Chapter 1 Cross-Sectoral Fields

1 Creation of New Businesses

[Awareness of the Issues]

Since the 1990s, Japan has suffered economic stagnation amid globalization, the falling birthrate, aging population and other rapid social changes. During this stagnation, the global community's ratings of the Japanese economy have continued to decline, as indicated by the international competitiveness ranking of the International Institute for Management Development. Despite the current inferior economic performance, however, Japan undoubtedly has one of the world's leading economic systems, with advanced technological capacity, huge personal assets, a vast consumer market and other outstanding features. We believe that Japan can overcome the current crisis by recovering self-confidence.

A key measure for stimulating potential growth and economic vitalization is to create new businesses and support their growth. From the viewpoint of new business creation, however, some people claim that risk and institutional gaps between people protected by the existing systems and those willing to start up new businesses are excessively large, discouraging ambitious people from launching new businesses. On the other hand, Japan has failed to make effective use of existing resources sufficiently. For example, reorganization of existing businesses has failed to make progress and achievements at universities and other research organizations are not yet utilized fully. To create new businesses in light of such conditions, Japan should lower the barriers to business openings in order to expand entrepreneurship and should promptly consider and implement mechanisms to ensure the optimum allocation of people, goods, money and other resources (including technologies) to growth companies and sectors.

Regulatory reform is important in this respect. So far, regulatory reform has supported the creation of new businesses by providing growth opportunities through the development of new markets. Based on the awareness of the above issues, however, Japan should promptly implement intensive and comprehensive regulatory reform to develop infrastructure for business openings from a perspective that spans business startups to their growth stages.

In order to "lower the barriers to business openings," Japan should try to reduce the time and costs for business opening procedures and rebuild limited liability systems to make them easier to use.

As for the "optimum allocation of people, goods and money as business resources," Japan should "diversify and facilitate fund-raising means meeting risks" through such measures as the expansion of equity finance and collateral systems. It should also develop a "mechanism to train and support courageous people" through such measures as reforming stereotyped education systems, vitalizing universities and rebuilding employment systems to allow diversified work options. At the same time, Japan should develop "mechanisms to take maximum advantage of existing resources such as technological capacity and businesses" through the enhancement of industry-academia cooperation and the improvement of merger and acquisition systems. Bold regulatory reform should be implemented to simultaneously drive these measures.

Finally, when considering tax incentives to promote business openings consideration should be given to recognize special incentives as exceptions to the tax principles of equity, neutrality and simplicity and consider the policy purposes, necessity, effects and other aspects of such tax incentives. At the same time, consideration should be given to linking a series of regulatory reform measures to such tax incentives, based on a vision of desirable institutions under the present situation where Japan is now required to make turnarounds in the institutional paradigm through such measures as the shift from indirect financing to direct financing including equity finance, and the expansion of diversified work options apart from the traditional lifetime employment system.

[Specific Measures]

1 Regulatory Reforms Regarding Fund Provisions

When courageous and creative people start new companies or launch new businesses, funds should be provided in a manner to meet respective business risks. In this sense, the development of fund provision infrastructure is very important for supporting business openings.

Japan's financial market is expected to increasingly shift to direct financing (including market-oriented indirect financing). As for startup companies in their development stages issuing securities, the enhancement of fund-raising means through private securities issues and the improvement of relevant infrastructure are required in order to facilitate the provision of funds for new businesses.

Regarding indirect financing (borrowings from such organizations as financial institutions) that still maintains a key financing position, traditional bank loans depending heavily on real estate assets as collateral must be improved. In order to

facilitate the provision of funds to new businesses, relevant infrastructure reform measures should be considered, including the creation of systems for loans backed by movable property and claims. Some people complain that the present scope of personal liability for managers of bankrupt companies has led potential entrepreneurs to hesitate starting new businesses. From the policy-oriented viewpoint of removing obstacles to risk-taking business openings, we believe that the government should consider desirable personal guarantee systems and revise relevant systems.

(1) Direct financing

① Revising disclosure regulations under the Securities and Exchange Law

a Revising private securities placement rules [Consideration to start within FY 2002]

In order to increase opportunities for startup companies to raise funds for starting new businesses and accelerating growth, infrastructure should be developed urgently for private securities issues to raise funds. There is a complaint that Japan's primary market for private securities issues has yet to be developed fully. In order to facilitate the provision of funds to new businesses, the government should revise the present system to vitalize the private securities market.

