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Supplement 1

II. Major remarks by the government agencies concerned and the Council's view about the significance of opening up government-driven markets to the private sector

Subject	Government agency's remark	Council's view
General (Land, Infrastructure and Transportation Ministry)	Reform in the field known as "government-driven markets" would have an immense effect on citizens' lives. Maximization of the public's interests and efficiency should be sought in promoting the opening up of services and businesses of the national government and others to the public sector, and the promotion efforts should be made on the basic principle of transferring to the private sector those parts of the public sector's activities that can be performed by the former sector. Further studies, discussions, etc. shall be necessary in the following respects, with the above basic principle in mind: • Identification of specific public-sector services and businesses that should preferably remain in the hands of the national government and others that are under democratic control including surveillance by the Diet in which minority opinion or the like can be reflected and those services and businesses for which it would be wiser to be subjected to market competition in the private sector. • How to secure an equivalent of the system for democratic control including surveillance by the Diet in which minority opinion or the like can be reflected, in private corporations and others that are subjected to market competition and whose primary concern is price and profit, in preference to their efficiency-first behavior. • The need for investigations and studies of the merits and demerits of regulatory reform including market testing, easy-to-comprehend presentation of detailed results and reflection of not only the views of private entrepreneurs and other parties concerned but also those of the general public.	• The Interim Summary presents the outcome of studies on measures, etc. for opening up government-driven markets to the private sector with the aim of maximizing consumers' and users' interests. The Council shall conduct further studies and submit a report before the year-end. Here are our additional remarks about market testing: There are no rational grounds for concluding that only government employees are capable of performing a particular service. It is certainly possible to ensure fairness, neutrality, continuity/stability, etc. by taking the necessary measures (obligation to preserve secrecy, provisions allowing equalization of status to that of a government employee and so on). The efficiency and creativeness of a particular service can be upgraded by aggressively utilizing the expertise, etc. of the private sector through market testing, and more diverse services that better satisfy the citizens' needs and other benefits can thereby be provided. If it is possible, as a result of market testing, to ascertain that the government can obviously render a lower-cost, better-quality service in the citizens' eyes than a similar service offered by the private sector or some other sector, through a transparent, neutral and fair process, then the public sector can make a successful bid and proceed to render the services.
2. The Council's approach to the opening government-driven markets to the private sector (1) Promotion of the opening of public	The wording should be changed to "The public sector shall not be en gaged in what can be done more efficiently and more effectively in th e private sector." Reason: The wording in the draft plan may be interpreted to mean that the public sector is prohibited from performing any clerical service that the private sector is able to perform, in theory, without verification from the standpoint of efficiency or the like. Hence, the wording is inappropriate.	• "The public sector shall not be engaged in what can be done more efficiently and more effectively in the private sector" is the fundamental principle applicable to any re-allocation of roles to the public and private sectors, which was put forward in the Second Report on Promotion of Regulatory Reform (dated Dec. 12, 2002) by the General Regulatory Reform Council, the predecessor of the Council for the Promotion of Regulatory Reform. The Council refuses agreement to the suggested modification of the original wording. In the light of this fundamental principle, if the public sector

services to the private sector through market testing The opening of public services to the private sector (Ministry of Internal Affairs and Communications)		is capable of performing a certain function with superior efficiency, etc. to a similar function of the private sector, then the public sector incurs the responsibility for proving that fact.

III. Major remarks by government agencies concerned and the Council's view about "market testing" (competitive tendering between public and private sectors) as a cross-sectional method of promoting the opening up of public services to the private sector

