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**PROTECTION OF THOSE WHO MAKE AVAILABLE AND OF THOSE WHO COLLECT
EXPRESSIONS OF FOLKLORE**

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Legal means of protection of expressions of folklore in national legislation
in particular the protection of those who make available and of those who collect
expressions of folklore

1 Introduction

Including Folklore, the term "cultural properties" refers to the important cultural assets of the Japanese people which have been created and nurtured over the course of our country's long history and preserved and handed down to the present generation. They are indispensable for an understanding of the history, tradition and culture of our country and at the same time form the basis for the development and advancement of future culture.

The present administrative system for the protection of cultural properties in Japan was developed in the Meiji era (1868-1912) and has been revised several times to reflect the times. In the process, protection has been extended to a broader variety of cultural properties and much consideration has been given to the methods of protection.

The nation, local public bodies, owners of protected properties and the Japanese people have worked together not only to preserve these cultural properties and pass them on to the next generation but also to ensure that they are actively exhibited and utilized.

2 Types of Cultural Properties, their designation and selection

The Law for the Protection of Cultural Properties defines cultural properties as belonging to one of the following five categories: tangible cultural properties, intangible cultural properties, folk-cultural properties, monuments and groups of historic buildings. From these categories the Government designates and selects those items which have particularly high historic or artistic value for special national protection as Important Cultural Properties, Historic Sites, Places of Scenic Beauty and/or Natural Monuments.

In the case of intangible cultural properties and intangible folk-cultural properties, in addition to designation, the Commissioner for Cultural Affairs selects those items for which such measures as recording, documenting and photographing should be taken and carries out these activities.

Protection is also provided for cultural properties that remain buried underground (Buried Cultural Properties) and for conservation and transmission of traditional techniques and skills essential for the preservation and repair of cultural properties

UNESCO-WIPO/FOLK/PKT/97/11

page 3

(Cultural Properties Conservation Techniques).

Designation, selection and listing of cultural properties is made by the Minister of Education, Science, Sports and Culture based on the findings of the Council for the Protection of Cultural Properties. This system is outlined in Chart 1 .

It gives the number of cultural properties designated and/or selected and listed by the nation as of December 1, 1996. This number has been steadily increasing to reflect advances in scholarly research, new archaeological discoveries and the changing cultural milieu.

Number of designated Important Cultural Properties
(as of Dec.1,1996)

Important cultural properties	11,961
--Fine and applied arts	9,827
--Architectural Structures	2,134
National treasures	1,045
---Fine and applied arts	838
---Architectural Structures	207
Historic sites, places of scenic beauty and/or natural monuments	2,537
--Historic sites	1,358
--Places of scenic beauty	262
---Natural monuments	917
Special historic sites, places of scenic beauty and/or natural monuments	157
--Special historic sites	57
--Special places of scenic beauty	28
--Natural monuments	72
Important tangible folk-cultural properties	187
Important intangible folk-cultural properties	169

Important intangible folk-cultural properties

---Performing arts	(individuals)	30 specific skills	45 individuals
	(groups)	11 specific skills	(collective recognition)
--Craft techniques	(individuals)	32 specific skills	41 individuals
	(groups)	12 specific skills	(collective recognition)

Number of selected Important Cultural Properties

(as of Dec.1, 1996)

Important Preservation Districts for Groups of Historic Buildings	42
Selected Conservation Techniques	33 specific skills 35 individuals , 18groups

Number of Listed Tangible Cultural Properties

(as of Nov.15,1996)

Architectural Structures	118
(Buildings, Civil engineering structures, other structures)	

The Government has devised a variety of measures necessary for the preservation and utilization of nationally designated or selected cultural properties including regulations, such as prohibition of alterations to their existing state, and the provision of subsidies from the national treasury for their preservation or utilization.

The total budget related to the protection of cultural properties for the Agency for Cultural Affairs during the fiscal year 1996 is 54,213 billion yen of this amount, 24,500 billion yen, or 45%, is used to maintain and use of historic sites, 10,802 billion yen, or 20%, is used to promote programs to preserve National Treasures, Important Cultural Properties, 7,597 billion yen, or 14%, is used to transmit the traditional performing arts, etc, 10,905 billion yen, or 20%, is used to maintain and operate expenses for national museums, etc, and 409 billion yen is used to maintain information system for cultural properties.