Therefore, specific consideration should be given to such measures as expanding the range of eligible institutional investors to purchase privately placed securities (the range of professional investors) and the treatment of equity-type securities. **<Relevant discussions in "Finance" 3 (3)>**

b Shortening validation moratorium for financial statements [To be considered within FY 2002]

The development of information technology has allowed faster provision of information to investors and the Electronic Disclosure for Investors' Network (an electronic disclosure system for financial statements and other documents required under the Securities and Exchange Law), or EDINET, has been in operation since June 2002. In view of such developments, the government should consider shortening the validation moratorium for financial statements and corrected securities issue registration reports submitted through EDINET as far as such measures are appropriate for the protection of investors.

② Expanding the investment business limited liability partnership system (venture capital system) [Partially implemented in FY 2002, consideration to continue in FY 2003]

"Investment business limited liability partnerships" based on the law of limited liability partnership contracts for investment in small and medium enterprises and the like (Law 90, 1998) are partnership-type investment funds that feature the legal guarantee of "limited liability" for non-executive partnership members and "tax exemption for partnerships (tax pass-through). These features had not applied to traditional investment partnerships based on the Civil Code. These investment business LLPs have worked to promote the provision of funds from a wide range of investors to SMEs and venture companies. But requests have emerged to expand the investment targets and operations of these investment business LLPs to increase risk money supply for further business activity vitalization.

In this respect, the so-called SME challenge support law ("the law to amend part of the Law on SMEs and Other Business Cooperatives for the promotion of new business activity by SMEs and the like") (Law 110, 2002) has just been enacted to expand investment targets to cover yugen-kaisha (limited companies) and business cooperatives in addition to stock companies, which were the traditional target. Investment operations, which had been limited to equity investment, have also been expanded to cover acquisition of beneficiary rights to trust and other project-finance operations to receive profit dividends stemming from the business operations of investment targets. In order to expand investment through diversified risk money provisions, however, the government should consider further expansion of investment targets and operations, based on the effects of the previously mentioned expansion measures. **<Discussed again in "Legal Affairs" 2>**

(2) Indirect financing

① Revising personal guarantees (expanding the range of assets barred from legal seizure and other measures) [To be implemented in FY 2003]

Under Japanese business practices, financial institutions require company managers to give personal guarantees on loans to their companies. This means that SME and other business managers and self-employed businesspeople, if facing personal bankruptcies or other difficulties resulting from business failures, could lose assets to the extent where it may difficult for them to try launching new

businesses. In this respect, critics say that the range of personal assets barred and free from legal seizure upon bankruptcies is very narrow.

In order to promote the creation of new businesses and ensure the possibility for failed entrepreneurs to start another company, the government should revise relevant laws to expand the range of assets barred and free from legal seizure, in view of the structural characteristics of Japanese SMEs and other business entities.

② Expanding the range of companies subject to commitment lines [Consideration and conclusion to be given in FY 2003]

Commitment line contracts that have been introduced for big companies may be a useful fund-raising means not only for large companies but also for SMEs and the like that are about to launch new businesses. Accordingly, there are complaints that the current system excluding SMEs from the range of borrowers for commitment lines is inappropriate.

Therefore, consideration should be given to the range of borrowers eligible to use commitment line contracts, based on the purpose of protecting the economically weak under the Interest Rate Restriction Law (Law 100, 1954) and the Capital Subscription Law ("Law concerning Regulation, etc. of Receiving Capital Subscription, Deposits, Interest on Deposits, etc.") (Law 195, 1954).

③ Facilitating fund-raising operations through development of legal systems for movable property and claims as collateral [Consideration to start within FY 2003]

Japan's legal system leaves common law to govern the conditions for and effects of transferred security interest for movable property (including aggregate movable property) and claims (including aggregate claims). Therefore, there are complaints that it is inconvenient to use the transferred security interest for movable property and claims in practice. On the other hand, Japanese regulations provide that a secured party may lose its security interest for movable property if a third party acquires the property without knowing the security interest. Some people doubt if such rules are appropriate for the coordination of interests between the secured party and the third party. Furthermore, calls have emerged for the development of a public notice system, such as the U.S. has, for movable property and claims as collateral. However, some critics argue that the transferred security interest system, if legislated, could become too rigid to be used flexibly. There is a view that no special problems exist with the rules for coordination between a transferred security interest holder for aggregate movable property and a third

party. Some people note that Japanese regulations, even if based on the U.S. legal system, will have difficulties in developing any effective public notice system.

