

The role of Land and House Investigator in the 2004 and 2005 Revision of the real estate registration

foreword

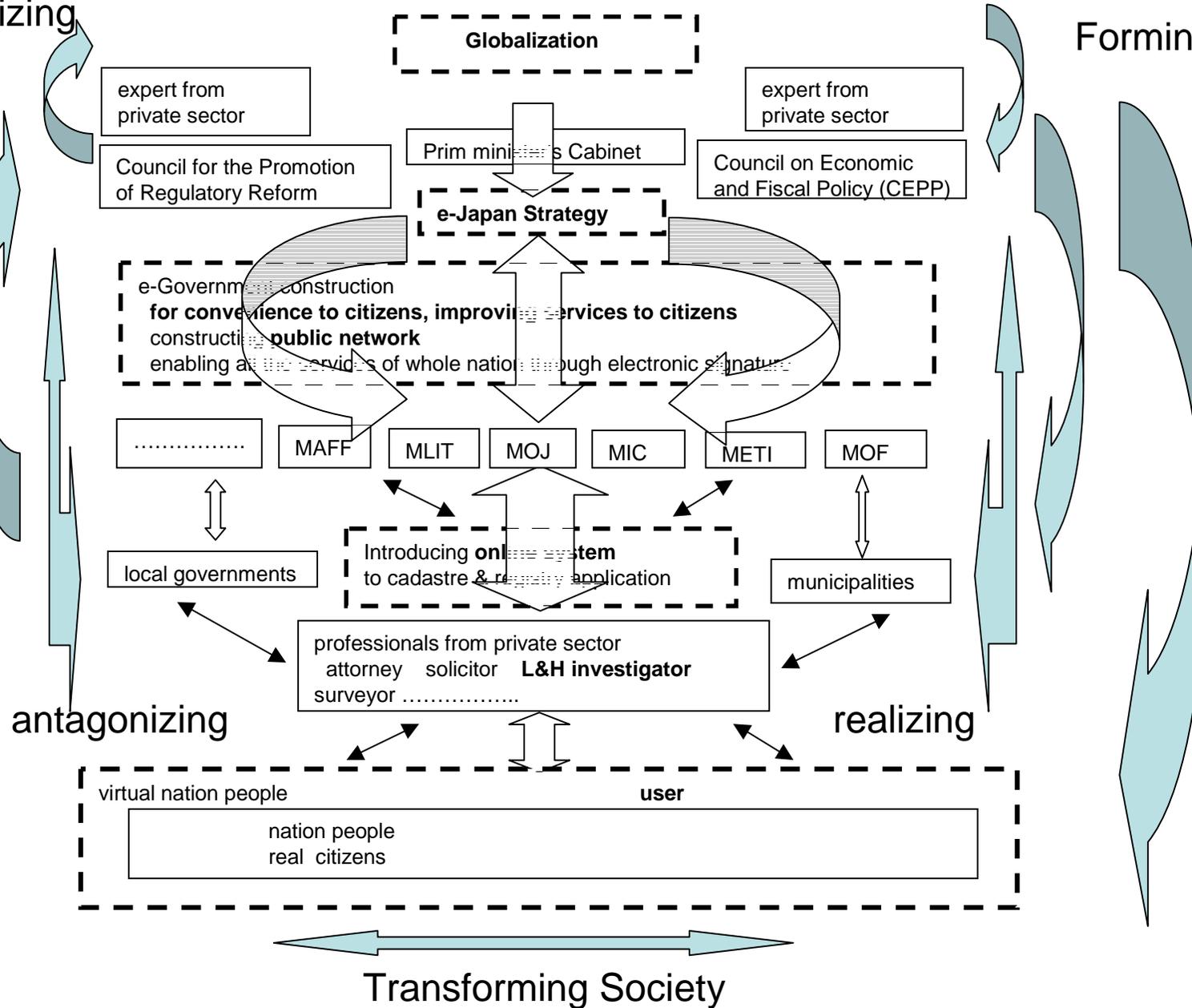
In Japan, there have been 2 major innovations in the area of cadastre and land registry which established the Online Application System in 2004 and Land Boundary's Location Reconfirm System in 2005. These system reforms were conducted creatively in the innovative socio-economical environments which have been being lead to be introduced to public and private sectors by Japanese Government since about 15 years ago and begun to function well these five years through its "e-Japan Strategy" made public by "IT Strategic Headquarters" founded under the direct control of prime minister's cabinet office in 2001, based upon "Basic Law of an Advanced Information and Telecommunications Network Society" enacted in 2000 in order to cope with "a society in which people can develop itself creatively and vigorously in all fields of activities by acquiring, sharing and transmitting a variety of information or knowledge on a global freely and safely through the internet and other advanced information and telecommunication networks."

