationship between industry and government
 - Government-guided industrial policy
 - Government assistance to industries
 - Use of voluntary approaches – LPCAs (Local Pollution Control Agreements) and VAPs (Voluntary Action Plans)



Historical Background

- ❧ Strong government policy was desired – a feature common to many other Asian countries (China, Korea, Thailand, Singapore, etc.)
 - ❧ Late comer in the race of industrialization, need to catch up with the West
 - ❧ Economic restoration after the end of World War II
- ❧ Protective and interventional industrial policies in the 1960s and 1970s – criticized as unfair treatment
- ❧ Change to more market-based approach in economic and environmental policies since the 1990s



Social and Cultural Background

❧ Legacy of the feudal political regime. Educated “samurai” class ruled the country.

➔ Government elites should rule the country.

(The preponderance of official power, putting the government above the people.)

❧ Social capital – relatively clean government, mutual trust, social homogeneity, etc. ➔ respect for and confidence in the government

❧ Today, however, people’s view about the role of government is changing.



Environmental Background

1960s-1970s

- ♣ “Pollution Archipelago”
- ♣ Serious air and water pollution, a large number of pollution-related health victims
- ♣ Stringent regulation & cooperative government-industry relationship were developed to control polluting industrial activities
- ♣ The use of PCAs (Pollution Control Agreements) in localities

1980s

- ♣ Period of transition, emergence of global issues.

1990-2000s

- ♣ Climate change issues, cyclical economy, biodiversity, etc.
- ♣ More cooperative and participatory approaches of government, industry and citizens
- ♣ Voluntary action plans of Keidanren (Japan Business Federation)
- ♣ Environmental management plans, ISO 14000, eco-action plans of SMEs



The Use of Local Pollution Control Agreements



Industry-Government Relationship: Local context

- Mix of centralized and decentralized approaches
 - Enforcement of environmental laws, including monitoring and inspection, is largely delegated to prefectures and municipalities
- Prefectures were the pioneers in environmental regulation:
 - Enactment of local ordinances prior to national legislation
 - Criticism against the health hazards incurred by development projects they invited
 - Role to protect public health of local residents
 - Environment was put on the top of local political agenda
- Local governments played a role of a regulator and a mediator (or a coordinator) of developing good relationship of industries and residents
- **Development of negotiated agreements – Pollution Control Agreements since 1960s**



Cooperative Enforcement Using Administrative Guidance

- ❧ “Embedded Broker-State” (Jeffrey Broadbent): Japanese industrial policy in the catching-up period (until 1970s)
- ❧ Cooperative enforcement based on networking and close information exchange between government and industries lowered the cost of compliance
- ❧ Prerequisite: Clean government (free from corruption and bribes)
- ❧ Networking of companies (“Kyogikai”) also facilitated the dissemination of information



Cooperative Enforcement at Local Level

- ✿ *Networking and information exchange between local regulatory authorities and companies ensured compliance*
 - Enforcement of regulation and standards
 - Prior consultation before new installation or modification of facilities
 - Administrative guidance (improvement order and penalties) based on on-site inspection and monitoring
 - The use of negotiated agreements (PCAs) lowered the transaction cost.

- ✿ *Financial measures by Government facilitated compliance*
 - Financial assistance to SMEs for technical measures
 - Tax reduction for pollution control investment
 - Need of public investment (in urban sewerage systems)



Pollution Control Agreements (PCAs)

- ✿ Industries: faced with resistance of local residents who feared about environmental risks
 - Difficulties to continue operation of existing facilities
 - Difficulties to find new industrial sites

- ✿ Local governments and residents: industries were necessary for local economy

- ✿ Conclusion of Pollution Control Agreements (PCAs). Signed by local governments (mayors) and firms (+citizens groups as witnesses).



Features of PCAs

- ✦ Gentlemen's agreements: Contracts based on civil law, but having no special relevance to environmental laws
- ✦ More stringent compliance is required to companies in terms of emission/effluent levels and items
- ✦ Companies are required to do periodic reporting, receive inspections, etc.
- ✦ Companies can enjoy some benefits (reduction of transaction cost and "time cost") in getting licensing and permission by government, and obtaining consent of local residents who do not want to have factories in their neighborhood.
- ✦ New items which are not dealt with in laws are sometimes included. Some PCAs played a precursor role before national laws were made -- e.g. regulation of specific chemicals in ground water



Success Factors of PCAs

- ✿ Mutual trust – Japanese social capital, role of local governments as a mediator or a coordinator

- ✿ More than 40,000 agreements were concluded during 1960-2000

- ✿ Very few cases of violation of agreements
 - Sense of social responsibility of firms – to keep a good relationship with residents was a key for business sustainability
 - Inspection, monitoring and guidance by local governments



***Voluntary Action Plans of
Industries in Climate Change
Policies in 2000s***



Role of Industry in Environmental Management in Japan

- ✿ 1960s-70s: Generally reluctant attitudes against the enforcement of environmental regulation
- ✿ 1990s: Drastic change in industry's attitudes
 - Responsibilities as the world's leading companies
 - Concerted action in international business community
 - Increasing environmental awareness of consumers not only in Japan but also in the US, Europe and others
 - Growing environmental concerns in developing countries, demanding Japanese enterprises investing overseas to take environmentally sound operation
- ✿ Keidanren (Business Federation) issued a series of guidelines of environmentally sound code of conduct for enterprises.
- ✿ Environmental actions by broader sectors of business including wholesale and retail, bank, insurance, trade, etc.



Role of Industrial Associations

- Decision making of industry
 - individual enterprise level
 - industrial group level
 - all industries level – Keidanren
- Keidanren: Federation of Industrial Organizations
 - Japan Iron and Steel Federation
 - Japan Chemical Industry Association
 - Federation of Electric Power Companies
 - Japan Automobile Manufacturers Association
 - ...
- Voluntary Action Plan of Keidanren, 1997: compilation of industry-wise action plans of 37 industrial associations on
 - global warming
 - waste disposal
 - environmental management system (ISO 14000)
 - overseas business activities, etc.



The Keidanren Voluntary Action Plan on the Environment

- Unilateral commitment (*Agreement with the society*)
- Special role in Japan's national GHG emission reduction policy in the 2000s
 - VAPs are Integrated in the Japanese Government's Basic Principles for the Promotion of Measures Dealing with Global Warming
 - Receive yearly review of the plan by the Government's Industrial Structure Council
- How to ensure transparency and credibility
- Evaluation



VAPs and Emission Trading

- Industries love VAPs, but

 - No legitimate rule for setting reduction targets
 - Voluntarism = lack of strong incentives for reduction
 - Industry-wise target allows free riding of weak companies
 - no reward to companies that make effort, no punishment to companies that do not take actions

- VAPs and ET (Cap & Trade, Domestic Emission Trading System under discussion)
 - Basis for “grandfathering” – initial allocation of emission quota to each industry
 - Basis of “benchmarking” – emission per unit product, emission per unit production capacity



Summary

- Japanese practices (*cooperative relationship between industry and regulatory authorities*) in its rapid industrialization period may have some relevance to rapidly industrializing countries today

- Lessons from Japanese Experience in Voluntary Approaches
 - Pollution Control Agreements
 - Voluntary Action Plans of Keidanren – may provide a basis for shifting to Cap & Trade system
 - Rich experience in Environmental Management System according to ISO 14000 series



FIN

Thank you!