Therefore, the government should consider whether there is any need for developing legal systems for movable property and claims as collateral and whether there are any problems with such legislation, from the viewpoint of facilitating fund-raising operations for business entities including startup companies and SMEs. **<Discussed again in "Legal Affairs" 3>**

2 Regulatory Reform Regarding Business Mechanisms and Management

Over recent years, Japan has improved the market for initial pubic offerings and made several revisions to the Commercial Code (Law 48, 1899) to considerably stimulate the environment for the creation of new businesses. In reality, however, the creation and expansion of businesses are still at low levels.

Nevertheless, there is evidence of a great number of potential entrepreneurs in Japan as the rapid diversification of working options and job views has led to various business openings and entrepreneurs including SOHO (small office/home office) businesses and those created by aged people and housewives.

Therefore, Japan should develop systems to make it "easier for people to open businesses or manage even small-sized businesses." It should also prepare systems to "prevent risks from becoming excessive for entrepreneurs and limit risks to a predictable scope." These efforts are required to support courageous people.

From the viewpoint of economic vitalization, Japan should substantially increase the number of new business creations and develop mechanisms to help startup companies enhance their market competitiveness and allow companies with growth potential to reorganize themselves to aid growth promotion. These efforts are important for linking creation of new businesses to economic vitalization.

(1) Developing simpler business opening systems

① Developing infrastructure for various business forms (developing various limited liability forms)

a. Improving business cooperative systems [Implemented in FY 2002]

The business cooperative system based on the Small and Medium Enterprises and Other Business Cooperatives Law (Law 181, 1949) imposes no minimum capital size restrictions and endorses the limited liability of

cooperative members, allowing people to launch businesses with simple corporate organizations. Over recent years, therefore, business cooperatives have been increasingly launched mainly in the welfare and nursing care, information service and environment businesses. In order to further promote such moves in a wider range of sectors and support people working under the system, the government has been called upon to enhance the system through such measures as easing conditions for launching business cooperatives.

In this respect, the so-called SME challenge support law ("the law to amend part of the Law on SMEs and Other Business Cooperatives for the promotion of new business activity by SMEs and the like") has just been enacted to ease conditions for business cooperatives. Under the law, companies and limited liability partnerships are allowed to participate in business cooperatives as full members. Members who must engage in the business of a cooperative are reduced from two-thirds of the total cooperative members to a half (business engagement portion) and the members' portion of people engaging in the business is lowered from a half to one-third (member portion).

b. Considering private law-based business organization forms [Consideration to start within FY 2002]

Various forms of establishment have been allowed for private law-based cooperatives and corporations. Some people call for creating a system to allow those launching businesses to use these business organization forms more easily.

In this respect, the "(revised) Three-Year Regulatory Reform Promotion Plan," as adopted by the Cabinet in March 2002, calls for considering "various forms of private law-based business organizations" within FY 2002.

Therefore, the government should put private law-related problems in order and consider reasonable and healthy business organization forms. At the same time, it should study relevant tax treatments.

② Simplifying business organization and establishment procedures

a. Revising new business creation promotion law (considering special measures under Commercial Code) [Implemented in FY 2002]

The New Business Creation Promotion Law (Law 152, 1998) allows individuals or companies within five years from the start of their business to

obtain financial assistance under such systems as the special use of the small and medium enterprise credit insurance and the industrial infrastructure development fund's debt guarantees, and establishes special measures under the Commercial Code for developing systems for easier creation of new businesses. While the law has contributed to creating new businesses, people have called for revisions, including easing the minimum capital requirement that has been criticized as a big hurdle to new business creation.

In this respect, the so-called SME challenge support law ("the law to amend part of the Law on SMEs and Other Business Cooperatives for the promotion of new business activity by SMEs and the like") has just been enacted to free companies within their first five years from the minimum capital requirement under special measures of the Commercial Code, while imposing disclosure obligations, dividend restrictions and the like on these companies.

b. Electronic procedures for launching companies [To be implemented continuously from FY 2002]

There are complaints that time and administrative procedural costs for establishing companies have become a factor discouraging new businesses from being launched flexibly and actively.

Therefore, the government should further promote electronic company-launching procedures (including public procedures such as various applications after company registrations) in order to substantially reduce the time and administrative costs for those starting new buisnesses.