To encourage ownership of cultural properties by the nation or local public bodies and to promote their preservation and utilization, a system of tax incentives that includes tax exemptions, deductions on capital gains and reduction of inheritance tax

UNESCO-WIPO/FOLK/PKT/97/11

page 5

has been devised.

3 Political Activities for protection for cultural properties by local public bodies.

Because cultural properties are located throughout the country, close cooperation and coordination between the Government and local public bodies are essential in the protection of cultural properties. Since cultural properties are intimately connected with the culture of the area in which they are found, their preservation and utilization are extremely important for the development and advancement of local culture. For these reasons, the ultimate responsibility for the protection of cultural properties within a given area rests with the local public bodies.

Many local public bodies have passed ordinances to protect the cultural assets within their jurisdiction that have not been designated as cultural properties by the nation. Under these ordinances, the local public bodies designate items that are of value to the community and devise measures to preserve and utilize them.

Number of selection and designation of cultural properties by Prefectures and Municipalities
(as of 1 May, 1996)

Tangible Cultural Properties

--Architectural Structures

(Prefectures)	2,164
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(Municipalities)	7,535
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---Fine and Applied Arts

(Prefectures)	8,438
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(Municipalities)	33,454
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Intangible Cultural Properties

(Prefectures)	166
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(Municipalities)	987
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Folk-cultural Properties

---Tangible Properties

(Prefectures)	593
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(Municipalities)	4,696
 ---Intangible Properties	
(Prefectures)	1,528
(Municipalities)	4,886
 Monuments	
---Historic sites	
(Prefectures)	2,549
(Municipalities)	12,462
---Places of scenic beauty	
(Prefectures)	223
(Municipalities)	871
---Natural monuments	
(Prefectures)	2,834
(Municipalities)	10,234
 Preservation Districts for Groups of Historic Buildings	
(Prefectures)	---
(Municipalities)	13
 Cultural Properties Conservation Techniques	
(Prefectures)	10
(Municipalities)	66

In many cases they provide subsidies for projects related with the custody, repair and public display of cultural properties undertaken by owners and others entrusted with their care. They also facilitate public exhibitions of cultural properties by establishing art galleries, museums, and historical and ethnological archives and conduct research of cultural properties; execute excavation studies of buried cultural properties; and promote educational programs, projects to nurture an appreciation of cultural properties and a wide range of other activities aimed at furthering interest and awareness among the general public.

In addition, local public bodies make preliminary studies of cultural properties

UNESCO-WIPO/FOLK/PKT/97/11

page 7

that are being considered for designation by the nation and assist and supervise local groups responsible for protecting intangible folk-cultural properties. Many have also been entrusted with the safekeeping of cultural assets that have been designated by the nation.

4 Importance and need for protection for Intangible Cultural Properties

The term "intangible cultural properties" first appeared in Japan in 1950 with the enactment of the Law for the Protection of Cultural Properties. Even today it is thought that except for Japan's Law for the Protection of Cultural Properties and similar legislation enacted in Korea, there are very few similar cases around the world of the protection of intangible cultural properties being regulated under a country's domestic laws.

The following provides definitions pertinent to the understanding of intangible cultural properties and folk-cultural properties and explains the aims of protecting these, along with the legislative process by which these properties have been protected. In the course of these explanations, it is also hoped that the importance of and need for protection will be made clear.

1. Definitions of intangible cultural properties and folk-cultural properties

In considering the significance of protecting cultural properties, it is useful to first define these terms.

In the *Kojien*, one of Japan's most authoritative dictionaries of the Japanese language, "cultural properties" is defined as "any object or phenomenon which is an objective product of cultural activities."

Also, in the guidebook issued when the law was first enacted, "cultural properties" are defined as "objects or phenomena of spiritual value or historical significance to the Japanese people which would be likely to disappear or to suffer damage unless protected."

According to the definition in today's Law for the Protection of Cultural Properties, the broad meaning of intangible cultural properties comprises "intangible cultural properties" and "intangible folk-cultural properties."

"Intangible cultural properties" are defined as "intangible objects of drama, music, craft techniques that are historically and artistically valuable," referring to skills of high historical and/or artistic value.

