

Appendix 2

THE NATIONAL ADMINISTRATIVE ORGANIZATION IN JAPAN

1. The Outline of National Administrative Organization

National administration is uniformly carried out by the Cabinet and the organizations under the cabinet.

The Cabinet, Ministries, Agencies and Incorporated Administrative Agencies (IAAs), etc. function as one organization, at the top of which exists the Cabinet. It is responsible for all the activities of State except legislative and judicial ones. Consequently it is natural that these organizations which take care of national administration should be systematically organized under the Cabinet.

As of 2019, the Cabinet Office, 11 Ministries, and the Reconstruction Agency are under the Cabinet. They are national administrative organizations in the proper sense of terms. However, not all the areas of State activities are covered by these Ministries.

Incorporated Administrative Agencies and Public Corporations also cover other parts of the activities. One of their purposes is accomplishing enough efficiency and effectiveness in their business with autonomy and legal personalities separated from State. To necessary extent, they are subject to various controls by their competent Ministers.

The former, for which more general rules are prepared, amount 87 as of October 1, 2019. Some of them are regarded the same as government offices in terms of quality of their roles, to which are applied statutes concerned.

Public Corporations, which now amount 33 as of the same date, are enterprises dealing with different quality business from IAAs. They must be regulated by individual acts of rules, not common rules, unlike IAAs.

Thus we can see some types of organizations following policy process from planning to implementation.

2. Shared Responsibility of Management of State Organs

The Constitution stipulates that the executive power shall be vested in the Cabinet. The Cabinet itself is given several proper administrative works by the Constitution. (Article 73)

The Cabinet has following functions:

to administer law faithfully

to conduct affairs of State

to manage foreign affairs

to conclude treaties

to administer the civil service

to prepare the budget and present it to the Diet

to enact cabinet orders to execute the provisions of the Constitution and law

to decide on general amnesty, special, amnesty, commutation of punishment, reprieve, and restoration of rights

But it is needless to say that the Cabinet can never perform all the activities of State for itself. Article 74 provides that all laws and cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister. And Article 72 provides that the Prime Minister exercises control and supervision over various administrative offices. In other words, the Constitution presupposes that the Ministers of State shall be competent Ministers and that specialized administrative organization which takes care of State affairs shall be established.

Under this Constitution Cabinet Act provides that the Ministers shall be divided among themselves administrative affairs and be in charge of their respective share thereof as a competent Minister.

In accordance with the provision of Cabinet Act, National Government Organization Act (Article 5 (1)) provides that the heads of each Ministry shall be, respectively, the Minister of each Ministry, who, as competent Ministers referred to in Cabinet Act, shall have charge and control of their respective administrative affairs. Namely, competent Ministers are the heads of the Ministries. Their administrative affairs are the fields of public administration which are shown by “duties and a well-defined scope of affairs,” which is defined by law.

The fact that each competent Minister has the responsibility of management of each field of national government does not tell what authority he has in dealing with the specific affairs within his jurisdiction. There are many cases where the Prime Minister or each competent Minister has no authority to perform the affairs which are subject to his control and supervision. For example, the Minister of Finance has responsibility for the management of national taxation but has no power to impose certain amount of tax on the citizens. The power belongs to the chief of taxation office.

The central function of the Cabinet is the coordination to secure uniformity of governmental administration performed by various administrative offices.

That is the reason why the Constitution provides that the Prime Minister, representing the Cabinet, exercises control and supervision over various administrative offices. The Cabinet Law stipulates that this power should be exercised in accordance with the policies decided upon at the Cabinet Meetings and that the Prime Minister shall, following consultation at the Cabinet Meetings, decide on any point of doubt relating to the jurisdictions between the competent Ministers. And the Prime Minister may suspend the official measures or orders of any administrative office, pending action by the Cabinet. These powers of the Prime Minister are needed for securing integrity or uniformity of the national administration.

3. The Cabinet

(1) The Organization of the Cabinet

The Cabinet consists of the Prime Minister, who shall be its head, and not more than 17 Ministers of State. (Const. Article 66 (1), Cabinet Act Article 2 (2))

The Prime Minister shall be designated from among the members of the Diet by a resolution of the Diet. (Const. Article 67) The Emperor shall appoint the Prime Minister as designated by the Diet. (Const. Article 6)

The Prime Minister shall appoint and dismiss Ministers of State. More than half of the Ministers must be chosen from among the members of the Diet.

The Prime Minister and the Ministers of State must be civilians.

The Prime Minister may remove the Ministers of State as he chooses. This power of removal is also the basis on which he keeps unity and integrity of the Cabinet.

(2) Management of the Cabinet

Cabinet Meeting

The Cabinet shall perform its functions through Cabinet Meeting. (Cabinet Law Article 4 (1)) There is no written regulation concerning the procedures of Cabinet Meeting. Regular Cabinet Meeting is held on every Tuesday and Friday. If necessary, extraordinary Cabinet Meeting is held at anytime.

As the Cabinet, in the exercises of executive power, shall be collectively responsible to the Diet, it is presupposed that the decision should be unanimous. In order to secure the unanimity the Prime Minister is provided with the authority to appoint or dismiss the Ministers of State.

The Prime Minister shall preside over Cabinet Meetings.

(3) Subsidiary Organs of the Cabinet

The Cabinet Secretariat is in charge of
the arrangement of the agenda,
the coordination necessary for maintaining integration of the policies, and
the collection of information and research.