③ Developing a cross-sectoral system regarding franchises

a. Developing a better environment for service franchises through such measures as application of information disclosure systems to services [To be implemented as early as possible within FY 2003]

The "franchise system" can contribute to creating new businesses and jobs in a wide range of industrial sectors including retailers, restaurants and services. Over recent years, an increasing range of industrial sectors has adopted the franchise system, including not only retailers but also service providers. Sectors other than retailers have recently increased their weight in the franchise industry, while cross-sectoral integration in the distribution and service fields has been making rapid progress.

However, the present Small and Medium Retailer Promotion Law (Law 101, 1973) is designed solely for the promotion of small and medium retailers. Its information disclosure and accountability requirements for contracts between franchisers and franchisees only cover the retail sector.

A survey has recently been conducted on relations between franchisers and franchisees with a view to developing a desirable business environment for service franchises. In order to ensure the sound development of small and medium enterprises and venture businesses through the diffusion and promotion of the franchise chain system, the government should continue to consider developing a system for information disclosure and other procedures upon the conclusion of franchise contracts for sectors other than retail, particularly the service sector. Thorough consideration should also be given to desirable franchise contracts as a whole. Conclusions on these matters should be reached at an early date. **<Discussed again in "Competition Policy" 4 (4) ①>**

(2) Developing system to allow prompt reorganization (integration and division)

① Revising regulations requiring open-market purchases of shares (one-third rule) [Consideration to start within FY 2002]

The present regulations require a party to purchase shares on the open market when that party plans to either acquire shares in a company subject to the Securities and Exchange Law from an extremely small number of shareholders or to increase its stake in the company to more than one-third of the total voting shares. It is significant for investor protection to require a transfer of shares exceeding one-third of the total shares in any company to be disclosed on the market. But buyers are required to use an open-market purchase method even for direct purchases from certain shareholders through bilateral negotiations. There are complaints that this requirement is a heavy burden on buyers affecting business reorganization using transfers of shares and other bilateral deals. In reality, disclosure costs are heavy and buyers are frequently forced to openly purchase shares at prices lower than market levels. This is unreasonable.

In order to activate business reorganization through prompt management buyout and other measures and therefore provide startup companies with dynamic growth opportunities the government should consider revising the open-market purchase regulations for transfer of shares exceeding one-third of the total shares in a company. At the very least, the execution of security interest and other actions

should be exempted from the open-market purchase requirement, as is done in European countries.

(3) Revising government procurement system to expand business opportunities for startup companies

In order to ensure business opportunities for SMEs, the government has so far implemented SME measures giving priority to support for startup companies in fund-raising, personnel development, technology development and other areas. Such measures have been taken in public-sector procurement as well, including those giving consideration to the expansion of order-receiving opportunities for startup companies and technologically competitive SMEs. But the government should give greater consideration to startup companies as the prime mover of economic vitalization and employment expansion and revise the present measures in a bid to ensure real opportunities rather than results. In this respect, a thorough review may be required from such viewpoints as fairness, economic rationality and efficient budget execution. As for government procurement, which is attracting a lot of social attention, the following measures should be considered for the immediate future.

① Revising qualifications for bidders

a. Revising qualifications for bidders for manufacturing, sales, etc. of goods for government [Consideration to be continued from FY 2002]

When business entities wish to take part in government-sponsored open competitive biddings, they are required to undergo unified qualification tests for all government agencies. Qualification standards include "the number of years of business operations," "average annual production," "net worth" and "value of equipment." These are given numerical ratings and the ratings are aggregated to determine rankings of specific business entities. While contributing to the confirmation of an entities business capacity, this system occasionally makes it difficult for young, small startup companies with excellent technological capacity to participate in biddings.

In order to improve the current system and expand bidding opportunities for startup companies, the government should, for example, consider more desirable qualifications for bidders and implement flexible measures for expanding bidding opportunities for technologically competitive SMEs. The government should also urgently improve competitive bidding among

designated bidders.

b. Revising bidder qualifications, etc. for public works contracts [Consideration to be continued from FY 2002]

When bidder qualifications for public works contracts include past contracts as part of "past works, manufacturing, sales and other business records" and "works and other experiences," equal consideration should be given as much as possible to public and private sector contracts that have apparently required similar technological capacity. As for geographical qualification conditions including "the locations of business offices of the bidder," the government should check whether such conditions are discouraging startup companies from expanding their business territory and should review relevant systems in foreign countries. It then should consider desirable measures to ensure opportunities for SMEs to receive public procurement orders. **<Relevant discussions in "Competition Policy" 5 ③>**

