

River Law

Legal Framework for River Administration
in Japan

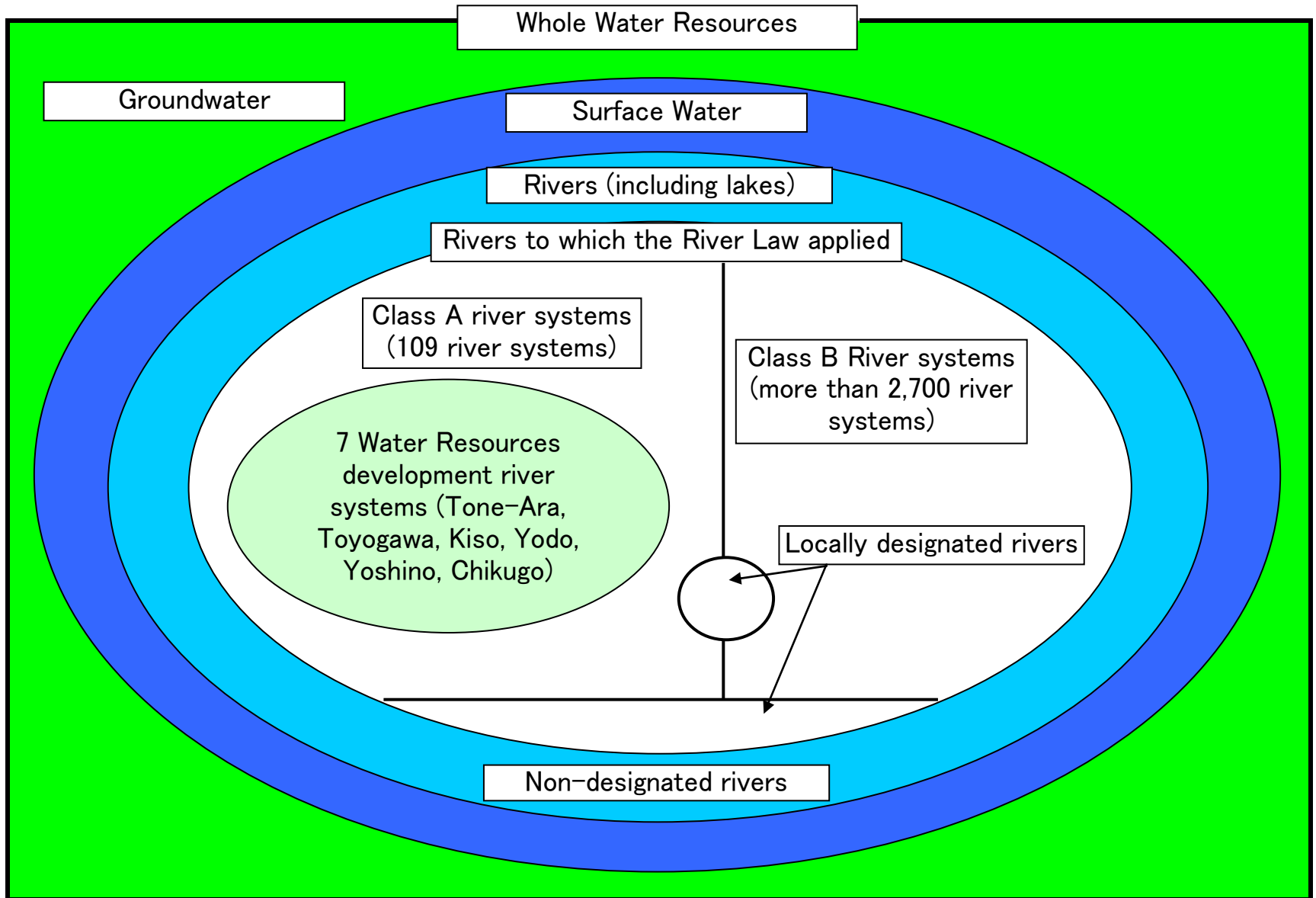
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Introduction

Introduction (1)

- The River Law
 - (1) is the most basic legal framework for managing rivers in Japan.
 - (2) consists of more than 100 articles.
 - (3) enacted in 1896 first, and fully amended in 1964.
 - (4) has contributed to appropriate river management including flood control or river utilization.
- The purpose of the River Law
 - (i) flood management, (ii) river water utilization, and (iii) maintaining and conserving the fluvial environment**
- River water use occupies 87% of all the water use in Japan (13%-groundwater). So, river administration is important from the viewpoint of water allocation.
- Regarding groundwater management, there is no comprehensive law.
- The River Law is not always applied to all the water resources in Japan (See the next slide).

