

# Progress in Integrated Ocean Management and Outlook for Marine Spatial Planning in Japan

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## 1. Introduction

In the 20th century, debate on integrated ocean management advanced within the international community. The United Nations Convention on the Law of the Sea (UNCLOS) was resultantly adopted as a pillar of legal order. Additionally, a comprehensive plan of action for sustainable development, which began with Agenda 21 of the 1992 Rio de Janeiro Earth Summit, was adopted as a policy pillar.

The UNCLOS, which was adopted in 1982 and entered into force in 1994, seeks to limit the traditional “freedom of the seas” and strengthen ocean management. Furthermore, in addition to provisions on territorial seas and continental shelves, it also set out provisions on exclusive economic zones (EEZs). According to Article 56 of the UNCLOS, in an EEZ, the coastal state has: (1) sovereign rights for the purpose of exploring and exploiting, conserving, and managing the natural resources of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone; (2) jurisdiction with regard to the establishment and use of artificial islands, and so forth, marine scientific research, and the protection and preservation of the marine environment; and (3) other rights and duties provided for in the Convention. With regard to the seabed and subsoil in an EEZ, provisions on continental shelves are applicable, and the coastal state is accorded sovereign rights to engage in exploration and exploitation. Further, Part XII of the UNCLOS sets out provisions on general obligations with regard to the protection and preservation of the marine environment.

Agenda 21 was adopted at the 1992 United Nations Conference on Environment and Development (also known as the Rio de Janeiro Earth Summit). In Chapter 17, which presents a policy framework for integrated ocean management and sustainable development, it established that “Coastal States commit themselves to integrated management and sustainable development of coastal areas and the marine environment under their national jurisdiction,” and to that end, requires them to “provide for an integrated policy and decision-making process, including all involved sectors.”

Against the backdrop of the discussions surrounding integrated ocean management within the international community in the 1990s, this paper will outline the progress made in Japanese debates on the matter, particularly focusing on the nation’s legal system.

Simultaneously, it presents a future outlook for Japan while focusing on marine spatial planning as pathways for realizing integrated ocean management.

## 2. Flow of integrated ocean management in Japan

### (1) Events leading to the development of the Basic Act on Ocean Policy

Japan ratified the UNCLOS in 1996 and became the maritime nation with the sixth largest ocean area (territorial sea and EEZ) in the world. However, unlike Europe, the United States, and other countries that established integrated initiatives for the appropriate development, use, and conservation of the ocean based on the newly established international order of the oceans, Japan had not implemented adequate measures for more than 10 years after the ratification. It is also believed that this was because the need for cross-cutting integrated measures was insufficiently recognized due to the prior establishment of vertically divided initiatives, such as maritime transportation and fishery. Similarly, with regard to the legal system, the Act on Exclusive Economic Zone and Continental Shelf was enacted alongside the enforcement of the UNCLOS in 1996, thereby defining the scope of the EEZ and continental shelf in Japan and stipulating that Japanese laws shall be applied with regard to the exercise of sovereign rights and jurisdiction rights. However, as these laws were basically established to be applied to the land and territorial seas, they were inapplicable to the EEZ and continental shelf in reality. Furthermore, there was a need to take a comprehensive and integral approach that transcended functional jurisdiction rights based on individual laws.<sup>1</sup>

In light of this, Japan finally updated its maritime policy in the 2000s. One of the key factors prompting this move was the increased interest in maritime security,<sup>2</sup> with growing attention on the emergence of issues such as the presence of Chinese oceanographic research vessels in the East China Sea around 2000. Another key factor was the Nippon Foundation and Ocean Policy Research Foundation (OPRF, now the Ocean Policy Research Institute of the Sasakawa Peace Foundation). In view of the need to approach maritime issues in an integrated and systematic manner, the OPRF compiled the *Recommendations for Ocean Policy in the 21st Century* and launched the Study Group on the Basic Act on Ocean Policy--a multi-partisan team of Diet members and experts--in order to conduct research on a comprehensive ocean policy. As a result of the discussions held by this group, the Basic Act on Ocean Policy was enacted in April 2007 as a non-partisan legislation.

Figure 1 illustrates the initial ocean policy promotion structure in Japan in response to the enactment of the Basic Act on Ocean Policy. The Headquarters for Ocean Policy, which is headed by the Prime Minister, was established under the auspices of the Cabinet. Additionally,

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<sup>1</sup> For example, the recommendations by Keidanren in 2000 titled "A Grand Design for the Oceans in the 21st Century."

<sup>2</sup> Takemi (2017), "Review: 10 Years Since the Establishment of the Basic Act on Ocean Policy," *Ocean Newsletter* No. 407.

the Administrative Office of the Headquarters for Ocean Policy was set up under the Cabinet Secretariat. Since then, the Administrative Office has played a major role in promoting ocean policy measures under the Headquarters' leadership.<sup>3</sup> An Advisory Council of less than 10 experts (councilors) appointed by the Prime Minister was also established. The Advisory Council deliberates on important matters related to ocean policy and states its opinions. Under this system, the first Basic Plan on Ocean Policy was formulated in March 2008. The second and third Basic Plan on Ocean Policy were formulated in April 2013 and May 2018, respectively. Here, one of the characteristics of Japan's ocean policy is the establishment of the Advisory Council against the backdrop of the significant contributions that experts had made during meetings of the Study Group on the Basic Act on Ocean Policy.