② Enhancing fairness and economic rationality in government procurement [Consideration to be continued from FY 2002]

Regarding targets for SME contracts in "the policy on the public sector's contracts with SMEs" (as decided on by the Cabinet) based on the Public Procurement Law ("Law Regarding Ensuring Public Procurement Orders to Be Received by SMEs") (Law 97, 1966), the government should check whether such targets are forcing contracts to be divided unreasonably and should consider desirable targets from the viewpoint of ensuring fairness, economic rationality and efficient budget execution for government procurement. Based on such considerations, the government should revisit "the promotion of separation or division of orders" in "the policy on the public sector's contracts with SMEs." For example, it should consider specifying and publishing the reasons for dividing orders, from a transparency point of view. **<Relevant discussions in "Competition Policy" 5 (1)>**

3 Regulatory Reform Regarding Personnel Development, Supply, etc.

People create businesses. In order to ensure sufficient personnel numbers for new businesses, it is important to avoid discouraging ambitious people from developing and continuing creative efforts. The employment and labor system paradigm should be

altered with responses being made to changes in people's feelings about relations between companies and individuals.

Further promotion of industry-academia cooperation is important for creating and supporting new businesses. Such cooperation may include faster practical application and commercialization of university research "seeds" through "university-launched ventures" using university-based research achievements, as well as the promotion of university education and research based on social needs.

On the other hand, Japan's education system has tended to veer towards excessive egalitarianism and stereotyping and prevent the emergence of leaders who create new values.

In order to foster potential leaders who are rich with originality and creativity and who are willing to undertake new businesses, the government should provide diversified education by supporting the development of personnel meeting needs of society, regional residents and consumers.

(1) Regulatory reform to support provision of personnel for new businesses

① Expanding staffing services and fixed-term employment contracts

a. Expanding temporary job opportunities [Necessary actions including the submission of a relevant bill in the next ordinary Diet session]

For purposes including the expansion of diversified work options as well as employment opportunities, based on recent rapid changes in the employment situation, the government should promptly compile results of research and discussion on a desirable staffing service authorization system, the extension of temporary employment periods or the repealing of restrictions on temporary employment periods, the abolition of a ban on temporary employment for "manufacturing of goods" and other measures, and take necessary action including the submission of a relevant bill during the next ordinary Diet session. **<Discussed again in "Employment and Labor" 2 (1)>**

b. Extending temporary employment periods or repealing restrictions on such periods [Necessary actions including the submission of a relevant bill during the next ordinary Diet session]

Temporary employment periods are limited to one year under law and to three years under administrative guidance. Based on the opinions of temporary workers, the government should consider measures including the extension of

maximum temporary employment periods and the repealing of such limits, compile the results of consideration promptly and take necessary action including the submission of a relevant bill during the next ordinary Diet session. **<Discussed again in "Employment and Labor" 2 (1) ①>**

c. Expanding range of jobs for temporary workers [Necessary actions including the submission of a relevant bill during the next ordinary Diet session]

The present Temporary Employment Law (Law 88, 1985) in its schedule bans temporary employment of workers for "manufacturing of goods" for a while. While studying conditions regarding the temporary employment of manufacturing workers in foreign countries, the government should consider repealing the ban, promptly compile the discussion results and take necessary action including the submission of a relevant bill during the next ordinary Diet session.

By taking such actions, the government should give enlightenment and guidance to ensure appropriate working conditions regarding issues such as safety and health for temporary workers. **<Discussed again in "Employment and Labor" 2 (1) ①>**

d. Expanding fixed-term employment contracts [Necessary actions including the submission of a relevant bill during the next ordinary Diet session]

In order to increase diversified work options and employment opportunities in regard to fixed-term employment contracts, the government should consider setting the maximum employment term at five years for specialists and extending the general maximum employment term from the current one year in principle to three years, promptly compile discussion results and take necessary action including the submission of a relevant bill during the next ordinary Diet session. **<Discussed again in "Employment and Labor" 2 (2)>**

② Revising temporary-to-permanent employment system [Necessary actions including the submission of a relevant bill during the next ordinary Diet session]

Since it is difficult for the Temporary Employment Law to govern the temporary-to-permanent employment system, the government, based on research such as survey results, should make revisions to legal and other present systems, including the introduction of pre-employment interviews, requests for resumes,

informal employment decisions and so on. **<Discussed again in "Employment and Labor" 2 (1) ④>**