Introduction (2) ~ Conceptual Table

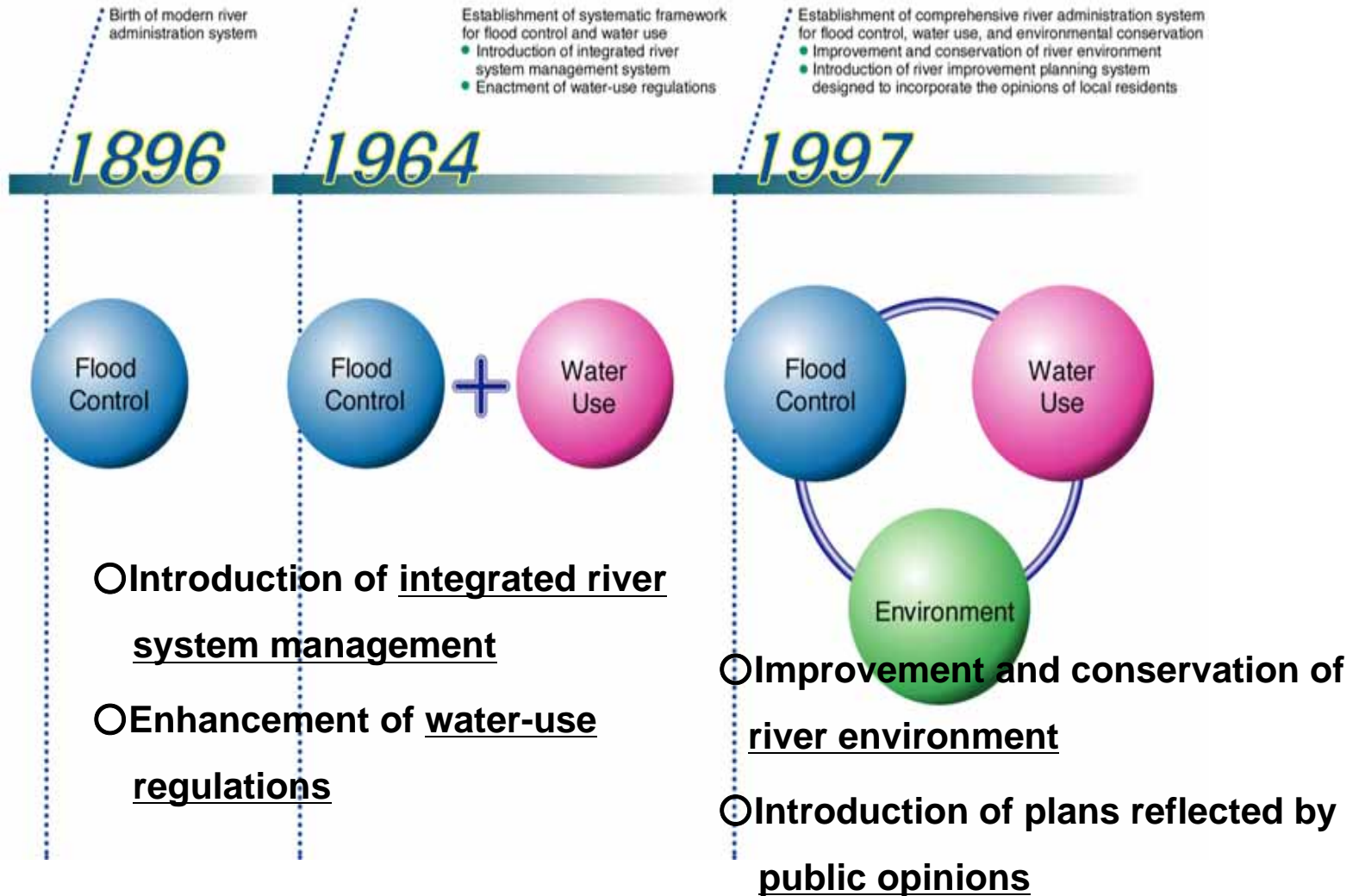


Introduction (4) ~ Rivers “the River Law” is applicable to

- “The River Law” is not always applicable to all the rivers in Japan.
- “The River Law” is applicable to the rivers which have important relations to the public interests from the viewpoint of flood control and water utilization in principle (to be explained later).
- The rivers to which “The River Law” is applicable are selected and designated by Government (Designation Principle).
- As a result, rivers to which “The River Law” is applicable are clear and explicit to all the people.

Outline of River Law during 100 years

Process of amendment of the River Law



Highlight of the River Law

Contents

- Areas to which the River Law is applied
 - ~ Target of the river law and the river zone
- Clarified jurisdiction on rivers ~ River administrator
- Planning for river administration
- Regulation and restriction for river and river use by river administrator
- Water use conciliation
 - ~ Consensus building in relation to water utilization
- Drought management
- River Ledger (Registration Book)
- Clarified rule for cost sharing between the National Government and Local Government
- Enforcement measures

Areas to which the River Law is applied

1. Target of the River Law

- **Classification of rivers**

- (1) Class A river

- Especially important from the view of land conservation and/or national economy (in other words, flood prevention or water utilization)

- (a) All the rivers whose basins extend over 2 or more prefectures and (b) rivers whose basins are placed in 1 prefecture but important from the viewpoint of flood control or water utilization

- Basically managed by the National Gov't (Ministry of Land, Infrastructure and Transport)

- (2) Class B river

- Important relation to public interests excluding Class A rivers

- Managed by prefectures concerned

- (3) Locally designated rivers

- (4) Non-designated rivers

- The River Law is not applied.