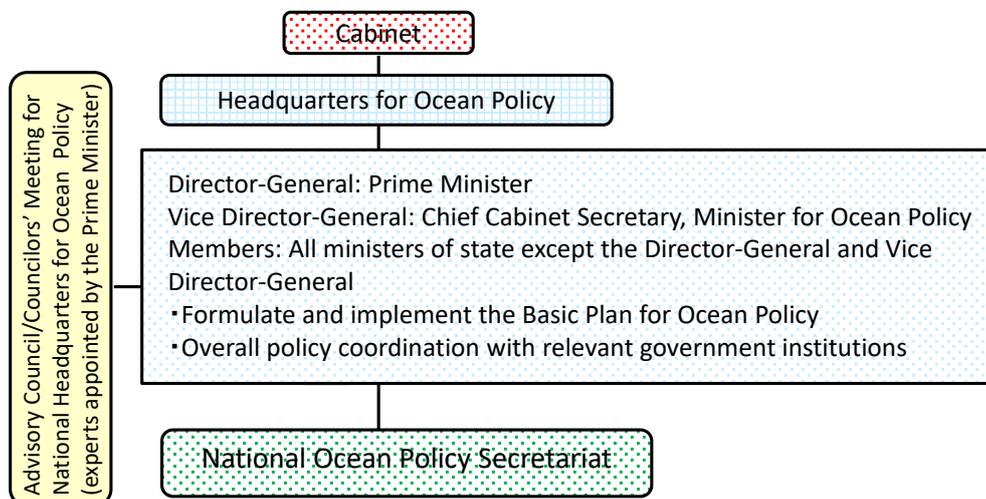


Figure 1 Structure for the promotion of ocean policy in Japan in response to the enactment of the Basic Act on Ocean Policy (Source: Materials from the Headquarters for Ocean Policy)

## (2) Integrated ocean management based on the first Basic Plan on Ocean Policy

Amidst the aforementioned flow of events in the development of Japan's ocean policy, integrated ocean management was defined as the integrated management of EEZs, continental shelves, and coastal regions.

With regard to the integrated management of the EEZ and continental shelf, Article 19 of the Basic Act on Ocean Policy prescribes that the state, "in consideration of the fact that it is important to strengthen the efforts with regard to the development, use and conservation of the Exclusive Economic Zone and other areas," must take the necessary measures "in order to promote the Development and others of the Exclusive Economic Zone and other areas [...] according to the characteristics of its ocean areas." However, the first Basic Plan on Ocean

<sup>3</sup> On April 1, 2017, the Administrative Office was renamed the National Ocean Policy Secretariat and placed directly under the Cabinet Office. With this development, a permanent Secretariat was established as a statutory office.

Policy, which was approved by the Cabinet in March 2008, did not present a comprehensive and integral approach that transcended functional jurisdiction rights based on individual laws. In light of this, the Study Group for Follow-up of the Basic Act on Ocean Policy drew up recommendations to facilitate the realization of a new maritime nation<sup>4</sup> in June 2010. They proposed the need for the formulation of a master vision on the development, use, conservation, and management of the EEZ and continental shelf in order for Japan to continue developing sustainably in the 21st century. Furthermore, the OPRF presented the *Policy Proposals on the Integrated Development, Use and Conservation of the Exclusive Economic Zone (EEZ) and Continental Shelf* in May 2011, which set out a concrete draft outline for the law. This and other such developments serve as examples of the intensifying debates concerning the management of coastal regions and the EEZ in the process of formulating the second Basic Plan on Ocean Policy.

In addition, the OPRF also advanced reviews on the development of the legal system and proposed a draft outline for the Law on the Integrated Development, Use and Conservation of the Exclusive Economic Zone (EEZ) and Continental Shelf. The general framework for this draft outline is as follows:

1) Purpose and Basic Principle

2) Basic Policy

The government shall formulate the basic policy concerning the integrated development, use, conservation, etc. of the EEZ and continental shelf.

3) Obligations of the State

In principle, work related to the integrated development, use, conservation, etc. of the EEZ and continental shelf shall be carried out by the state.

4) Compilation of plans.

The competent minister compiles plans for ocean areas to classify them in accordance with their natural characteristics and to promote the integrated development, use, conservation, etc. of such areas. Plans for ocean areas set out the policies and goals, classifications, and the main measures for each area. It is possible to define specific ocean areas for the purpose of environmental conservation.

5) Establishment of planning councils.

Planning councils for ocean areas shall be established for each category to involve various stakeholders.

6) Regulations on the installation of offshore structures.

7) Regulations on scientific research related to the EEZ and continental shelf.

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<sup>4</sup>The Study Group for Follow-up of the Basic Act on Ocean Policy is the predecessor of the Study Group on Strategy for the Basic Act on Ocean Policy. It is a multi-partisan group comprising Diet members and experts. In addition to formulating the master vision regarding the EEZ and continental shelf, in June 2010, it made the recommendations that EEZs and continental shelves should be classified in accordance with the characteristics of the ocean areas and that the formulation of a comprehensive plan on the development, use, conservation, management, etc. of the respective ocean areas should be undertaken.

The draft outline covers two key points: the compilation of plans and the establishment of councils. Similar to marine spatial planning, its aim was to realize the systematic management of ocean areas based on the building of consensus with stakeholders. Here, I wish to add that during the preparation of the recommendations, there was much discussion on whether or not to change the underlined section “specific ocean areas for the purpose of environmental conservation” to “specific ocean areas for the purpose of development and use.” Ultimately, marking specific ocean areas for the purpose of environmental conservation inadvertently designates the remaining areas as those that can be utilized and developed, while the reverse is also true. In other words, the question of whether to include environmental conservation or development and use in the draft outline arose precisely because they are two sides of the same coin in terms of regulations.

### (3) Advancement and limitations of discussions based on the second Basic Plan on Ocean Policy

Through such intensive discussions, concrete matters related to integrated ocean management were eventually incorporated into the second Basic Plan on Ocean Policy, which was approved by the Cabinet in April 2013. In the basic policy (Chapter 1), the “Comprehensive management of ocean areas and formulation of plans” was included as one of the “Measures to be Intensively Promoted Under the Plan.” Under this item, it states that “With regard to the EEZ and continental shelf, promotion of their development and use is expected to promote and create marine industries. Measures should therefore be promoted to ensure appropriate management of ocean areas, including coordination of use of such areas.” Chapter 3 clearly stated that the “Headquarters for Ocean Policy under the Cabinet should examine the establishment of comprehensive laws and regulations for the management of the EEZ and the continental shelf.” In response to this, a project team positioned under the Advisory Council of the Headquarters for Ocean Policy commenced preparatory work for new legislation on the management of the EEZ and the continental shelf. A Study Team on EEZ and Other Ocean Management—comprised by the Minister of State for Ocean Policy and other relevant state ministers—was also established. However, no progress was made in reviews under the Advisory Council or other departments, and the government failed to come up with a proposal for the development of a comprehensive legal system.<sup>5</sup>