Also, "intangible folk-cultural properties" are defined as "those items which are

indispensable in understanding the transition of Japanese life, including manners and customs related to food, clothing and housing; traditional occupations; religious faiths; festivals and other annual observances; and folk performing arts."

From these definitions it is clear that among cultural products, the emphasis is on historical/artistic value and on the need to understand the transition of the lifestyle of the Japanese people.

As an international definition, in its recommendations on the protection of traditional culture and folklore the 25th UNESCO Committee Meeting in 1989 defined "folklore (i.e., traditional culture of the people) as the sum of creations based on the traditions of the cultural community, expressed through particular individuals or groups, reflecting their cultural or social identity and expected and recognized as such by the community." From these definitions, it may be said that intangible culture is traditionally transmitted by specific individuals or groups, representing the group's identity.

2. Aims of protection

Examining the aims of Japan's Law for the Protection of Cultural Properties, there are two aims given in the first article.

The first aim is the cultural improvement of the Japanese people. This definition is extremely abstract and simple, but when thought of in connection with the stipulations of the definitions given above, the aim is to maintain and raise the standard of Japanese culture transmitted from the past by protecting those aspects of Japanese culture of artistic, historical, or academic value, which are indispensable for understanding the lifestyle or identity of the Japanese people, and which are cultural properties representing the abundant creativity of the nation and Japanese race.

The second aim is to contribute to the advancement of global culture. Instead of viewing culture within the narrow confines of nationalism (as commonly occurs), this approach views the national culture as part of the diverse, precious common property of mankind, which is to be protected in order to contribute to the maintaining and raising of the level of global culture.

3. The background behind the protection of intangible cultural properties and folk-cultural properties in Japan

(1) Up to the enactment of the Law for the Protection of Cultural Properties

Next, by examining how intangible cultural properties and folk-cultural

UNESCO-WIPO/FOLK/PKT/97/11

page 9

properties came to be protected under Japan's cultural property protection policies, let us clarify the needs for protection of intangible cultural properties as well as the problems therein.

Cultural property protection policies did not exist in Japan prior to the tumultuous latter half of the 19th century, as the Edo Shogunate came to an end through the Meiji Restoration. In the Meiji era there were two significant trends: the veneration of Western culture on the one hand, and (under the auspices of the State Shinto religion) an anti-Buddhist movement which led to the destruction of many Buddhist temples. In 1871, a Cabinet Proclamation was issued as a countermeasure toward the conservation of art objects amid the destruction of traditional Japanese art and architecture. The first pertinent modern law was the "Ancient Shrine and Temple Conservation Act" of 1897, which dealt with the conservation of the architecture and art objects in shrines and temples.

Amid the economic depression in Japan during the 1920s, in order to prevent the outflux of art objects overseas, in 1929 the "National Treasure Conservation Act" was promulgated, along with other laws. However, up until the end of the Second World War, the focus of all these laws was on tangible cultural properties such as archaeological sites, buildings, art objects, etc.

In the immediate postwar period, with terrific monetary inflation and a land ravaged by war, due to the economic bankruptcy of individuals and religious organizations which had owned and managed many cultural properties up until that time, many cultural properties could not be appropriately managed, and there was a danger of some of these being lost. In 1949, a mural in the Golden Pavilion of the Horyuji Temple -- the world's oldest wooden structure -- was lost due to a fire that started from the carelessness of a Buddhist monk, and this led to widespread recognition of the urgent need for legislation to comprehensively protect cultural properties. As a result, the Law for the Protection of Cultural Properties was passed in 1950. This marked the first time that intangible cultural properties were also dealt with in such legislation. The reason for this was that after the end of the Second World War, the lifestyle and attitudes of the Japanese people became increasingly Westernized at a rapid pace, and tradition in general was widely looked down upon, so that many people took little interest in skills associated with valuable traditional culture, and there was a danger of these skills being lost. However, the original focus of these protective efforts was on aspects of culture of the highest artistic and historical value, such as kabuki and noh theater. Also, whereas for tangible cultural properties the protective efforts included

official designations such as "national treasures," for intangible cultural properties there was no corresponding system of designations -- only the requirement that support measures such as granting of subsidies and assistance with procurement of materials be made.