River Classification in River Law

Classification	Number of River Systems	Total Catchment Area	River Administrator	Remarks
Class A	109	240,037km²	Minister of Land Infrastructure and Transport	With respect to a specific section of Class A river, the minister shall entrust part of the administration with prefectural governor (Designated section)
Class B	2,722	109,470km²	Prefectural Governor	
Total	2,831	349,507km²		

Note) Total national land of Japan :
377,880km²

Areas to which the River Law is applied (Class A rivers)

- Procedure for designation (Art 4, 5) – Related to the length of rivers

The procedure for designation consists of 2 steps

(1) Designation of river systems

~ Class A river systems are designated by the Government Ordinance

(2) Designation of section of rivers (decide the section of river administration from where to where)

~ Regarding the Class A rivers, the Minister of LIT may decide the section for river administration.

~ The Minister of LIT have to consult with other related government agencies and hear the opinion of the Council for Social Infrastructure and Concerned prefectures

~ In some part, the Minister of LIT may entrust the part of the administration with the prefectural governors concerned (Art 9).

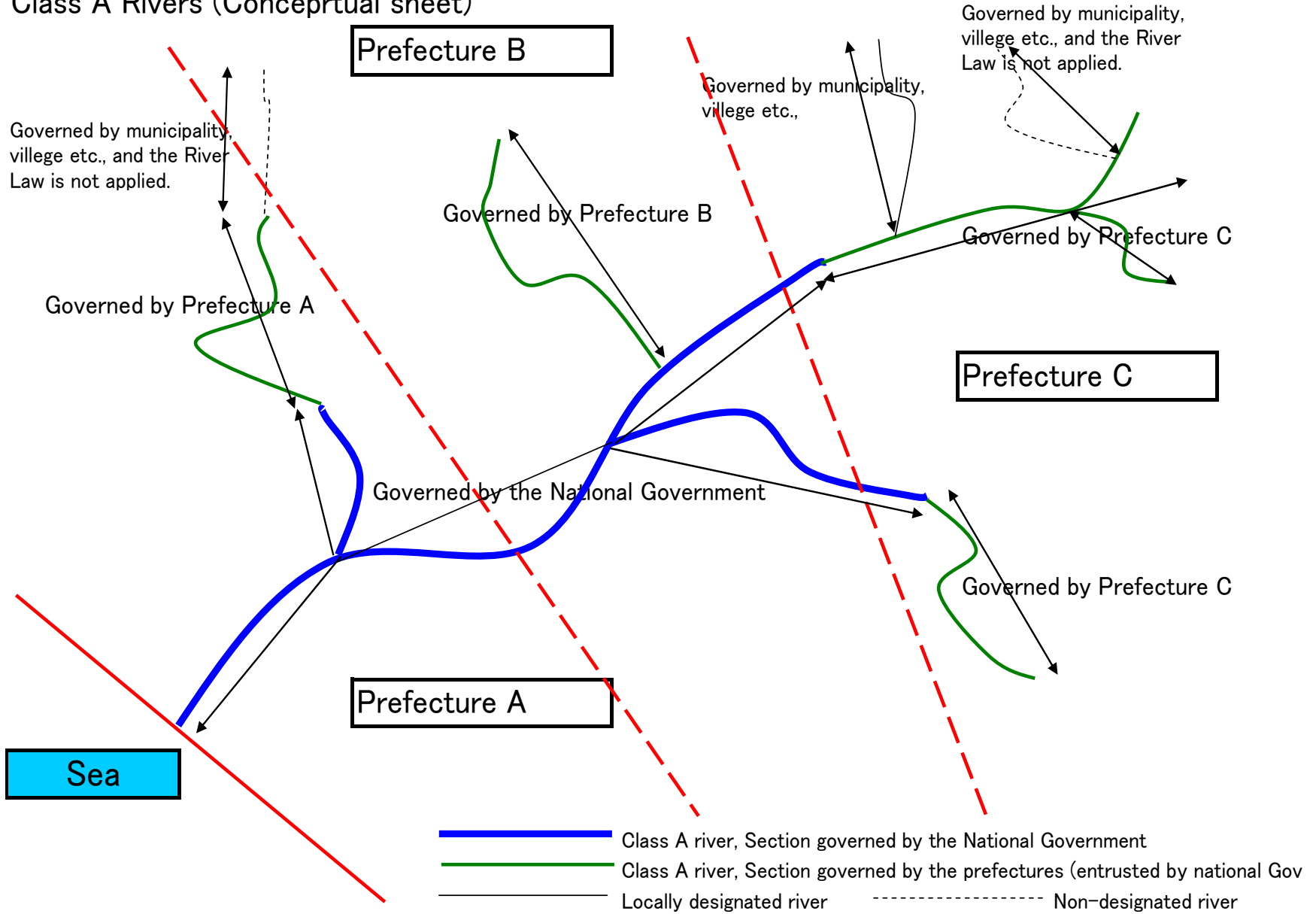
Areas to which the River Law is applied (Class A rivers)

The Important point is that government can decide not only river systems but also the section of rivers to which the River Law is applied.