Consequently, this gave rise to a movement that aimed to enact laws through legislation by Diet members. The movement’s ultimate goal was the establishment of a concrete legal system. In August 2015, the Liberal Democratic Party (LDP) formed the Working Group to Establish Legislative Systems for Ocean Management under the auspices of the LDP’s Special Committee on Space and Ocean Development. Seeking to facilitate the establishment of domestic laws and regulations on the management of the EEZ, which are necessary for the implementation of the UNCLOS in Japan, this group designated the securing of sovereign

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<sup>5</sup> Hiroshi Komiyama (2017), “Review of Japan’s New Ocean Policy,” *White Paper on the Oceans and Ocean Policy in Japan 2017*

rights and the promotion of utilization of the EEZ and continental shelf as the two main topics for discussion on the agenda.<sup>6</sup> As a result, progress toward the establishment of new legislation was achieved, as evidenced by the discussions held in April 2016 on the draft outline for a law on securing the national interests of Japan in relation to the EEZ and continental shelf. However, these did not result in the establishment of a legal system, despite the reviews that were carried out by the ruling parties. Strong incentives are called for in order to enact laws amidst uncertain elements, such as the schedule of Diet sessions. However, it is possible that there had not been a sufficiently high demand or need for a comprehensive legal system for the development, use, and conservation of the EEZ and continental shelf.

The integrated management of coastal regions was also positioned as a basic measure under the Basic Act on Ocean Policy, which states that “The state shall take necessary measures for the coastal areas and land areas, where recognized suitable for the measures to be implemented in a unified manner upon the natural and social conditions, to be managed properly, by the regulatory and other measures to the activities implemented in the integrated manner” (Article 25). Adequate steps were also not taken to bring about the actualization of integrated measures,<sup>7</sup> despite the second Basic Plan on Ocean Policy containing provisions that sought to “promote [the] integrated management of land areas and sea areas, while remaining mindful that areas are used in accordance with their individual characteristics.”

### 3. Ocean area management in Japan

Thus far, I have explained that the management of Japan’s oceanic regions has been carried out based on individual laws, and have shown that there had been strong momentum toward the establishment of a comprehensive legal system, as evidenced by the events that occurred between the enactment of the Basic Act on Ocean Policy and the second Basic Plan on Ocean Policy. In this section, I will present an overview of ocean area management in Japan from the perspective of the legal system.

#### (1) Situation with regard to coastal regions

As explained earlier, in cases where the ocean is to be utilized in a new way, it was necessary to complete the necessary procedures separately in accordance with the respective laws and regulations. It is a well-known fact that fishery rights have been assigned to many

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<sup>6</sup> From the lecture materials of Ichita Yamamoto, Diet member and member of the Advisory Council, from the Marine Technology Forum Symposium (December 2015). According to the lecture materials, the following two points are presented as the basis for the need for legislation on EEZ: 1. Although events that could damage Japan’s interests are occurring within the EEZ, there are no legal frameworks to counter them (security); 2. Without creating systems for the use (management) of ocean areas corresponding to the emergence of new ocean users, it would not be possible to establish a win-win relationship between stakeholders (revitalization of the maritime industry).

<sup>7</sup> Fujishige (2017), “Development of Integrated Coastal Management (ICM), (3) Initiatives by the Government,” *White Paper on the Oceans and Ocean Policy in Japan 2017*.

ocean areas along the Japanese coastline. In addition, areas have been designated based on the legal system, as shown in the following examples. Additionally, there is a need to complete separate procedures to obtain occupation permission.

- ✓ Port and Harbor Act: Port areas
- ✓ Fishing Port Act: Fishing port areas
- ✓ Natural Parks Act: Marine special zones
- ✓ Environment Protection Act: Environment Protection areas
- ✓ Protection and Control of Wild Birds and Mammals and Hunting Management Law: Wildlife protection areas
- ✓ Quarrying Act: Rock quarrying areas
- ✓ Gravel Gathering Act: Gravel quarrying areas
- ✓ Telecommunications Business Act: Area subject to application for estimated lines
- ✓ Maritime Traffic Safety Act: Sea routes
- ✓ Coast Act: Coastal preservation areas

## (2) Past cases

In reality, when the Headquarters for Ocean Policy of the Cabinet Secretariat issued an open call for demonstration fields on renewable ocean energy in 2013, it established 30 items pertaining to administrative procedures requiring prior confirmation and 15 items pertaining to other regulations and matters that should be taken into consideration, as shown in Table 2.<sup>8</sup> Simultaneous to the diversified utilization of ocean areas, it can be observed that users of ocean areas are not only required to obtain permission to occupy the area, but also must comply with a wide range of procedures and considerations related to environmental conservation in coastal regions with seagrass beds, tidal flats, and coral reefs, which are inhabited by diverse living organisms.

The provision of permission to new users is essentially assessed in accordance with the provisions of the respective individual laws. However, there are cases in which certain considerations have been prescribed beforehand for existing users. For example, Article 22 of the Natural Parks Act, which prescribes matters pertaining to permission for acts carried out in marine special zones, states that “this does not apply to [...] acts that are necessary for fishery operations such as setting up fishing gear.” Moreover, under its provisions pertaining to changes in port plans, the Port and Harbor Act also prescribes that the opinions of stakeholders (local port and harbor council, transport policy council, etc.) should be adequately reflected. Furthermore, the Act on the Promotion of Nature Restoration, which is