(2) Creating of the system for the designation of important intangible cultural properties

The 1954 revision of the Law for the Protection of Cultural Properties. Three years after the enactment of the Law for the Protection of Cultural Properties, Japan finally pulled out of the postwar period of chaos and the life of the Japanese people restabilized, and with this people's lifestyles became increasingly Westernized and modernized. On the other hand, with the stabilization of life, desire for the protection of traditional culture also became more widespread, so based on the results of three years of implementation, in 1954 the Law for the Protection of Cultural Properties was revised.

Concerning the protection of intangible cultural properties, a system was created for the designation of important intangible cultural properties similar to that for tangible cultural properties. Since intangible cultural properties exist through their embodiment of skills within specific persons, the law called for the specification of people or groups which transmit these skills, and for the preparation of records of these skills as well as for government financial support of the training of successors for the continued transmission of these skills. Also at this time, in addition to important intangible cultural properties (performing arts, craft techniques), measures were introduced for the selection and recording of intangible cultural properties of significant value.

Furthermore, cultural properties necessary for the understanding of the transition of the life of the Japanese people were defined as "folk materials"; important items among these were designated as important folk materials and measures were drawn up to manage and repair these. Also, measures called for valuable intangible folk-cultural properties to be selected and records compiled concerning them.

(3) Creating of the system for the designation of important intangible and tangible folk-cultural properties

Until 1975 there were no additional significant revisions to the Law for the Protection of Cultural Properties, but the intervening 20 years marked Japan's period of

high economic growth, throughout which urban centers grew huge, with extensive redevelopment and demographic shifts from the country to the cities. Extensive urbanization nationwide led to the destruction of many traditional buildings and entire town sections through rebuilding. Also, rapid industrialization and other transformations of the industrial structure led to dramatic shifts in agricultural, fishing and forestry practices, along with the continued rapid advance of the Westernization of people's life styles. Particularly among young people, there was a massive shift of population from farming villages to the cities, accompanied by a shift away from the large, multi-generational family patterns of previous generations to more nuclear families, and the traditional community social structure was greatly changed. As a result, manners, customs, annual events, folk performing arts and other types of folk cultural properties and traditional arts and crafts were rapidly being lost.

In order to accommodate these changes, in 1975 the Law for the Protection of Cultural Properties was revised once again.

Through these revisions, what had been previously referred to as "folk materials" were reclassified as "folk cultural properties" so that manners and customs related to food, clothing, housing, traditional occupations, religious faiths, festivals and other annual observances as well as folk performing arts came to be classified as intangible folk-cultural properties, and the clothing, utensils, furniture and other items were classified as tangible folk-cultural items. Furthermore, among these the more important were able to be designated as important intangible folk-cultural properties and important tangible folk-cultural properties.

Previously, the more valuable among folk performing arts were considered to be classifiable as intangible cultural properties, but because of a sort of elitism none had ever actually been classified as such; instead only records of them were kept. Through this revision, however, even if they could not be considered such for artistic purposes, for their value in understanding the transition of the life of the people, certain folk performing arts came to be designated as cultural properties and support provided for the raising of successors to perpetuate them.

4. Achievements and problems of intangible cultural property protection under the designation and recognition systems

(1) Concerning designations of important intangible cultural properties

Designations and recognitions under these systems have raised public awareness concerning important intangible cultural properties and have made significant

contributions toward their protection.

However, there is a danger of society taking a special view of the "living national treasure" designations granted in recognition of the embodiments of the highest levels of Japan's traditional arts for purposes of protection, with the people losing interest in the objects of protection themselves. In other words, there is currently a trend toward the separation of intangible cultural properties and the individuals and groups which embody them.

(2) The problem of lack of successors

In the case of sophisticated traditional culture under the national government, it is necessary to start recruiting people to be trained in increasing number in each fields, of the traditional performing arts, in addition the traditional recruiting. In keeping with this, the Japan Art Culture Promotion Association is conducting training operations to foster successors.

Also, toward the improvement of specialized techniques and knowledge used in manufacturing materials and tools for the expression of intangible cultural properties, and to ensure the continued smooth transmission of cultural property conservation and repair techniques into the future, from last year domestic training programs were begun so that young technicians might acquire sophisticated skills more quickly.