Areas to which the River Law is applied (Class B rivers)

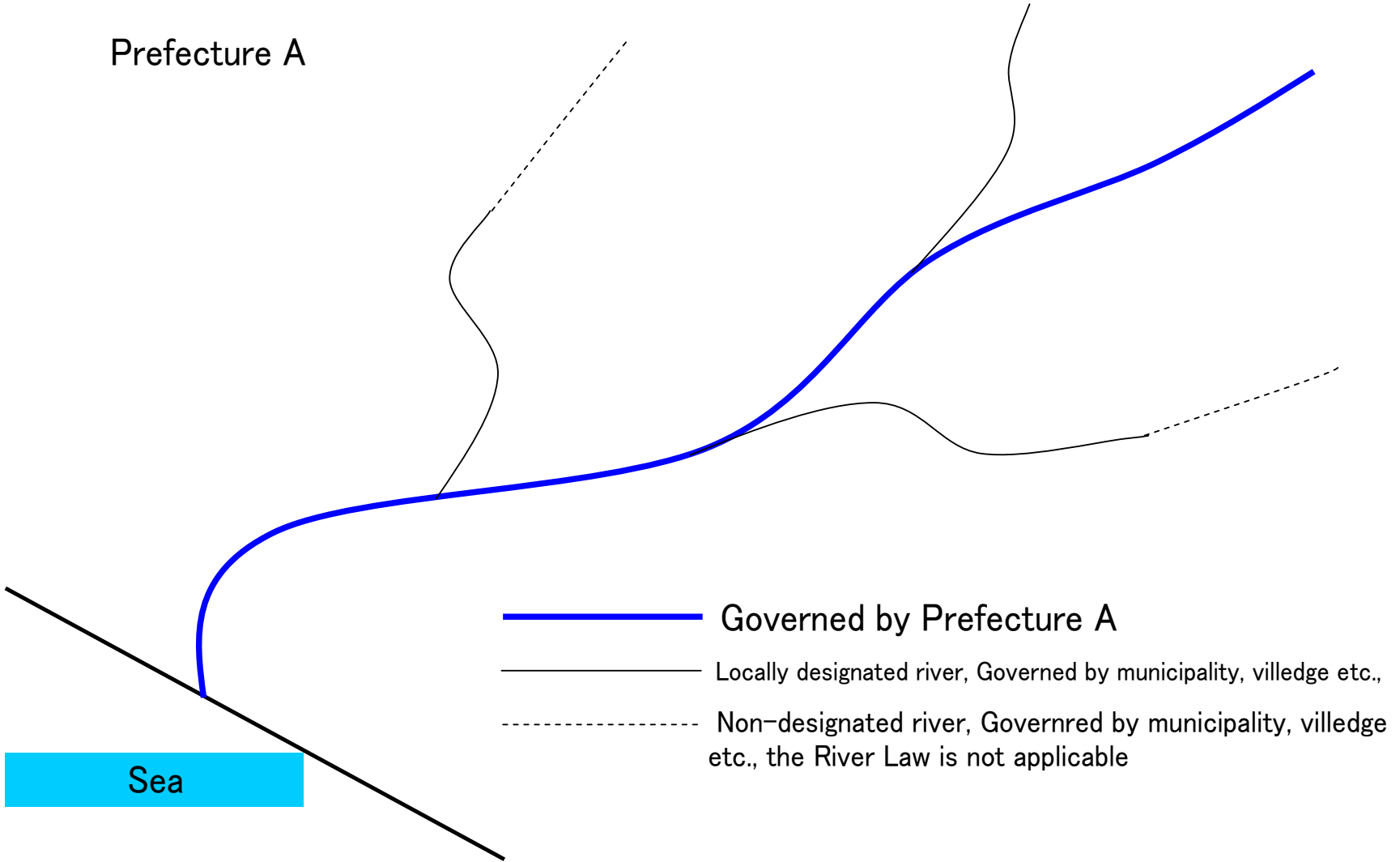
- With regard to Class B rivers, designation procedure is carried out by prefectural governor concerned (One step procedure, different from Class A river).

Class A Rivers (Conceptual sheet)



Class B rivers (Conceptual Sheet)