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<sup>8</sup> [https://www8.cao.go.jp/ocean/policies/energy/pdf/h24/h24\\_besshi.pdf](https://www8.cao.go.jp/ocean/policies/energy/pdf/h24/h24_besshi.pdf). Here, I would like to add that carrying out procedures properly and precisely based on these individual laws, etc. enables the utilization of ocean areas. For example, in ocean areas off the coast of Karatsu, Saga Prefecture, which has been selected as a demonstration field, permission was granted to install floating power generation devices (although they were ultimately not installed due to accidents that occurred during installation). In Saga Prefecture, the Saga Prefecture Demonstration Field, operated by an NPO established by the local fishery cooperative and experts, has formulated a guideline that will serve as reference ( <http://matsra.jp/>) .

a relatively new law, stipulates the establishment of a council (Nature Restoration Council) and provides assurance for a framework that enables consultation with diverse stakeholders.<sup>9</sup>

Table 2 Various regulations, administrative procedures, etc. related to the criteria for the selection of demonstration fields (extract)

Administrative procedures requiring prior confirmation (extract)	Permission for the installation and management of navigational aids based on the Navigational Aids Act
Permission for works in areas that contain protected water surfaces	Permission for hydrographic surveys conducted by parties other than the Japan Coast Guard
Notification of acts such as changes to seabed characteristics in coastal areas for the development of fishery resources	Permission based on the Protection and Control of Wild Birds and Mammals and Hunting Management Law
Permission for the construction of structures in fishing port areas, etc.	Prior permission/notification based on the Environment Protection Act
Permission for seabed excavation in low-tide line preservation areas	Prior permission based on the Natural Parks Act
Permission for the occupation of coastal preservation areas	Other regulations and matters that should be taken into consideration (extract)
Permission for the occupation of general public coastal areas	Restrictions on lighting, etc. based on the Navigational Aids Act
Permission for occupation based on the Port and Harbor Act	Ministry of the Environment’s Red Lists
Permission for occupation based on the Coast Act	Guidance for optimizing the installation of wind power generation facilities with consideration for wildlife
Notification of the installation of marine facilities based on the Act on Prevention of Marine Pollution and Maritime Disaster	Gaining an understanding of fishery operators, other ocean area users, stakeholders in the local community, etc.
Permission for works and operations in sea routes and their surrounding waters based on the Maritime Traffic Safety Act	Consideration for the conservation of important wetlands
Permission for works and operations based on the Act on Port Regulations	Consideration for nature restoration projects

## (2) Situation with regard to the EEZ and continental shelf.

Thus far, I have provided an overview of the utilization of ocean areas in coastal regions in accordance with individual laws, while incorporating specific examples. Next, I offer an overview of the traditional uses of ocean areas, such as fishery and maritime transportation. Offshore regions, which are less utilized than ocean areas in coastal regions, will also be examined. Additionally, the classification and designation of these areas will be elucidated through specific examples.

### i. Utilization by the Self-Defense Forces, etc.

The Self-Defense Forces and U.S. Forces in Japan sometimes restrict or prohibit fishing vessels from operating for a specific period in a specific ocean area, so that they can conduct

<sup>9</sup> Representative examples include the Sekisei Lagoon Nature Restoration Council of Okinawa Prefecture (<http://www.sekiseisyouko.com/szn/entry/aboutszn.html>) .

naval exercises and training. For example, there are restricted ocean areas in the waters around Kyushu that are designated within the EEZ and are utilized by the U.S. Forces in Japan for naval exercises and training. With regard to coordination for the use of sea waters for training by the Self-Defense Forces, Article 105 of the Self-Defense Forces Act states that it is possible to restrict or prohibit fishing vessel operation in a specific area for a specific period, if permitted by the Minister of Agriculture, Forestry and Fisheries and the governors of the relevant prefectures. The law also clearly prescribes that any losses suffered in the management of fisheries will be compensated for in such instances.

ii. Ocean dumping and disposal

In principle, Article 10 of the Act on Prevention of Marine Pollution and Maritime Disaster prohibits the discharge of waste from vessels. However, in exceptional cases, it is possible to dispose certain types of waste matter (such as construction sludge and dredged spoil) by dumping them into the ocean, but ocean dumping and disposal is permitted only when the criteria for approval prescribed in the same law are fulfilled. Additionally, it can only be conducted in ocean areas that have been approved by the Minister of the Environment. Similarly, ocean dumping and disposal from marine facilities and the abolition of marine facilities are also permitted once the aforementioned approval has been granted. There is a record of permissions granted within the EEZ, which is illustrated in Figure 2. Under the same law, a written opinion may be submitted to the Minister of the Environment during the one-month public notice period, thereby securing a certain degree of coordination function.

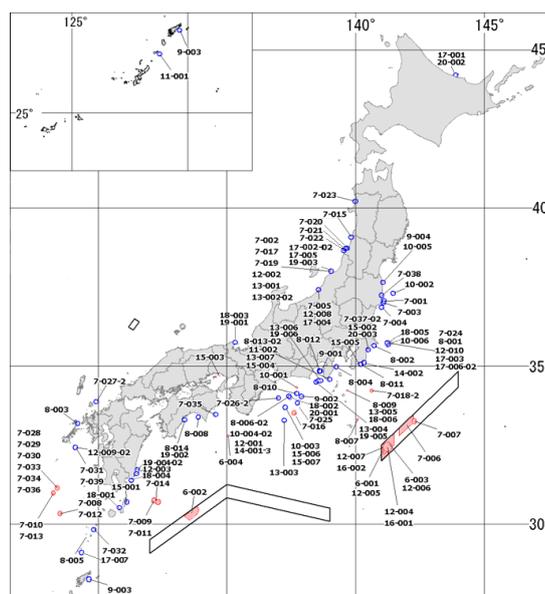


Figure 2 Overview of ocean areas where waste is discharged<sup>10</sup>

<sup>10</sup> From the website of the Ministry of Environment  
[http://www.env.go.jp/water/kaiyo/ocean\\_disp/3hakkyu/map\\_japan.html](http://www.env.go.jp/water/kaiyo/ocean_disp/3hakkyu/map_japan.html)

### iii. Development of seabed resources

With regard to the development of seabed resources in Japan’s EEZ and continental shelf, although application procedures for mining areas had previously been processed based on a first-to-file system under the Mining Act, the revised Mining Act was enforced in January 2012 and new systems were established, such as the specified area system.