Subject (Government agency)	Government agency's remark	Council's view
2. Basic policy for introducing "Market Testing" (2) Target at a wide range of services based on proposals from the private sector (Foreign Ministry)	The opening up of clerical work or diplomatic negotiations related to national safety, clerical work related to international confidence in and by another country or the like, or clerical work related to the maintenance of public safety and order to the private sector may endanger safety inside or outside Japan, impair the international confidence in and by another country or the like, or result in some other undesirable situation, with the very likely consequence of causing serious harm to Japan's national interests. The clerical work mentioned above is "work that absolutely must be done by the public sector". The passage "all public-sector activities should be subjected to market testing" should be changed to "all public-sector activities should be subjected to market testing with the exception of clerical work or diplomatic negotiations related to national safety, clerical work related to international confidence in and by another country or the like, clerical work related to the maintenance of public safety and order and so forth, namely the work that absolutely must be done by the public sector."	• There are no rational grounds for concluding that only government employees are capable of performing clerical work or diplomatic negotiations related to national safety, clerical work related to international confidence in and by another country or the like, and clerical work related to the maintenance of public safety and order. It is certainly possible to ensure fairness, neutrality, continuity/safety, etc. for the said clerical work by taking the necessary measures (obligation to preserve secrecy, provisions allowing equalization of status to that of a government employee, etc.) corresponding to the actual nature of the work. Hence, it is inappropriate to exempt the said clerical work in advance from the activities subjected to market testing. Efficiency and creativeness should be upgraded for such work by aggressively utilizing the expertise, etc. of the private sector through market testing to open the way for providing more diverse services that better satisfy the citizens' needs or other benefits. If it is proved through market testing that the public sector can obviously render a lower-cost and better-quality service in the citizens' eyes than a similar service offered by the private sector or some other sector, through a transparent, neutral and fair process, then the public sector can make a successful bid and proceed to render the services.
2. Basic policy for introducing "Market Testing" (3) Establishment of a legal framework 2) Establishment of a competitive tendering system between the public and private	It is impossible at the present stage to judge whether or not the "competitive tendering system for public and private sectors" is basically the same as the "competitive tendering" referred to in the Accounting Law, Budgetary Account Closing and Accounting Directive, etc. Supposing that the former is basically the same as the latter, consideration must then be given to the fact that the government needs to take procurement action according to the Agreement Regarding Governmental Procurement (governmental procurement of articles and specific services), which necessarily involves international bidding. Note:	• The Council shall carry out system designing, etc. according to the schedule given in III.4 of the Interim Summary and according to the Agreement Regarding Governmental Procurement, noting the potential need for international bidding.

sectors (Ministry of Finance)	1. “Articles” include software, and “specific services” include construction work, computer-related and associated services, publication and printing services, treatment of contaminated water and waste, other environment preservation services, etc. 2. Exemptions from the Agreement Regarding Governmental Procurement cannot be unilaterally prescribed by a domestic law.	

*IV. The following is a remark about the promotion of opening up of areas of work under the government to the private sector, concerning market testing in particular:

2. Radical promotion of the opening of public services to the private sector (2) Public services which The Council believes should be priorities for entry to the private sector 1) Benefits packages and collections (Ministry of Finance)	Collection of a fee supposedly involves its own unique problems. The actual cost is collected as government revenue, in principle. Securing of the necessary sum of money as revenue is a prerequisite for opening up areas of work under the government to the private sector (including market testing). The above requirement should therefore definitely be met when considering opening up the collection activity to the private sector (including market testing).	• As stated in III.3 of the Interim Summary, comprehensive criteria shall be applied to evaluate the quality as well as the price of the service as part of the market testing. In view of the foregoing, not only the price of the service but also its quality shall be evaluated according to the schedules given in III.4 of the Interim Summary. A desirable system for the citizens shall be designed.

V. Major remarks of government agencies concerned and the Council's view about the promotion of opening up areas of work under the government to the private sector

Subject	Government agency's remark	Council's view
1. Medical field (1) Lifting of the ban on "Mixed Medical Care Services (combined use of insured and non-insured medical care services)" (Ministry of Health, Labour and Welfare)	Under the Japanese medical care insurance system, "medical care necessary and adequate as part of social security benefits" shall be provided for all Japanese nationals as insured medical care, in principle. In the past, insurance coverage was approved for treatment, etc. the safety and effectiveness of which was scientifically confirmed. On the other hand, a specified medical care coverage system that permits the combined use of insured medical care and non-insured medical care according to appropriate rule was introduced (in 1984) to meet the diversified needs of patients and to accommodate advances in medical technology. If combined use of insured medical care and non-insured medical care is approved without limitation, even if for particular medical institutions only, in the absence of such a system the patients may have to bear undue extra expense, or effectiveness and safety may not be ensured. Hence, it would be advisable to continue running the system in future. Accordingly, the Ministry took measures to allow, prior to official approval, the administration of an anti-cancer medicine or the like not covered by health insurance, as an instance of mixed medical care, under the said system. The Ministry also simplified the procedure for obtaining approval and took action to accelerate the introduction of new technology under the said system. The procedures in respect of additional new techniques were simplified. It is therefore inadvisable to completely lift the ban on combined use of insured medical care and non-insured medical care and approve such use without limitation.	• Medical care insurance is a system for enabling the subscribers to share the risk of disease and injury among themselves. Whether or not an act of medical consultation or treatment is to be covered by medical care insurance is judged on the basis of such factors as the extent of pervasion of the said act, the risk of side effects, prevention of moral hazard and the fiscal balance of the insurance. Ban on an act of medical consultation or care beyond the coverage scope is not presupposed. • As patients are free to choose an act of medical consultation or care at present, the Council cannot understand why the extra expense incurred by patients and the effectiveness and safety of the said act are regarded as issues to examine only in the case of combined use of the two categories of medical care. If a patient chooses to receive non-insured medical care in addition to insured medical care, on the basis of proper information regarding details of the non-insured medical care, the medical care fee, etc., there is no legitimate reason for refusing approval of the patient's choice. • The present practice of giving limited permission in respect of mixed medical care services under the specified medical care coverage system, that is, approval of techniques individually through discussions in the Central Social Insurance Medical Council, cannot promote creativeness and contrivance in medical care personnel in their field and competition in the field of advanced pioneering medical care technology. The procedure for obtaining recognition as an advanced pioneering medical care technique under the specified medical care coverage system was simplified for only 20 of the 77 techniques. This is obviously far from adequate, and hence the present state cannot be approved of unless a drastic review is conducted (in such respects as the acceleration of deliberation, securing of transparency and shift to user-oriented care).