③ Deregulating private job placement services

a. Revising authorization standards under Employment Security Law

(a) Deregulation regarding free job placement services [Necessary actions including the submission of a relevant bill during the next ordinary Diet session]

A study is under way on revisions to paid and free job placement service systems. There are complaints that the authorization system for free job placement services by non-school entities has a problem of discretionary administration since it conditions the authorization on a necessary and appropriate scope of job placement services based on authorized applicants' purposes, forms, in-house rules and the like. The government should consider expanding the scope of a reporting system for free job placement services, promptly compile discussion results and take necessary action including the submission of a relevant bill during the next ordinary Diet session.

Under the recent serious employment situation, job placement services of all prefectural, local and private entities should be employed sufficiently. In this respect, local governments should be allowed to conduct free job placement services. **<Discussed again in "Employment and Labor" 1 (2) ②>**

(b) Deregulation regarding paid job placement services [Necessary actions including the submission of a relevant bill during the next ordinary Diet session]

The present authorization system for paid job placement services requires all offices for such services to obtain authorizations. In order to simplify procedures, the government should consider introducing a reporting system for new offices to be set up by authorized job placement companies, promptly compile discussion results and take necessary action including the submission of a relevant bill during the next ordinary Diet session. As for regulations concerning job placement service companies' additional operations, the government should consider such measures as repealing the regulations in principle, promptly compile discussion results, and take necessary action including the submission of a relevant bill during the next ordinary Diet session.

<Discussed again in "Employment and Labor" 1 (2) ③>

b. Deregulating commissions collected from job seekers [Action by FY 2003 (prompt implementation)]

A ban in principle on collection of commissions from job seekers complies with ILO Convention 181 that Japan has ratified, and contributes to the protection of workers in a sense. But this principle can prevent the delivery of high-quality services for job seekers. An ordinance revision in February 2002 has allowed job placement agencies to collect commissions from scientists, engineers and business managers who earn ¥12 million or more annually.

In order to adapt the commission regulations to job market needs based on real conditions of job seekers, however, the government should consider substantially lowering the minimum annual income for the commission collection, expanding the range of workers subject to commission collection, promptly compile discussion results and take necessary action. **<Discussed again in "Employment and Labor" 1 (2) ①>**

(2) Regulatory reform meeting new relations between companies and individuals

① Labor Standards Law revisions, etc.

The present discretionary work system adopts deemed working hours and refrains from exempting workers from working hour regulations. But its essential point is that "workers under the discretionary work system are given no specific instructions on means and time allocations for business operations." Based on this point, we believe that workers subject to the discretionary work system should naturally be exempted from working hour regulations, as is the case with supervisors. Over the medium or long term, therefore, the government should consider exempting discretionary jobs from working hour regulations in view of the U.S. white-collar exemption system. As for the present exemption of supervisors from working hour regulations, the government should consider whether they should be exempted from nighttime work regulations. **[Prompt consideration]**

As for university teachers whose jobs are deemed the most discretionary, the government should promptly consider desirable working hour regulations. **[Consideration within FY 2003]**

Regarding dismissals, the Labor Standards Law (Law 49, 1947) provides for only warning procedures, leaving common law including the doctrine of abuse of the

dismissal right to regulate dismissals. In order to increase employees' and employers' predictability of valid or invalid dismissals, however, the government should consider legislating for dismissal standards and rules, promptly compile discussion results and take necessary action including the submission of a relevant bill during the next ordinary Diet session. In this respect, the government should also consider the treatment of dismissals during trial employment periods and introduce damage claims in addition to the return to work as relief options for dismissed workers, promptly compile discussion results and take necessary action including the submission of a relevant bill during the next ordinary Diet session. **[Necessary actions including the submission of a relevant bill during the next ordinary Diet session] <Discussed again in "Employment and Labor" 3 (1)>**

② **Expanding discretionary work system [Necessary actions including the submission of a relevant bill during the next ordinary Diet session]**

In order to meet diversified working values and develop an environment where workers can demonstrate more creative capacity, Japan should expand the discretionary work system where workers can freely work at their own discretion.

Procedures are complicated for introducing the discretionary work system for planning jobs and only a limited range of businesses are subjected to the system. Therefore, the government should consider simplifying the procedures and expanding the range of businesses able to use the system, promptly compile discussion results and take necessary action including the submission of a relevant bill during the next ordinary Diet session.