The specified area system is an application system in which the most suitable entity is granted permission for the establishment of mining rights, under proper management by the national government, for specified minerals such as petroleum, natural gas, and minerals that comprise the hydrothermal deposits on or below the seabed. Developers for the areas to be designated as specified areas are invited to apply, following which development is carried out by an appropriate development entity (specified developer) who has been assigned mining rights by the Minister of Economy, Trade and Industry. With the revision of this law, procedures for mining areas in the ocean have moved to a designation, open call, and selection system based on specified areas. Article 24 of the Mining Act (Consultation with Prefectural Governor) states that “The Minister of Economy, Trade and Industry shall consult with the governor of the prefecture concerned (or a competent administrative organ concerning nationally-owned land) when an application for creation of mining right is filed.” Similarly, under the specified area system, consultations are held with the relevant parties.

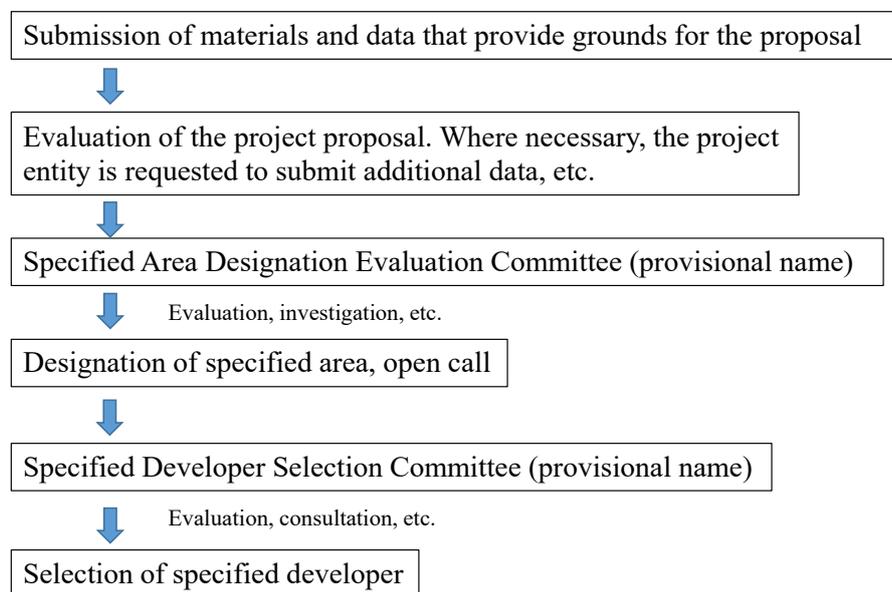


Figure 3 Procedure for acquiring mining rights under the specified area system based on the revised Mining Act

(Source: Base on the figure of the Agency for Natural Resources and Energy, METI<sup>11</sup>)

<sup>11</sup> [http://www.enecho.meti.go.jp/category/resources\\_and\\_fuel/strategy/mining\\_act/](http://www.enecho.meti.go.jp/category/resources_and_fuel/strategy/mining_act/)

An overview of management through individual laws in Japan was presented in previous sections. The granting of permissions to new ocean area users is essentially determined in accordance with the provisions set out in the respective individual laws. However, we could see that there was a certain degree of coordination with stakeholders, such as consultations with the relevant entities and acceptance of opinions during the open call period. Moreover, there are also cases where provisions give certain consideration to existing users in advance, while the relatively new Act on the Promotion of Nature Restoration positions the establishment of a council (Nature Restoration Council) within the law, thereby securing a mechanism that facilitates consultations with diverse stakeholders.

#### 4. Outlook for Marine Spatial Planning

In recent years, marine spatial planning (MSP)<sup>12</sup> has come under the spotlight in forums, such as the Convention on Biological Diversity (CBD) and the Intergovernmental Oceanographic Commission (IOC) of UNESCO, as a method for carrying out integrated ocean management. The IOC formulated a set of guidelines on MSP<sup>13</sup> in 2009, and various countries have been advancing initiatives in line with these guidelines. At the 13th Conference of the Parties (COP13) to the CBD, MSP was also positioned as a tool for promoting the achievement of the Aichi Biodiversity Targets for coastal regions and oceans.<sup>14</sup>

The MSP seeks to reach a consensus on the development, use, and conservation of the oceans in the future through consultation with various stakeholders. In this respect, it could be described as a tool that holds the key to the realization of integrated ocean management. In the following sections, I provide an overview of the systems for integrated ocean management in countries that have adopted the MSP method and the new legal system in Japan, as I consider the outlook for a new approach to the management of ocean areas in Japan.

##### (1) Marine spatial planning in Europe and China

The Ocean Policy Research Institute (OPRI) of the Sasakawa Peace Foundation has compiled the FY2016 Integrated Ocean Policy—Report on the Ocean Policies of Each Country, which

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<sup>12</sup> Marine spatial planning (MSP) is a method of adjusting the use of spaces for the systematic utilization of ocean areas, through the zoning of ocean areas while taking into consideration the characteristics of the ocean areas and existing usage conditions. The guidelines on the consensus-building process on the use of oceans, prepared in 2017 by the UTokyo Ocean Alliance, is a useful reference on this subject. (<https://www.oa.u-tokyo.ac.jp/program/images/cbm.guideline.pdf>)

<sup>13</sup> “Step-by-Step Approach for Marine Spatial Planning toward Ecosystem-based Management 2009.” Available at <http://msp.ioc-unesco.org/msp-guides/msp-guides-overview/>

<sup>14</sup> CBD/COP/DEC/XIII/9 (9 December 2016), para. 2.

outlines the status of MSP in countries that are considering the adoption of the tool. Here, I provide an overview of the situation in Europe and China, which are especially distinctive.

#### i. European Union<sup>15</sup>

In recent years, the European Union (EU) has developed its ocean policy based on the Integrated Maritime Policy (IMP) (2007), which set out the basic guidelines for the EU's foreign policy. The MSP is positioned as a cross-sectoral policy tool for the achievement of IMP.