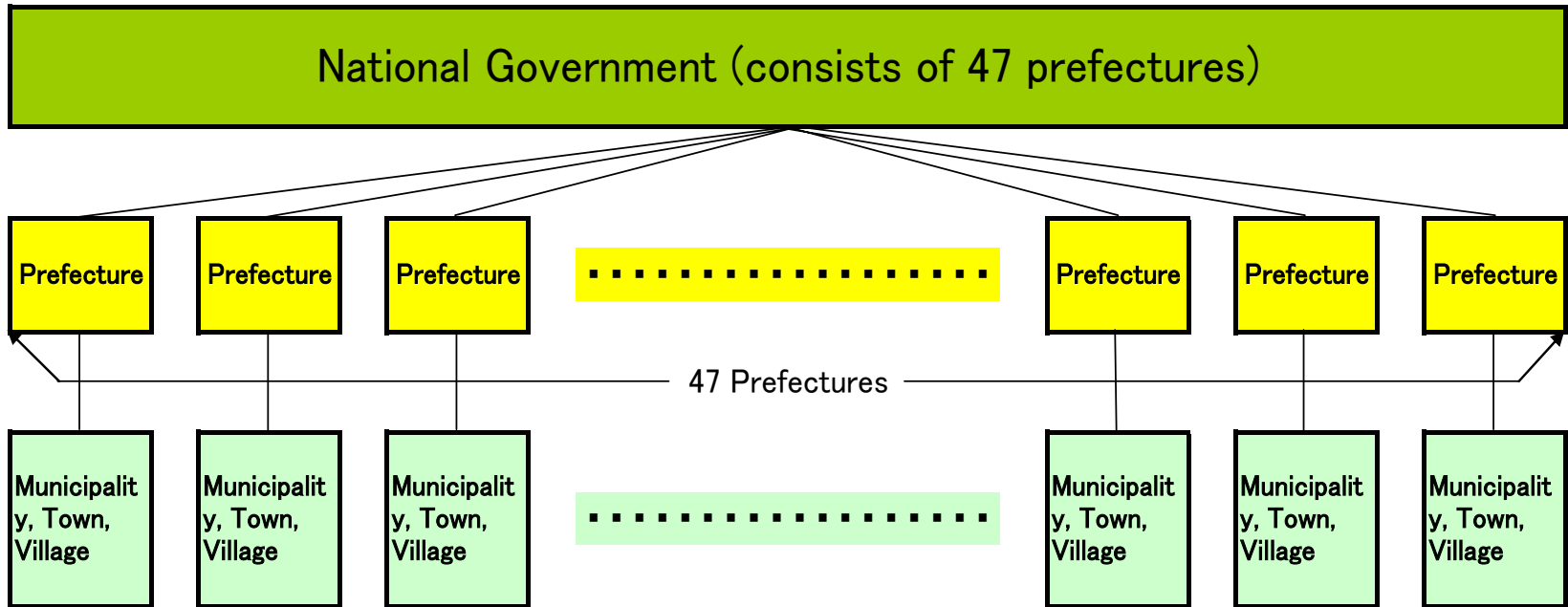
Prefecture A



- Governed by Prefecture A
- Locally designated river, Governed by municipality, villedge etc.,
- - -** Non-designated river, Governred by municipality, villedge etc., the River Law is not applicable

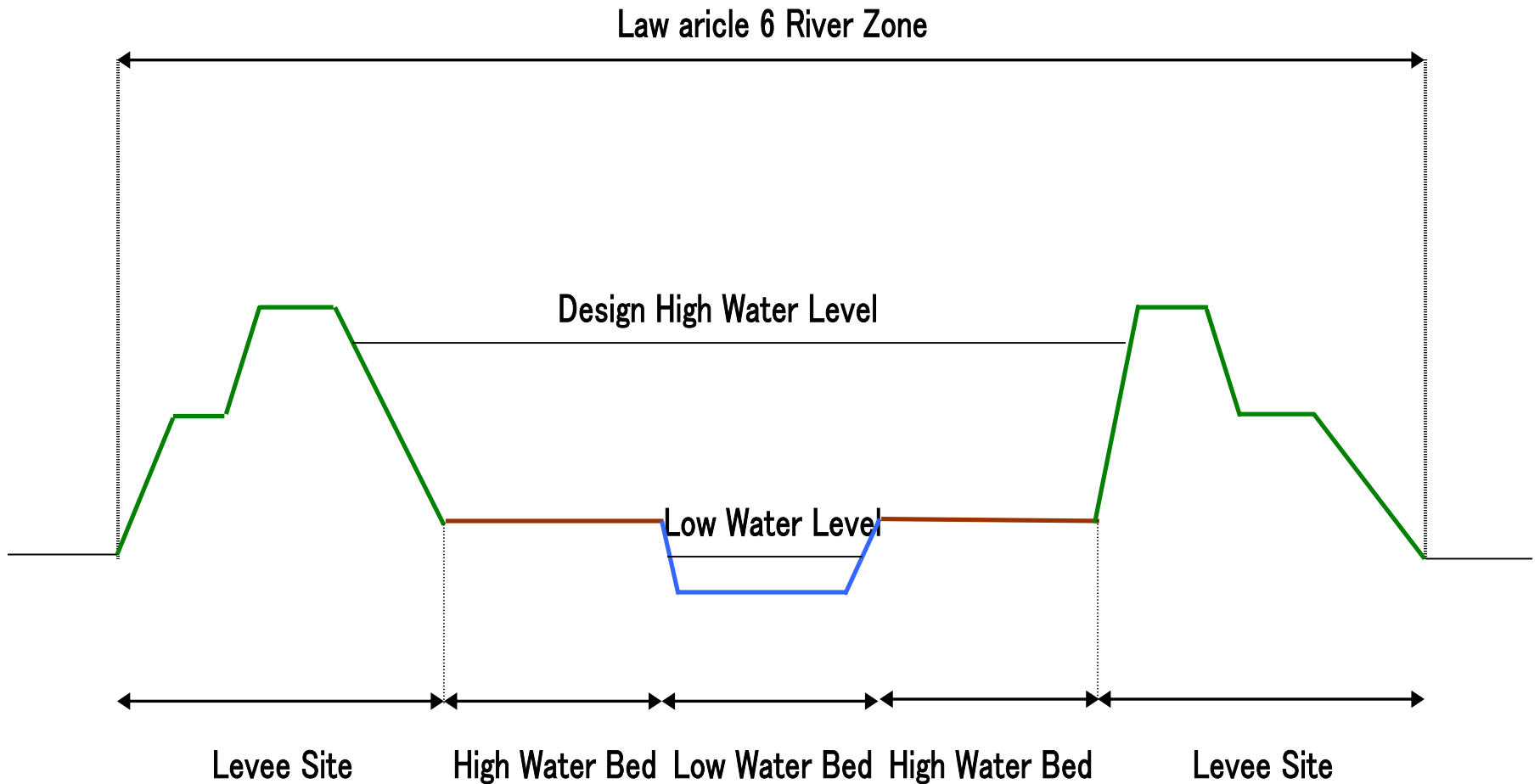
(Reference)