Concerning folk performing arts, demographic movements out of transmission locales and particularly the shrinking numbers of children have caused many places to suffer a dearth of successors. As a countermeasure many locales are attempting to transmit folk performing arts to children through school club activities, but many children quit these activities upon entering high school or college.

Also, from FY 1997 next year there are plans to implement new subsidy operations to support local public organizations responsible for undertaking measures to foster successors in each region.

(3) The problem of preparing survey records

This point has proceeded to a fairly advanced level in the case of traditional performing arts protected as sophisticated intangible cultural properties by the national government. However, folk performing arts, folk songs and other intangible folk-cultural properties lag behind, and the Agency for Cultural Affairs is now implementing the preparation of records on a prefectural basis. However, this is limited to the preparation of written records and aural recordings, and in the future it will be

UNESCO-WIPO/FOLK/PKT/97/11

page 13

necessary to emphasize the preparation of video recordings. Another future issue is the organization and utilization of records prepared by various organizations.

Furthermore, from this year operations have begun to collect, organize, digitize and publish (in a CD-ROM called *Furusato no Densho Denshi Zukan*) information about images of precious folk-cultural properties recording traditional life and industry.

(4) Problems of public exhibition

In the case of traditional culture treated as intangible cultural properties, public performances are being held at the Japan Art Culture Promotion Association's National Theater Main Hall, National Performing Arts Museum, National Noh Theater and National Bunraku Theater. Performances of those folk performing arts which are intangible folk-cultural properties are held at various types of folk performing art festivals, regional promotional events, etc., but sometimes it is to be wished that care would be taken to prevent these from being transformed away from their traditional forms into "spectacles." There are also cases where joint performances are held in with overseas folk performing arts, but frequently the content of the invited performing arts are not carefully planned, but rather somewhat of a hodgepodge.

In 1996, The three local regions work for the exhibition "The international Folk-cultural Performing Arts Festival" with the Agency for Cultural Affairs to develop and diffuse and folk-cultural performing arts. It is jointed by some Japanese performing groups and Asian groups. It is active international cultural exchanges greatly.

(5) The problem of the position of intangible cultural properties related to modern culture

With regard to the cultural heritage of modern Japan, while many aspects of traditional culture are threatened with extinction or dispersion due to the pace of development and changes in modes of living, because people do not share a consensus concerning the value of cultural properties, protection measures are not always being a dequately taken. Appropriate conservation measures should be taken for those items in our modern cultural heritage about which there is a certain amount of agreement concerning their value. For this reason, efforts are being made to implement necessary studies and other measures concerning the conservation status for protecting our modern cultural heritage, including intangible cultural properties.

As explained above, the historical background in Japan, including the economic

development, demographic shift from the countryside to the cities, Westernization of lifestyles and modernization are all patterns which Japan shares in common with many countries in Asia or other regions.

As well as in Japan, the loss of successors to perpetuate traditional performing arts remains a problem as urbanization, the shift of population from the country to the city and change of generations continues.

It is greatly to be hoped that Japan's thinking and efforts concerning the protection of intangible cultural properties and folk-cultural properties, and the historical back-ground behind the protection of cultural properties, will prove useful to the corresponding efforts of people in other countries.

5 Activities for protection for Tangible Cultural Properties

I mention to protection activities for Architectural structures, Fine and applied arts, material folk cultural properties and detail of them.

1. Architectural structures, Fine and applied arts

"Tangible cultural properties" is the general term used to refer to tangible cultural works like architectural structures, paintings, applied art works, sculptures, works of calligraphy, classical books, ancient documents, archaeological materials, and historical materials that possess high historic, artistic or scholarly value for our country.

All items in this category, with the exception of architectural structures are generally referred to as "fine and applied arts."

Among these tangible cultural properties, those which are considered particularly significant are designated as Important Cultural Properties by the nation; those that are of particularly high value from the standpoint of world culture are designated as National Treasures and protected by the nation.

Approximately 90% of the designated cultural property buildings are wooden structures that periodically require major or minor repairs or preservations. Repair projects are carried out by the owners or organizations entrusted with the safekeeping of the buildings, but subsidies are granted by the nation for most of these projects, with the exception of minor repairs. Because almost all the historic buildings in Japan are made of wood and in many cases have roofs made of plant materials like thatch and cypress bark, they are extremely vulnerable to fire. For this reason, the Agency for Cultural Affairs provides necessary subsidies to install fire-prevention facilities and

executes other measures for their protection.