The EU has been encouraging its member nations to carry out integrated coastal management<sup>16</sup> since the start of the 2000s. Since the establishment of the IMP in 2007, it has further developed an approach to spatial management that was cultivated through integrated coastal management and expanded initiatives toward building a system for MSP. As a result, the target areas have been expanded to include the EEZs and continental shelves of member countries--highlighting the need for coordination between multiple countries. According to the Directive of the European Parliament and of the Council on Establishing a Framework for Maritime Spatial Planning (2014), cooperation among member states is one of the requisite elements for MSP, in addition to considerations such as the mutual relationship between the land and the sea, the environmental, economic, social, and security perspectives, involvement of stakeholders, and the best available data. In reality, MSP projects are underway between multiple countries, including those that share access to the Baltic Sea.<sup>17</sup> To build cooperative systems and establish legislation for such MSP projects, the EU is actively providing financial and technical support through conferences and other methods.

#### ii. China<sup>18</sup>

China is implementing MSP under the National Major Marine Functional Zoning (MFZ) Plan, based on its Law on the Administration of the Use of Marine Areas (2001). The MSP is operated at three levels: national, prefectural, and township. At the national level, proposals for the utilization of ocean areas were presented as part of the National Marine Functional Zoning scheme in 2012. Following that, in August 2015, the State Council published<sup>19</sup> a National Plan on Marine Spatial Planning that was jointly drafted by the State Oceanic Administration and the National Development and Reform Commission.

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<sup>15</sup> Higuchi (2018), "Initiatives Toward Integrated Ocean Management," *White Paper on the Oceans and Ocean Policy in Japan 2018*.

<sup>16</sup> Integrated Coastal zone Management, ICZM.

<sup>17</sup> Baltic Sea, Atlantic Ocean (including Celtic Sea and Bay of Biscay), Adriatic Sea, Black Sea, Mediterranean.

<sup>18</sup> Gao, X. (2017), Ocean Policy Research Institute of the Sasakawa Peace Foundation, *FY2016 Integrated Ocean Policy—Report on the Ocean Policies of Each Country* (Part I Chapter 8: China).

<sup>19</sup> Nengye Liu, "Country Report: The People's Republic of China China's National Plan for Marine Spatial Planning", 7 *IUCNAEL EJournal* (2016), p. 179. This plan was drafted jointly by SOA and the National Development and Reform Commission (NDRC).

Most of the protected areas are coastal regions, and priority development zones and restricted development zones have been designated within EEZs and other ocean areas. Based on this plan, China has established special marine protected areas (SMPA) and marine natural reserves (MNR) in its coastal regions and is engaged in activities such as the protection of ecosystems. On the other hand, in ocean areas such as EEZs, tax cuts are offered to companies carrying out exploration and exploitation of petroleum and gas and fisheries are encouraged to conduct their operations.

## (2) The emergence of marine spatial planning in Japan

As explained above, the enactment of new domestic laws and revisions to existing laws require strong incentives. Although a comprehensive legal system was set out clearly in the second Basic Plan on Ocean Policy, it did not materialize. On the other hand, moves to revise individual laws in response to strong needs with respect to both environmental conservation and the development and use of ocean areas have been observed in recent years. Here, I provide an overview of these new trends in Japan from the perspective of MSP.

### i. New trends from the perspective of environmental conservation

A new trend in the revision of laws pertaining to the conservation of the marine environment is the revision of the Environment Protection Act, which was enacted in April 2019. This revision served as Japan's response to the goal of designating 10% of the ocean areas as marine protected areas by 2020, which was incorporated into the Aichi Biodiversity Targets that were adopted at the 10th Conference of the Parties (COP10) to the CBD in 2010. In other words, the designation of offshore seabed environment protection areas in offshore regions paved the way for the expansion of marine protected areas, which previously only comprised 8.3%<sup>20</sup> of the ocean areas under jurisdiction. Offshore seabed environment protection areas can be designated if the following conditions are fulfilled: listening to the opinions of the heads of the relevant local governments and the Central Environment Council, making a prior public announcement and conducting a two-week inspection, acceptance of submissions of written opinions from interested parties during the public announcement period, and the convention of a public hearing in response to the written opinions if necessary.

At this juncture, attention is drawn to ocean areas that are of great importance in terms of biodiversity (Ecologically or Biologically Significant Marine Areas, or EBSAs). EBSAs are scientifically and objectively ocean areas that are of great importance for the preservation of biodiversity due to their ecological and biological significance. The standards for determining

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<sup>20</sup> Osawa (2018), "Designation of Marine Protected Areas in Offshore Regions, Ocean Newsletter No. 449. Coastal regions have an area of 233,000 km<sup>2</sup>, while offshore regions have an area of 4,237,000 km<sup>2</sup>. Marine protected areas that comprise 72.1% and 4.7% of the respective regions have been designated.

EBSAs were presented at COP9 to the CBD (2008). In Japan, as a result of a three-year review spanning than began in FY2011, 270 locations in coastal regions, 20 locations in offshore surface layer regions, and 31 locations in offshore seabed regions were identified and classified as EBSAs in April 2016. The results of the identification of EBSAs serve as the basis for conducting reviews on the designation of marine protected areas and the strengthening of management. Based on the identification status in offshore seabed areas, which is shown in Figure 4, we can observe that ocean areas with many seamounts that contain seabed mineral resources also qualify as EBSAs.