Japanese Administration systems – Triple-Layer Structure



Areas to which the River Law is applied

2. River Zone (Article 6) – Related to the width of rivers



River Administrator (1)

- River administrator is the key player of the river management.
- Assignment of responsibility is provided by the River Law (Art 9, 10, 100)
 - (a) Class A river system: The Minister of Land, Infrastructure, and Transport (National Government)
(In some part, Minister of LIT can entrust the river administration with Prefectural governors.)
 - (b) Class B river system: The Prefectural Governors
 - (c) Locally Designated rivers: the head of the city, town or village

The important point is that one whole river system is governed by one river administrator in principle ~ One basin, One Management, (Integrated River Basin Management).

River Administrator (2)

- River Administrators are in charge of river improvement (banking, dredging etc.), rehabilitation, and O&M of river administration facilities.
- Additionally, they shoulder a lot of responsibilities related to river administration including;
 - Preparing river ledgers (river registration book)
 - Developing plan for river administration
 - Regulation or restriction for the river and river water use
 - Enforcement of the River Lawetc.,

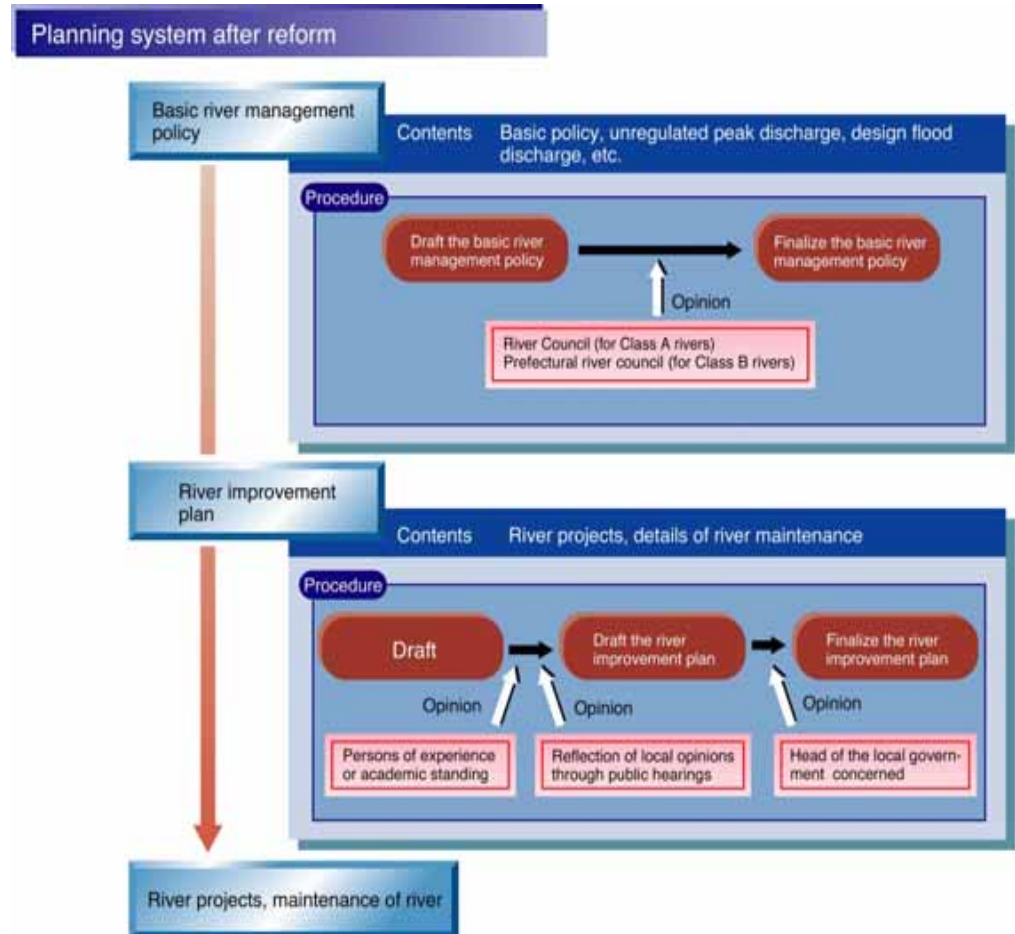
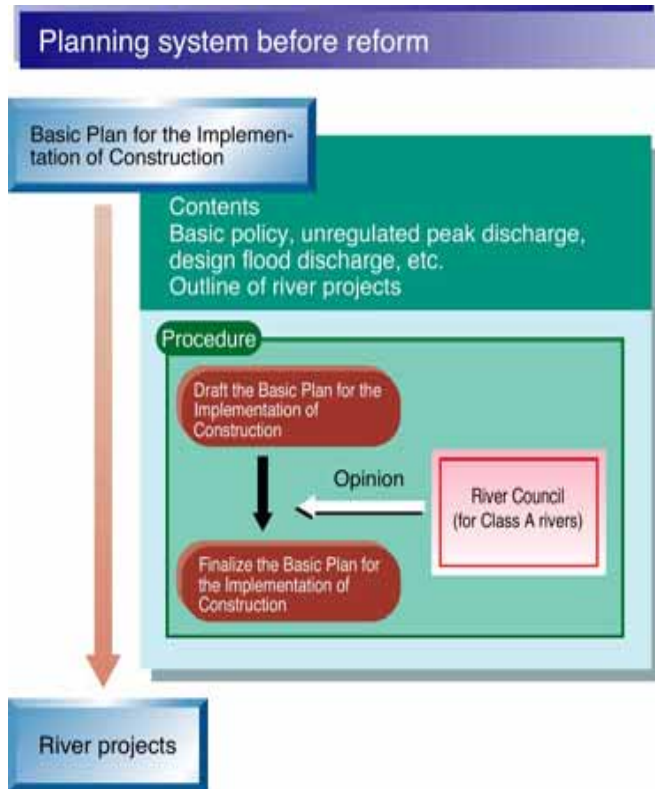
Planning for River Administration (1)