Since employees and employers are well aware of workplace realities, we believe that it is appropriate for the government to review relevant systems in the future in a bid to allow employees and employers to autonomously decide on a range of jobs subject to the discretionary work system. **<Discussed again in "Employment and Labor" 2 (3)>**

③ **Enhancing response to individual labor-management disputes [Action to be taken by FY 2004 at the latest]**

Since a scheme is required to appropriately solve individual labor disputes promptly and at a lower cost, the government should urgently consider whether to develop a labor-management arbitration system and exclusive legal proceedings for labor disputes, and should take necessary action. **<Discussed again in "Employment and Labor" 4 (1)>**

④ **Reforming corporate pension and retirement allowance systems [Prompt consideration]**

Traditional corporate pensions, retirement allowances and other favorable long-service systems for companies should not affect the mobility of employment. Corporate pension systems should be revised to refrain from disadvantaging job-hopping workers. Specifically, the government should try to improve the portability of defined-benefit pension plans by expanding consolidation of pension plans for workers leaving their job early and transferring assets to individual defined-contribution pension plans. It should also try to expand defined-contribution pension plans by developing cheaper and more efficient management systems. In addition, the government should try to revise the present retirement allowance system that is excessively favorable for long-service workers. **<Relevant discussions in "Employment and Labor" 3 (2)>**

(3) Promotion of industry-academia cooperation

① **Relaxing working conditions for university teachers and other measures**

a. Increasing mobility of national university teachers [Consideration and conclusion in FY 2003]

In order to vitalize university education and research by increasing the mobility of teachers and making effective use of industry specialists, national universities, when being transformed into corporations, should be allowed to adapt wage and other treatments to performance and achievements for invited fixed-term teachers and positively introduce fixed-term teachers. **<Discussed again in "Education and Research" 4 (3) ①]**

b. Promoting national university teachers' business positions at private companies [Consideration and conclusion in FY 2002]

In order to ensure the rapid transfer of university research achievements to industry, the National Personnel Authority's power to approve national university teachers' assumption of concurrent executive positions at private companies was delegated to the minister of education, culture, sports, science and technology in October 2002. The minister is allowed to delegate this power to university presidents.

Furthermore, the Commercial Code has been revised to allow for outside

board members at private companies (Article 188-2-7-2). In response, the government should monitor relevant institutional changes and the formation of consensus on public utility and consider allowing national university teachers to concurrently serve as outside board members at private companies, while taking opinions from experts on legal matters. **<Discussed again in "Education and Research" 4 (3) ②>**

c. Specifying standards for side-job performance of university teachers during working hours [Implementation in FY 2003]

Even before national universities are transformed into corporations, the government should try to allow them to employ teachers under flexible working conditions, for example 20 working hours per week, and promote their side-job performance and business openings. In this respect, the government should permit national university teachers during their working hours in the special structural reform zones to perform side jobs as board members at technology licensing offices, venture businesses and the like. It should also allow national university teachers during their working hours under certain conditions or procedures to perform non-executive side jobs at such entities in order to promote industry-academia-government cooperation. **<Discussed again in "Education and Research" 4 (3) ③>**

② Developing entrepreneurs at universities and graduate schools

a Relaxing regulations on establishment of faculties and courses [Implemented in FY 2002]

In order to allow universities to make voluntary decisions concerning flexible reorganization, even before their transformation into corporations, the government should relax regulations relating to the establishment of faculties and courses and stimulate competition between educational institutions by shifting from the approval system to the notification system for the establishment and abolition of faculties and courses that are not accompanied by changes in types and areas of academic degrees.

The development of advanced professionals should be specified as one of the purposes for graduate schools and "graduate schools for professionals" should be created. It is desirable that professionals with business experience should account for a considerable part of teachers at the graduate schools for professionals. Third-party assessment of these graduate schools should focus

on social valuation of professionals from these schools. **<Discussed again in "Education and Research" 4 (1) ①>**

b. Promoting accreditation of non-school education [To be implemented in FY 2002]

In order to develop an environment where domestic and foreign universities and private-sector education institutions can cooperate, the government should promote universities' provision of credits to students who attend entrepreneurship courses, internship and other non-school learning courses at private companies and non-profit organizations that contribute to developing entrepreneurs and business managers, as far as such learning courses meet certain quality requirements. This should accelerate industry-academia cooperation in development of human resources. **<Discussed again in "Education and Research" 4 (3) ④>**

c. Promoting young researchers' participation in funded and joint research programs [Implemented in FY 2002]