(2) Allowing joint-stock corporations to participate in the management of medical institutions through medical corporations [Analysis of current state] 1) (Ministry of Health, Labour and Welfare)	As for accepting the participation of joint-stock corporations in medical institution management on a nationwide scale, possible adverse consequences including those mentioned below are foreseen since joint-stock corporations must return profits earned through its business activity to its shareholders: 1) A sharp rise in national medical expenditure, which defeats the purpose of cutbacks on medical expenditure, one of the major tasks. 2) In the case of closure due to unprofitable operation of a medical institution in whose management a joint-stock corporation participates, the medical care needs in the local community may not be fully met. Hence, the issue demands continued careful study, with a watch kept on various conditions including the operation of medical institutions in whose management a joint-stock corporation participates, in special structural reform zones. The Council states that the rendering of patient-oriented medical care services can be facilitated by having joint-stock corporations or the like participate in the management of medical institutions. Is there any evidence to back up this statement? Actual conditions in special structural reform zones, including the operation of medical institutions in whose management a joint-stock corporation participates, have not yet been observed. As for realization of patient-oriented medical services through the promotion of competition among medical institutions, expansion of patients' range of choice, the gaining of additional means of fund procurement, etc., the Ministry believes that it is imperative to raise the efficiency of medical institution management without violating the principle of non-profit operation and to provide high-quality medical care services. The Ministry does not expect that allowing joint-stock corporations or other profit-making organizations to participate in the management of medical institutions would contribute toward realization of patient-oriented medical services. It is important to continue the current efforts to accomplish the following two basic missions under the medical corporation system established as a special corporation system that can facilitate fund accumulation, enable medical institutions to survive as going concerns and mitigate the difficulty in managing privately-run medical institutions: a. To help privately run medical institutions operate on a non-profit basis	• As for a sharp rise in national medical expenditure, every medical institution provides insured medical services, in principle. The charge for such insured medical services is unlikely to rise or drop, and a decisive effect on the national medical expenditure is therefore unlikely, even if a non-profit medical corporation is turned into a profit-making medical corporation. • The investors' property right is preserved for 98% of the medical corporations, and they are entitled to shares in that right in the case of dissolution of the organization. Medical corporations are similar to joint-stock corporations with the exception that the former cannot declare dividends each year. In fact, medical corporations with equity are taxed by the National Tax Administration by the same criteria as regular business enterprises. "Entities declaring no dividends are non-profit organizations" is groundless. A joint-stock corporation's participation in the management of a medical institution brings about competition in various aspects, providing a wider scope of choice to patients. If a participating joint-stock corporation sought profit alone, the quality of medical care services provided by the medical corporation would be lowered, and the corporation would be defeated by competing hospitals and eventually weeded out. • Occasionally, it is pointed out that admission of joint-stock corporations into the field of medical-service operation would result in the peremptory forcing of expensive medical care, etc. on patients. But such coercive practice is not limited to medical institutions in whose management a joint-stock corporation participates. Conventional medical corporations were not free of that practice in the past. This problem, in the Council's opinion, should be dealt with through information disclosure, EBM and the establishment of medical care guidelines or the like. • It is also pointed out from time to time that medical institutions in whose management a joint-stock corporation takes part would withdraw from the management if the operation proves to be unprofitable. Again, the problem is not limited to such medical institutions. Some conventional medical corporations experienced operational difficulties, ended up in the red and went bankrupt. • Joint-stock corporations intending to run a medical institution in a specified structural reform zone must meet very strict requirements. They are required to render only advanced pioneering medical care services and are prohibited