the mentioned above, consecutive system reforms can be said to have such a Japanese feature that the reform of cadastre system was conducted by the whole amendment of a procedural law, "Real Estate Registration Law", in which filing procedure of both cadastre and registry are stipulated, as Japan has long been having an integral system of cadastre and registry managed by Ministry of Justice (MOJ) which administers judicial and legal affairs, since 1950 when cadastre book was transferred from taxation office to the legal affair bureau along with cadastral maps, hereafter, it was implemented into registry book so that cadastre book was incorporated into title's part of registry book in order to describe the determined attributes of proprietary right's object.

Dynamic Playing Ground of L&H investigator (DPG)

Formalizing

Forming



Transforming Society

L&H Investigator activities on the DPG

In the last reform of the real estate registration law we, L& H investigators play the role of

- 1 Making the legal facts which lead to establishing a basic new law on our own sake
- 2 Keeping in touch with ministries and local governments as a liaison between them, which have different disciplines and working cultures
- 3 Receiving preparatory plans to implement it tentatively from them in order for the plans to take a root in citizens
- 4 Giving them some advise whether plans has conformity to other policies in actual circumstances level.

From the L&Ai's point of view, the last reform has three principles, which are

Legal & organizational system

e-Japan Strategy

e-Government construction
for convenience to citizens, improvement services to citizens
constructing public network
enabling all the services of whole nation through electronic signature

MIC

MOJ

NSDI

MLIT

MOF

GPKI
General Authentication system

Reform of The real estate registration law

Electric permanent GPS Stations

Banking system

Register authentication system

Introducing online system to cadastre & registry application

Use of public reference system

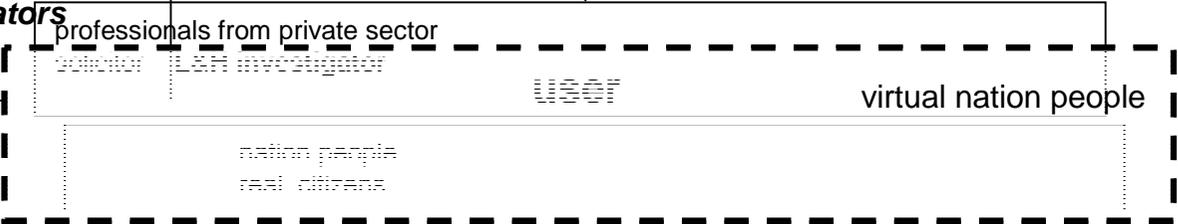
Principle of Digital Documentation
Principle of Substantial Locale Investigation
Principle of Administrative Adjudication System

Justice system reform
Land border adjudication suit
Land area confirm suit
More expeditious

ADR Center concerning the land border disputes
Operated by a association of L&H investigators

Principle of sustainable development

Network RTK
Total station
Hybrid survey



technical system

e-Japan Strategy

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Introducing online system to cadastre & registry application