In order to give invention opportunities and incentives to postdoctoral researchers, graduate school students and other young researchers, the government should promote these young researchers' positive participation in funded and joint research programs as part of university-industry cooperation and should allow universities to freely decide on the allocation of personnel and other outlays for such programs. The positive participation may include the appointment of young researchers as leaders of company-funded research programs. **<Discussed again in "Education and Research" 4 (3) ⑤>**

(4) Developing personnel to undertake the creation of new businesses

① Elementary and junior high school reform

a. Promoting diversification of education programs [To be implemented from FY 2002]

Official curriculum guidelines are the basic standards for curricula that schools independently develop and serve as the minimum requirements. However there are indications that schools have failed to treat the guidelines with flexibility.

In order to develop creative human resources, therefore, the government

should further promote the preparation of ingenious curricula and diversified guidance at each school through measures such as cooperation between schools at each level. **<Discussed again in "Education and Research" 3 (1)>**

b. Improving quality of teachers through such measures as introduction of teacher assessments [To be implemented within FY 2003]

In order to meet the educational expectations of society, regional residents, parents, pupils and students and improve the quality of teachers, each board of education should promote the introduction of new teacher assessments in a shift to a system where teachers' treatments are appropriately adapted to their performances.

In order to enhance English education, the government should compile an action plan within FY 2002 to develop "Japanese fluent in English." Especially for junior high schools, the government should promote the employment of high-level foreign assistant language teachers as full-time teachers and take other measures in FY 2003 to improve the quality of teachers and increase public elementary and junior high school reforms. **<Discussed again in "Education and Research" 3 (2)>**

c. Promoting revisions to prefectural examination standards for approval of private school openings [To be implemented within FY 2002]

In April 2002, the Ministry of Education, Culture, Sports, Science and Technology (MEXT) set up the elementary school establishment standards (MEXT Ordinance 14, 2002) and the junior high school establishment standards (MEXT Ordinance 15, 2002) to increase the number of private schools. These ordinances specifically allow new private schools to use or lease idled public school buildings as far as there are no education or safety problems. Based on the purposes of the elementary and junior high school establishment standards, the central government should encourage prefectural governments to revise their respective examination standards, including building and play ground sizes, for the approval of new private elementary and junior high schools. **<Discussed again in "Education and Research" 1 (4) ①>**

d. Reviewing prefectural private school councils [Consideration and conclusion within FY 2002]

The prefectural private school councils have been established to reflect

opinions of private school representatives in the relevant agencies' execution of authority in private school administration in order to ensure the independence of private schools. In this respect, Article 10 of the present Private School Law (Law 270, 1949) provides that the number of private experts other than private school representatives shall be limited to a quarter of the total members for any private school council. However, this provision may excessively restrict prefectural private school administration. Therefore, the government should consider, for example, a desirable legal provision and a desirable private school council organization including members and management. **<Discussed again in "Education and Research" 1 (4) ②>**

② Developing institutions for introduction of community schools [Consideration and conclusion within FY 2003]

The introduction of community schools as a new type of public school is significant since it can ensure the identity of schools, parents and regional communities in school management and control including teacher assignment, as well as in the implementation of education, and allow diversified and flexible school management meeting the needs of society, regional residents and consumers by leading such schools to be accountable to "community school councils (tentative name)" including regional representatives and delegates of parents, in order to contribute to the development of human resources rich in originality and creativity. In developing institutions for the introduction of community schools based on the above point, the government should consider, for example, establishing legal provisions on community school establishment procedures, the establishment and functions of "community school councils (tentative name)," the desirable authority of prefectural and municipal education boards and community school councils in appointment and removal of teachers, and other relevant matters. **<Discussed again in "Education and Research" 1 (2)>**

③ Developing institutions for international schools [To be implemented within FY 2002]

As for international schools, the government should specifically define and consider various support measures to allow these schools to be treated in the same way as private schools based on Article 1 of the School Education Law (Law 26, 1947). Graduates from international schools should be allowed to undergo university entrance examinations in Japan even without taking senior high school

graduate equivalency tests. As for their entrance into senior high schools in Japan, measures such as the expansion of the range of people eligible to take junior high school graduate equivalency tests, should be adopted. Through these measures, international school graduates should be given a wider range of opportunities to enter universities or senior high schools in Japan. **<Discussed again in "Education and Research" 1 (6)>**