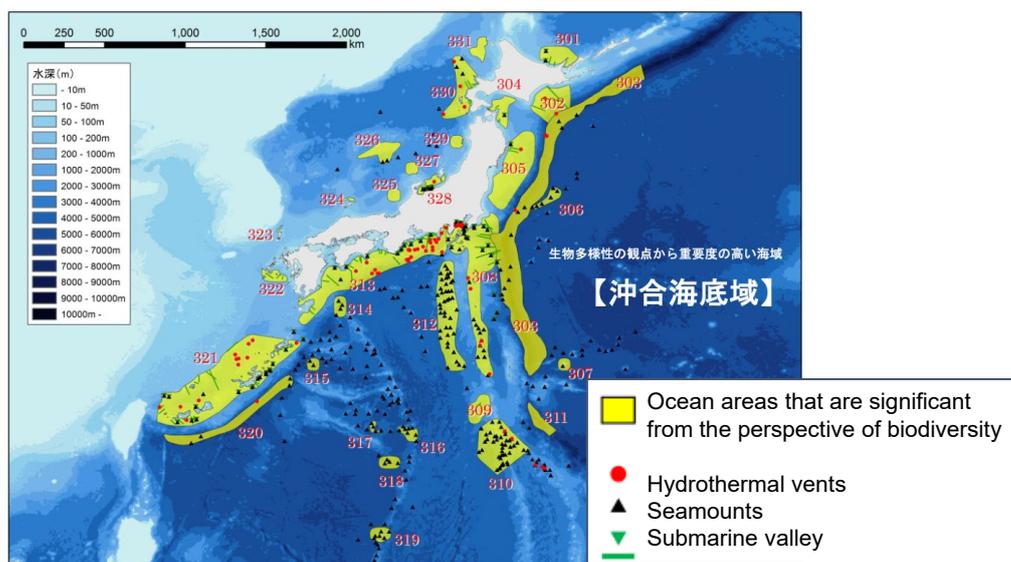


Figure 4 Results of identification of EBSAs (offshore seabed region)  
(Source: Ministry of the Environment)

## ii. New trends from the perspective of marine development and use

Japan is gradually beginning to adopt the full-scale use of offshore wind power generation, which is becoming a major demand factor for MSP in Europe. Offshore wind power is a renewable, low-carbon, and domestically-produced energy source. Thus, there are high expectations for the expansion of its adoption, and progress has been made in the establishment of relevant laws in Japan with respect to the port areas. In other words, the revised Port and Harbor Act was enforced in July 2016, and a public invitation system for occupation was established to select provisional occupants through an open call. This was aimed at realizing the efficient utilization of ports and harbors, while maintaining their functions. Based on the same law, an open call was held in August 2016 by Kitakyushu City once they definitively identified the waters where such power generation facilities would be installed.

Furthermore, in March 2018, a Cabinet decision was made on the bill for the Act of Promoting Utilization of Ocean Areas in Development of Power Generation Facilities Using Maritime Renewable Energy Resources, which would expand the public invitation system to include general ocean areas. The law was enacted in November of the same year and was enforced in April 2019. Article 8 of the bill sets out provisions on the process for hearings concerning opinions by councils and other parties. Article 9 sets out provisions on the establishment of a council and stipulates that the council shall be comprised of organizations of the relevant fishery operators, in addition to stakeholders and academic experts. Hence, this law can be considered an example of the formulation and implementation of a substantial MSP initiative. Furthermore, this law creates a system for the open call and selection of power generation operators in areas designated by the government as “project promoting areas” and grants permission for the occupation of ocean areas up to a maximum of 30 years, which adequately covers the 20-year design life of facilities for power generation operators. Hence, this makes it possible for power generation operators to actively consider projects with greater security and assurance.<sup>21</sup>

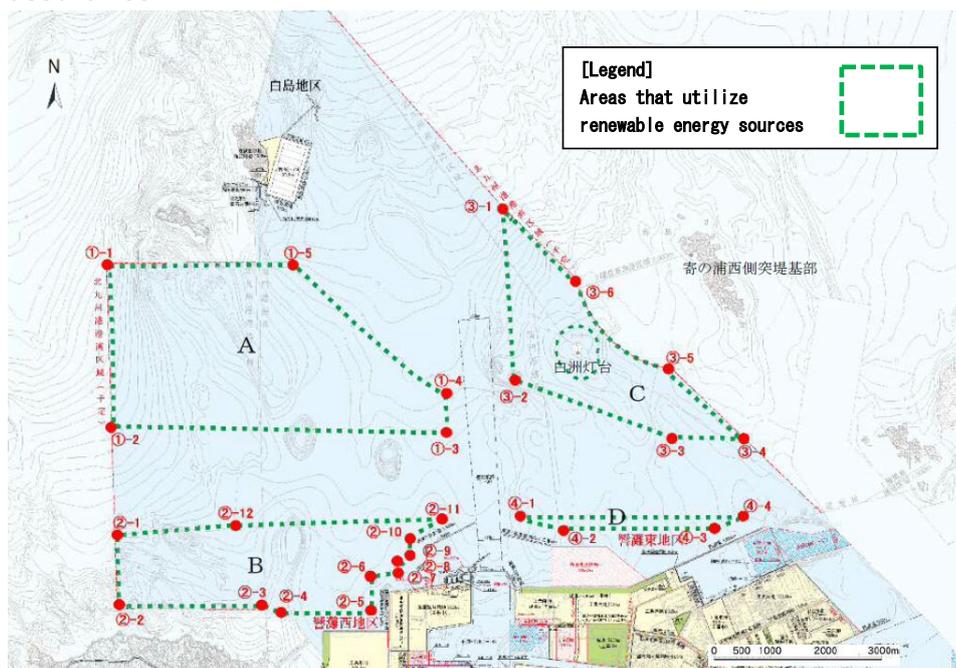


Figure 5 Provisional waters for the public invitation of offshore wind power generation projects at the Port of Kitakyushu (Source: Materials prepared by Kitakyushu Seaport and Airport Bureau on the public invitation for operators to install and operate the Hibikinada Offshore Wind Farm)

<sup>21</sup> Tsunoda (2019), “Toward the Popularization of Offshore Wind Power - Establishment of Methods for Utilizing Ocean Areas for Renewable Energy” *Ocean Newsletter* No. 448. Here, I would like to add that even without the use of the Act on Promotion of Use of Marine Areas for Development of Marine Renewable Energy Generation Facilities, it is possible to install offshore wind power generation facilities (there are examples such as the case where offshore wind power generation demonstration equipment that was installed off the coast of Choshi commenced operation in 2013). However, although permission for the occupation of the ocean area is obtained in line with the National Government Asset Act in the case of installation in general ocean areas, the period of occupation varies depending on the prefectures, and the allotment of short periods of occupation has become an issue.