In addition to the types of buildings listed above, architectural structures related to industry, transportation and public works which played a major role in the modernization of Japan are being torn down as a result of technological innovations, changes in industrial structures and other reasons. The Agency for Cultural Affairs is carrying out investigations to specify these structures that were once the backbone of Japanese modernization and are now in the process of being lost in an effort to preserve them as monuments of the Japanese modernization period. The Government designates them as cultural properties based upon such studies.

The custody and repair of National Treasures and Important Cultural Properties for Fine and Applied Arts are carried out by their owners or organizations entrusted with their safekeeping (local public bodies and other organizations appointed by the Commissioner for Cultural Affairs to take proper care of designated cultural properties).

Approximately 60% of the National Treasures and Important Cultural Properties (fine and applied art objects) are owned by shrines and temples.

Any unauthorized alterations to the existing state of these designated cultural properties or their export other than for exhibitions overseas deemed necessary is prohibited. The Government grants subsidies from the national treasury and provides other forms of support for the preservation and repair of cultural properties, and the Commissioner for Cultural Affairs may issue instructions about their custody, repair and exhibition.

2. The history of activities for protection for Material Folk-cultural Properties

According to the law for the Protection of Cultural Properties, folk-cultural properties are considered indispensable to an understanding of the transformation in lifestyles of the people. It recognizes both intangible cultural properties including manners and customs like annual events, beliefs and festivals, and folk-performing arts, as well as tangible cultural properties including costumes and objects used on such occasions and buildings. Intangible folk-cultural properties are by their nature subject to change according to the historical and social background of time because they are passed down by people through generations. Therefore, conservation through documentation was the only means employed until the law was amended in 1975, whereas tangible cultural properties used for these events and ceremonies were protected in a similar manner as other tangible cultural properties. Folk-cultural properties were first regarded as objects for protection after the establishment of the

Law for the Protection of Cultural Properties in 1950, but the actual enactment of the law occurred even after that. This was mainly because folk cultural properties which include tools or facilities found in our ordinary life do not possess strong sense of antique character. While works of fine and applied art or buildings had been regarded as the Meiji period, the idea of protecting folk cultural properties had not well penetrated to the general public in a same manner. Moreover, the fact that folk cultural properties were categorized as part of tangible cultural properties under the 1950 Law for the Protection of Cultural Properties also contributed to the delay in administrative action. Unlike works of fine and applied art or buildings that are evaluated historically and artistically, folk cultural properties by their nature require a different set of standards for evaluation. The law was thus amended in 1954 and folk cultural properties were set in a category of its own, independent of outside of tangible cultural properties. In the present, the Government designates significant items in this category as Important Folk-cultural Properties and grants subsidies for the building of repositories and disaster-prevention facilities for and repair of tangible folk-cultural properties.

6 Conclusion

In the presents, it is one of the extreme important subjects to promote culture for our nation.

Maintaining and developing traditional culture and Boosting creative artistic activities and Making an international cultural contribution is requested as national political activities. The Committee's report, Toward the Establishment of the New Cultural Nation--Immediate Priority Strategies for Promoting Culture, delivered in July 1995, will form the basis of future endeavors by the Agency for Cultural Affairs toward the promotion of culture. Advisory Committee for Promoting Cultural Policy has identified the following issues in the administration of culture. These are shown together with specific proposed strategies.

1. Boosting creative artistic activities
2. Maintaining and developing traditional culture
3. Promoting regional culture and "lifestyle culture"
4. Training and nurturing human resources to sustain culture
5. Making an international cultural contribution and conveying Japanese culture to the world
6. Developing the infrastructure for conveying Japanese culture to the world

Then, In FY1996 Local regions work together with the Agency for Cultural Affairs on town planning, "Community Development through Culture" to develop measures designed to boost unique local artistic and cultural activities, and to enable people to enjoy closer access to outstanding arts and culture while utilizing the cultural inheritance of the region.

In addition to, government make an effort of various political activities for cultural properties in change in the age when cultural properties are surrounded.

Chart 1 The System of Designation, Selection and Listing of Cultural Properties