- 2 schemes, “The Fundamental River Management Policy (**FRMP**)” and “The River Improvement Plan (**RIP**)”, which are a kind of basin plan (Art 16, 17).
- FRMP has the superiority to the RIP.
- FRMP stipulates **the design flood discharge** and other matters which will be **the basis for policy of river works and river maintenance**.
- FRMP is developed by river administrators (Class A river: The minister of LIT, Class B river: Prefectural governor).

Planning for River Administration (2)

- RIP is a plan for concrete measures in accordance with the FRMP.
- RIP stipulates
 - (1) Matters related to the objective of the river improvement plan:
 - (2) Matters related to the execution of the river improvement plan:
 - (a) Purpose, type and location of the river works and a brief description of the function of the river administration facilities to be provided as the result of the execution of the river works;
 - (b) Purpose, type and location of river maintenance
- RIP also developed by river administrators. When developing RIP, river administrators shall take necessary measurement (public hearing etc.,) for reflecting the opinion of the inhabitants within the basin area.

New System for Planning River Improvement



Regulation and restriction for the river and river use

- River Administrators have an authority for regulation and restriction for the river and river use, which is one of the most important functions.
- Needed from the viewpoint of (1)public goods management, and (2)prevention of danger when flood occurring
- The followings are important.
 - a. Permission for river water use (Art 23)
 - Related to water use conciliation
 - b. Permission for land occupancy in river zones (Art 24)
 - c. Permission for taking earth, stone, etc., within river zones (Art 25)
 - d. Permission for construction of structures in river zones (Art 26)
 - e. Permission for land excavation (Art 27)
 - f. Prohibition, restriction and permission for floating down trees/bamboo and navigation of boats/ships
 - g. Prohibition, restriction and permission for act likely to hinder river administration (Art 29)

Water use conciliation (1)

- Regarding river water use, the River Law have some provisions for water use conciliation between existing water users and new water use permission applicant (Art 38~43).