Registration authentication system

Register information system

Map information system

NSDI

Geographical information standard

exchange

link

maintain

Based upon

Registration Application system
XML documentation

Standardizing of Annex Plan

User 1: professionals from private sector
solicitor, L&P investigator
user 2

operate

virtual nation people
nation people
real citizens

Principle of digital documentation

1. Digitalizing registered book records and map records
 - a) a multitude of data to be digitalized. The digitalization of the registered books' data is going to finish soon owing to having been done it in 1990s, though under the concept of office's efficiency using "stand-alone" computer system.
 - b) quasi <article 14 map>s, many of which were so-called insular map, "kozu" in Japanese i.e. "public map" made in 1880s, the middle period of Meiji Era, surveyed by the residents and has no coordination in a real scale. **The treatment of these maps was touched on later.**
2. Measuring to maintaining map digital records by coordinates to change or modify as automatically as possible.
 - a) to give to vector line data the attribute of their digitalized ways in order to make a difference between the read and the surveyed so that it can be easily judged by computer system which datum of compared data of the same line has most accuracy.
 - b) to give to vector line data the attribute of their registered or registering in order to for computer system to find the parcel component points accurately.
 - c) to make a annex plan with coordination of the public reference datum if the control points are found within about 100m range from the investigated area.
 - d) to make a annex plan with surveying the whole range of a investigated parcel.
3. Keeping the liability of registry records more highly than the present ones.
 - a) to contrive a new procedural concept "information no less authentic than a original document authenticated by a real person concerned" which is important to make a registrar have conviction about the application contents that they are true. **Touched on later again.**
 - b) to file in the right register the annex document that authenticates the cause of application in order to reflect the fact to the record, though a copy of the application form was hitherto filed in place of it for registrar enabling to issue the certification of finishing the registry on the copy.

the fundamental maps of legal affairs bureaus		operation program	operation department
		Sum of the sheets of fundamental maps all the regional legal affairs bureaus keep unit 1,000 sheets 6,465	article 14 map 3,595 (56 per cent)
farm land readjustment program 490	MAFF (ministry of agriculture, forestry and fisheries)		
article 14 map preparing program 5	MOJ (ministry of justice)		
quasi-article 14 map 2,870 (44 per cent)	annex map of taxation book 2,070		MOF (ministry of finance)
	farm land readjustment program 80		MAFF (ministry of agriculture, forestry and fisheries)

(from Q&A, New Registered Boundary Confirmation System, 2006, partly added & modified by author)

Digitalizing Quasi <article 14 map>s

1. Measures to the difficulties of digitalized paper maps with no numeral data
 - a) The prime minister office set up the organization, the Center of Revitalizing Urban Area through the advice of The Council of Economy and Finance in 2001.
 - b) Under its control, the co-sharing-work-project for adjustment of urban area maps was constructed by two ministries, MLIT and MOJ.
 - c) The area of adjustment operation is classified into two categories, urgently necessitated and not.
 - d) The maps were classified into three categories, well adjusted, fairly adjusted, not so much.
2. Urban area with the popular density of more than 4,000 residents per 1 square kilo meters according to Operation category the 1st and Map Accuracy category 1st and 2nd.
 - a) first step. Setting the control points in order to survey block unit points
 - b) second step. Surveying the block unit points which correspond to maps figure's block unit point.
 - c) third step. Calculating the coordination of parcel polygons by coordinate transformation.
 - d) These operations begun in 2005 and will end until 2015.
3. the maintenance of more than 1,000,000 control points set in the urban area
 - a) it is necessary to set the high density of control points in order to reflect the pretty much changing field data in the maps, taking into consideration that RTK-GPS cannot always be used as various obstacles in the fields of people's every day life.
 - b) The maintenance system is under construction in cooperation with MOJ, MLIT, municipalities of concerned and the biggest user of them, L&H investigators.
4. The other area and the measures of L&H investigator
 - a) The common operations of ameliorating maps are continuing as usual. MLIT's land parcel investigation project and MOJ's <article 14 map> preparation project.
 - b) L&H investigators are planning to manage the outcomes of annex plans preparing in order to make those plans immediately treated as part of article 14 map.

the Attainment rate of land parcel investigation project (2005)

	area (km *km)	operated (km *km)	per cent
DD	12	2	19
resident area	18	9	49
agricultural area	72	49	69
forest area	184	72	39
sum	286	132	46

(from Q&A ,New Registered Boundary Confirm System ,2006,
partly added & modified by author)

Substantial Locale Investigation

1. The prerequisites of theoretical preparing

- a)** The registrar can conduct a field work about the factual matters, though he or she examines only the conformity to the regulations concerned about the legal matters. The principle is reconfirmed as usual.
- b)** to take measures in order to fulfill the system rationally and accurately in corresponding with the necessity of 5 percent reduction of personnel and the abolishment and integration of regional offices.
- c)** The structure of the system must be changed correctly to succeed the hitherto system without any confusion.