The Cabinet Legislation Bureau
reviews proposed bills, drafts of cabinet orders and treaties, and
expresses legal opinion to the Cabinet, the Prime Minister or each Minister.

The National Security Council
deliberates important matters on national Security defense and measures to be taken in case
of grave emergency.

The National Personnel Authority
was established to secure neutrality of national civil service in accordance with National
Public Service Act and it is under the general control of the Cabinet.

4. The National Administrative Organs and Their Structure

The National Government Organization Act provides three kinds of administrative organs : Ministry, Agency and Commission.

The main purpose of this law is to provide the criterion of structuring these administrative organs. The primary administrative organs are the Office on the Ministerial Level and Ministry. Agency and the

Commission are not on the same level with the other two. They are put as external organs of Ministry or Office on the Ministerial Level and under its control.

At present, two administrative organs are classified as the Office on the Ministerial Level. They are the Cabinet Office and the Reconstruction Agency. There are eleven Ministries.

Cabinet Office
Reconstruction Agency
Ministry of Internal Affairs and Communications
Ministry of Justice
Ministry of Foreign Affairs
Ministry of Finance
Ministry of Education, Culture, Sports, Science and Technology
Ministry of Health, Labour and Welfare
Ministry of Agriculture, Forestry and Fisheries
Ministry of Economy, Trade and Industry
Ministry of Land, Infrastructure and Transport
Ministry of the Environment
Ministry of Defense

Each Ministry and each Agency of which the head is a Minister of State as provided for by Acts shall have State Minister(s) and Parliamentary Vice-Minister(s), and shall, when particularly necessary, have Special Advisor to the Minister(s).

The State Minister(s) shall be in charge of policy-making and planning, and shall make necessary policy decisions, in accordance with orders from the Minister, placing him/her second in line to the Minister with regard to decision-making.

The Parliamentary Vice-Minister(s) shall participate in planning particular policies in accordance with the Minister's instructions.

The Special Advisor to the Minister assist the minister who is the head of the ministry in respect of being planning and drafting particular policy and dealing with particular state affairs which are made by the minister who is the head of the ministry by the order of the minister who is the head of the ministry concerned.

Each Ministry shall have one Administrative Vice-Minister who assists the Minister in such a way as to keep in order the affairs of Ministry and to supervise the working of respective bureaus and divisions, attached agencies and local offices.

As mentioned above, Commissions and Agencies shall be set up as external organs of an Office on the Ministerial Level or of a Ministry. But in case of special necessity, Commissions or Agencies may be set up in a Commission or an Agency of which the head is a Minister of State.

An Agency is established, when a certain area of the activities which are dealt with by a Ministry is of large volume, its character is different from other works, and consequently it is appropriate for the area of work to be separated from the other and to be taken care of by a head (who is substantially independent of the minister) from the viewpoint of efficiency.

A Commission may be established, when substantial control and supervision by a Minister is likely to thwart the achievement of objectives of a certain work and the work may well be carried out by a joint conference or panel, precluding direct control and supervision of a Minister.

Fair Trade Commission

* National Public Safety Commission

Personal Information Protection Commission

Environmental Dispute Coordination Commission

Public Security Examination Commission

Central Labour Relations Commission

Japan Transport Safety Board

Nuclear Regulation Authority

* The head is a Minister of State.

The head of an Agency is called "Director-General" and that of Commission is called "Chairperson". They cannot directly submit bills or proposed cabinet orders to the Cabinet nor issue ministerial orders. Except these two, Agencies and Commissions enjoy almost equal status with that of Ministries. Agency shall have "Deputy Director-General".

Imperial Household Agency

National Police Agency

Financial Services Agency

Consumer Affairs Agency

Fire and Disaster Management Agency

Public Security Intelligence Agency

National Tax Agency

Japan Sports Agency

Agency for Cultural Affairs

Forestry Agency

Fisheries Agency

Agency of Natural Resources and Energy

Japan Patent Office

Small and Medium Enterprise Agency
Japan Tourism Agency
Japan Meteorological Agency
Japan Coast Guard
Acquisition, Technology and Logistics Agency

The establishment or abolition of Office on the Ministerial Level, Ministries, Agencies or Commissions shall be provided by Acts.

Administrative organs are hierarchically structured at the top of which exists Minister, Chairperson or Director-General.

National Government Organization Act classifies the internal structure into five groups: Internal Bureaus and Departments, Councils, Organs functioning as Facilities, Special Organs, and Local Branch Offices.

(1) Internal Bureaus and Departments

Secretariat is the organization for staff work. As a rule it takes care of archives and documents, budgeting, staffing, public relations, statistics, investigation, etc., through which it controls and coordinates the activities of various bureaus and departments.

Bureaus and departments are line organizations which directly take care of the duties of the administrative organ. The establishment of secretariats, bureaus and departments is to be provided for by cabinet order.

Divisions are established within secretariat, bureau and department. Their establishment or abolition is to be provided for by cabinet order.

(2) Local Branch Offices

They are established by Act to take care of a portion of the affairs of administrative organs in places outside of the Central Offices.

(3) Councils and others

There are many types of organizations which belong to the category provided in Article 8, 8-2 and 8-3 of the National Government Organization Act. One of the most important of them are advisory councils.

The National Government establishes advisory councils as the device to obtain information from experts in various fields to secure fairness of administration, to adjust the conflicting interests or to coordinate various fields of administration.