Principle of river water use in Japan

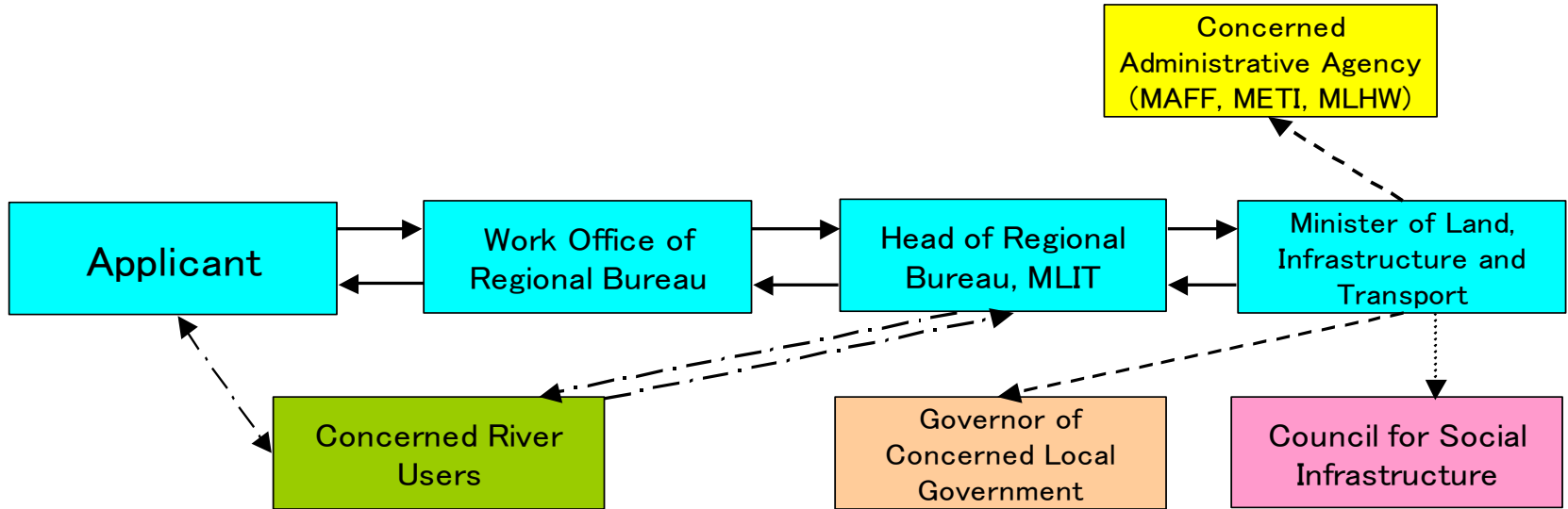
~ New water uses cannot harm existing water uses. In other words, newer water rights are inferior to older water rights in principle (First in time, First in Right).

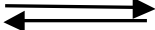

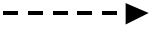

Important points are;

- New water use permission applicant shall obtain all concerned existing water users' consent in principle (with minor exception) (Art 40).
- In the event that a person suffers loss as a result of permission as stipulated in Art 23 or 26 with regard to water use, the person who received the said permission for water use must pay compensation for the loss (Art 41).

Water use conciliation (2)

Procedural Flow (Example of Class A River, Permitter: Minister of Land, Infrastructure and Transport)



-  Application, investigation and issuance of permission for river water use (Art 23)
-  Procedure related to concerned river users (Art 38 & 39)
-  { Consultation with concerned administrative agency (Art 35)
Consultation with concerned Prefecture and Municipalities (Art 36)
-  Consultation with Council for Social Infrastructure regarding judgement of public interest (Art 40, Paragraph 2)

Drought management

- When a severe drought happens, water users concerned first try voluntarily to adjust their water uses in principle (Art 53-1).
 - **Consultation among stakeholders is the First measurement**
- In such case, river administrators shall make effort to provide necessary information for water use adjustment among water users concerned (Art 53-1).
- In reality, “**Drought Conciliation Council**”, composed of the river administrator, water users, local government, and other concerned agencies, has been established in a lot of river basins. This council has contributed to water use conciliation during droughts as a forum for mutual consultation among stakeholders.
- River administrators may make necessary intermediation or arbitration in case no agreement is reached in the consultation among water users (including consultation in Drought Conciliation Council).
 - **Government’s intervention is the Second measurement**

River Ledger (Registration Book)

- River administrator always have to grasp the states of their concerned rivers in order for appropriate river administration.
- These status should be disclosed to inhabitants in the basin.
- For that purpose, river administrators shall prepare a set of river ledgers (river registration book), and people can access to the river ledgers.
- The set of river ledgers shall comprise (i) a register of present river conditions, and (ii) a register of water utilization.

Rules for cost sharing

Classification		Expense for administration		Improvement works		Maintenance and repairs	
		National Gov't	Prefecture concerned	National Gov't	Prefecture concerned	National Gov't	Prefecture concerned
Class A	River section under the jurisdiction of MLIT	1/2	1/2	2/3	1/3	5.5/10	4.5/10
	(In case of large scale improvement works)			7/10	3/10		
	Designated section		10/10	1/2	1/2	Less than 1/3	More than 2/3
	(In case of emergency river works)			2/3	1/3		
Class B			10/10	Less than 1/2	More than 1/2		10/10

Enforcement Measure

- River guard (Art 77)
- Supervisory measures (Art 75)
- Penalty (Art 102-109)

Summary

Summary (1)

- The areas of rivers to which the River Law is applied are clear and explicit.
- The principle of integrated administration consistent throughout river basin was introduced by the River Law (One basin, One administration).
- The responsibility of river administrator was clarified.
- The River Law allows the river administrators strong authority on river or river water use, which have contributed to the orderly river administration.
- With regard to the water utilization, consultation with stakeholders was provided in order to avoid water conflicts.

Summary (2)

- Drought management has been primarily carried out by water users. Drought Conciliation Councils, which is a stakeholders' collective body, have been useful for drought management.
- Recently, participatory process was also introduced in developing a basin plan (The River Improvement Plan).
- Cost sharing for river administration between national and local government was clarified.
- Enforcement measures were also equipped in the River Law.