## 5. Future Outlook

Both the integrated management of the EEZ and continental shelf and integrated coastal management are covered by provisions in the Basic Act on Ocean Policy, while specific initiatives toward the promotion of such management have also been set out in the second Basic Plan on Ocean Policy. However, concrete progress has not been observed since the implementation period of the second plan.

This paper presents the background to this and offers distinctive examples of the development, use, and conservation of the EEZ and continental shelf based on individual laws in Japan. It also provided an overview of the legal systems and implementation status with regard to the integrated management of EEZs and continental shelves in various countries. In summary, it showed that MSP, which seamlessly and systematically manages ocean areas from coastal regions to EEZs, is underway in countries such as Europe and China. In addition, it introduced examples of revisions to laws concerned with the establishment of offshore marine protected areas and new legislation concerning the establishment of offshore wind power generation facilities in general ocean areas as signs of the emergence of MSP in Japan. Finally, I will explore how these new moves will develop.

First, with regard to the EEZs and continental shelves in offshore regions, it is possible that debate on environmental conservation, such as marine protected areas, will take precedence. As explained earlier, a target of 10% has been established for marine protected areas in the SDGs<sup>22</sup> and Aichi Biodiversity Targets.<sup>23</sup> However, discussions are ongoing on further expansions in the targets (post-Aichi targets) of the Convention on Biological Diversity, which has set out targets to be accomplished by 2030. Hypothetically, if further expansion were to become necessary, it is also possible that Japan would move forward on a comprehensive review while drawing inspiration from the existing uses of ocean areas and EBSAs. In situations where hydrothermal deposits, which are presumed to be subjected to mining area recruitment based on the specified area system, are found in seamount areas that overlap with EBSAs in offshore seabed regions, there may be a need in the future for a space to deliberate the utilization of ocean areas from a comprehensive viewpoint. MSP also sets out such consultative processes and it would probably be effective to start engaging in reviews based on the assumption that MSP will be adopted in the future.

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<sup>22</sup> The Sustainable Development Goals (SDGs). The SDGs, which were adopted at the 2015 United Nations Sustainable Development Summit, identified agendas for the international community. 17 goals and 169 targets were agreed upon, and a separate goal with regard to the oceans was set out in Goal 14, one of which (SDG 14.5) calls for conservation of “at least 10% of coastal and marine areas, consistent with national and international law and based on the best available scientific information.”

<sup>23</sup> The Aichi Biodiversity Targets were adopted by the COP10 of the CBD (2010). The Aichi Targets identify 20 targets, one of which (Target 11) calls for conservation of “at least 17% of terrestrial and inland water, and 10% of coastal and marine areas” as protected areas or through other means.

For coastal regions, the enforcement of the Act on Promoting Utilization of Ocean Areas in Development of Power Generation Facilities Using Maritime Renewable Energy Resources in April 2019 and the promotion of the adoption of offshore wind power based on this law are expected to drive forward initiatives on integrated ocean management. This law prescribes the establishment of a council and serves as an example of the formulation and implementation of a substantial MSP initiative.

The written opinion of the Advisory Council of the Headquarters for Ocean Policy (December 2017),<sup>24</sup> which was prepared with the aim of formulating the third Basic Plan on Ocean Policy, sets out various measures to be implemented in line with the characteristics of the respective ocean areas, through cooperation between the relevant ministries and agencies. It states that the measures should be implemented without excessive adherence to the respective classifications of territorial seas, EEZs, and continental shelves, but rather by positioning them as contiguous elements. Furthermore, the chapter titled “Harmonization of Development and Use of the Ocean, and Conservation of the Environment” in a report by the Project Team for the Maintenance and Conservation of the Marine Environment, brings up examples of the introduction of MSP overseas and highlights the need to review the potential of the utilization of MSP.

In the Basic Act on Ocean Policy (2007), integrated coastal management is prescribed as a basic measure, while the development, use, and conservation of the EEZ is discussed as a separate issue. However, as cases of the adoption of offshore wind power on territorial seas (in other words, coastal regions) increase and are coupled with developments such as the establishment of marine protected areas in offshore regions and the spread of offshore wind power generation to offshore regions, there will likely be calls for the seamless implementation of integrated ocean management of offshore regions from coastal regions. In such a situation, it is also important to establish a marine information system that can seamlessly and integrally manage oceanic information from both the coastal regions and offshore regions, consolidate and visualize the status of utilization of ocean areas by diverse entities, and provide scientific research data.

In the SDGs adopted in 2015, SDG 14, which aims to “Conserve and sustainably use the oceans, seas and marine resources for sustainable development” was established as the goal for the oceans. Various targets have been established under SDG 14, including the prevention and significant reduction of ocean pollution by 2025 and the recovery of oceanic and coastal ecosystems, the termination of excessive fishing, IUU (illegal, unreported, and unregulated) fishing, and destructive fishing practices, the implementation of scientific management plans, and the conservation of at least 10% of coastal regions and ocean areas by 2020. With the

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<sup>24</sup> Written opinion of the Advisory Council of the Headquarters for Ocean Policy that sought the formulation of the third Basic Plan on Ocean Policy (submitted on December 18, 2017) [https://www.kantei.go.jp/jp/singi/kaiyou/sanyo/2017/sanyo\\_iken.html](https://www.kantei.go.jp/jp/singi/kaiyou/sanyo/2017/sanyo_iken.html)

SDGs gaining greater acceptance within the international community, it can be said that action plans for the oceans, especially those related to integrated ocean management and sustainable development, have entered the implementation phase. In the promotion of measures for integrated ocean management, Japan will be called to contribute to the promotion of SDG 14 worldwide.

\*This study is based on the editing and addition to the contents of the Report on FY2017 Research on the Promotion of Comprehensive Ocean Policy – Research on Japan’s Ocean Policy, by the Ocean Policy Research Institute of the Sasakawa Peace Foundation, taking into consideration the current situation.