2. The Acknowledgement of the present situation

- a)** It essentially is impossible that the registrar gets the original documents authenticated by a individual person , taking into consideration the rate of the basic resident IC card (0.001 percent in 2006) and advancement of its IT literacy.
- b)** Common citizens have no knowledge about such a complicated procedure as land border adjudication and their right acknowledgement about the procedure contents must be formed through professional's helping them even if the dissemination of the IC card will be enough.
- c)** There is the fact that 98 percent of the present application cases is conducted by agency of L&Hi in the domain of the registry application concerning the right's object.
- d)** So far, registrar' field work is abbreviated conveniently if appropriately.

3. The new principle of substantial locale investigation system

- a)** The abbreviation of registrar's field work is systematized clearly.
- b)** Its necessary condition is to submit to the registrar the Investigation Report of Certificated Professional, land and house investigator which is regulated clearly in the ordinance of MOJ.
- c)** Online application case through the agency of certificated profession is accepted with "information no less authentic than original one" of annex documents which authenticated by Its responsibility.

The total number of registered land parcels = 270 million

Classification of registry application cases needing boundary adjudication

unit 1,000

class	the number of case	the number of land parcels
the total number of registering case concerning land	5,189	9,549
first registration	30	55
sub division	683	2,037
area adjustment	176	594
land lot readjustment program	4	715
map correction	1,164	1,276

(from 2003 annual statistics of MOJ)

(from Q & A, New Registered Boundary Confirmation System, 2006,
partly added & modified by author)

Principle of administrative adjudication system

1. Background

a) Globalization is transforming Japanese society from a beforehand-regulated society to a ex post facto one as any other country in the world along with a threat of dwindling its population.

b) Justice system reform has been discussed about the way of government of the law, from accessibility to the court to the number of legal professionals in 1990s in accordance with the Japanese society in the near future .

c) In the domain of the dispute about land boundary, there were problems concerning the treatment of relations between land border adjudication suit and land range confirmation suite, the former's taking too much time and too much money, legal professionals' shortage of experience and knowledge of border adjudication.

d) one of the solving these problems is to alternative dispute resolution. 25 of 50 land & house investigators' associations set up **the ADR center** in order to mitigate the disputers with attorneys. This legal fact lead to making the basic law concerning the promoting ADR's use in 2006

2. Discussions

a) a new administrative land border confirmation system and abolishing the adjudication suit was proposed.

b) but the new system was reviewed from the principle of private autonomy's standpoint and its ineffectiveness of the procedure in case of objection.

c) so, it was transformed to pure administrative registered border confirm system.

3. Set up the registered land boundary system

a) It is stipulated in the real estate registration law in which border border of public law is legally defined for the first time beside in the doctrines and judicial precedents.

b) It sets up the new officer posts, registered border confirm registrar and public investigator. The latter is appointed from the private professionals attorney, adjoining law professions, L&Hi and solicitor temporarily depending on the cases in order to attain the object more expeditiously, inexpensively than suit.

c) its feature is that registrar's decision is written on registry records and legally treated an authority's opinion about the border concerned.

Conclusion

It proved from our these four years' experience in the moment of the greatest change of the real estate registration law that the essence of a cadastral & registry system is a socio-economic correlation between the various organizations or institutions in the domain concerned.

We have cultivated adjudication knowledge and organizational culture since our profession's inception of fifty nine years ago. This profession capability cannot be replaced by other capabilities in the treatment of "legal land objects" in "Cadastre 2014"nesque terminology.

This fact has been acknowledged by other profession, public service personnel, ministers and politicians owing to our nucleus professional feature so that the Diet issued a supplementary resolution that the certificated professionals should be utilized in construction of online application system. In this opportunity we actively join the process of reform , create new services like registered border confirm system, investigation report system and are going to play a bridge role between government and people, between the innovation and tradition.

Cadastre 2014 says that the survey's license has lost its significance in juridical phase because of lawyer and notaries' taking over this kind of labor or will devaluate in technical sense because of technical development and surveyors must be able to manage the land administration system documenting land with all its physical and legal aspects and provide land information for citizen enterprises, authorities, and political decision-makers.

In Japan, in the last reform we created investigation report system that plays the role Cadastre 2014 recommends and is supposed to be the inventory of our data center in the near future.

Last words:

I, one of personnel who developed or is developing this system, would like to say that "cadastre 2014"'s recommendations are right from the standpoint of objective information but the concept of it lacks the standpoint of dynamism of organization that produces their own real information. If cadastre 2014 would have it, it would become to be the real science of cadastre.

I hope I have other opportunity to discuss this problem in detail.