	and in the public's interest as medical care service organizations under an exhaustive-coverage national health insurance system and to provide adequate medical services for local communities, which is a high-priority governmental task, and thereby promote the public's interests and gain more confidence from the citizens. b. To accumulate power to realize efficient and transparent management to provide stable medical care and contribute to the reform. To be more specific, the Ministry made various regulatory reform efforts such as the relaxing of the requirements of the directorship of a medical corporation (in April 2002), sharp expansion of the scope of profit-making business of special medical corporations (in November 2003) and expansion of the supplementary activities of medical corporations (in March 2004).	from insured medical care, for example. Thus, it is very difficult for them to participate in the management of a medical institution in a specified structural reform zone. It is necessary to ask for less strict requirements and see how the request is complied with. • Admission of joint-stock corporations with excellent management, financing and service expertise would be helpful toward raising the level of efficiency of medical institutions' management. Non-profit corporations would be induced to eagerly adopt the required expertise for efficient management, and that will lead to competition in the field of medical care. The Council believes that competition among medical institutions, regardless of whether or not they are a profit-making organization, would lead to realization of patient-oriented medical care services. • Non-profit operation and operation in the public's interest are not necessarily the same. Power and gas companies, although they are joint-stock corporations, are required to give priority to the public's interests under the Utility Company Law. Even medical institutions with an investment from a joint-stock corporation can be made to heed the public's interests, by tightening the regulations of medical care services of all medical institutions. Stricter regulations for this purpose include the imposing of the doctors' obligation to present themselves at summons and disclosure of clinical records.
[Analysis of current state] 2) (Ministry of Health, Labour and Welfare)	A medical corporation running a high-quality medical institution may invest in another medical corporation that owns a low-quality medical institution and participate in the latter's management as a company member to enable it to continue operating as a going concern, or it may be directly run by a new medical corporation created through the incorporation of the low-quality corporation into the high-quality corporation. Higher-quality, more efficient and more effective medical care services can be realized in the latter case due to the preclusion of spreading out of functions, etc. Is the merger of two medical corporations preferable to an arrangement under which each party becomes a member of the other's organization? The unified entity created by the merger can fulfill clear managerial responsibilities. It can endeavor to provide better medical care in an environment where managerial decisions can be made more quickly. This is likely to contribute toward higher-quality medical services and expansion	• Nor only merger but also investment and others should be approved as a means of tightening the operational ties between medical institutions. The Council expects that individual medical institutions would be able to choose the right method according to the actual conditions, and a new impetus would be given to plans for forming a large-scale medical institution or a network of medical institutions as well as to efforts to render better-quality medical care services. It is absolutely essential to rebuild new hospitals for varied and higher-quality medical care services for patients, keep computerized clinical records and so on. The Council suggests that medical corporations be allowed to invest in another medical corporation as a means of providing funds.

	of the patients' scope of choice.	
[Analysis of current state] 3) (Ministry of Health, Labour and Welfare)	Currently, the Ministry is planning to relax the qualifications of specified medical corporations and special medical corporations without prescribed equity and oriented toward the public's interests, which is the ideal future form for medical corporations, and to recognize limited-investment corporations (medical corporations with articles of incorporation that limit members' claim to repayment of their investment amounts) to promote the shift to a specified medical corporation or special medical corporation, in an effort to open the way for continued and stable medical care for local communities. In the Ministry's opinion, none of the three measures suggested by the Council is likely to solve the above problem.	• While the number of medical corporations with prescribed equity is increasing, the number of medical corporations without prescribed equity is less than 1% of the total count. In view of the above fact and the needs of the managerial staff of medical corporations related to the personal right to property, the shifting of all medical corporations to the status without prescribed equity would not be the only way to maintain the managerial stability of medical corporations. The measure for shifting to the status without prescribed equity compels individuals to give up that part of their right to property that represents a net asset increment over their past investments. It is against the will of many individuals operating a medical corporation and would therefore be ineffective. A lawsuit was brought against several medical corporations to claim repayment of a person's investments. The extraordinary practice of permitting the "withdrawal of investment" leaves room for such a lawsuit, which indicates that a serious problem currently exists in the financing mechanism for medical corporations.
[Specific measures] a (Ministry of Health, Labour and Welfare)	In the light of the basic principle of disapproving profit-making medical corporations, apparent in statutory medical-care regulations including Article 7, 5 of the Medical Care Law, which stipulates that permission may be refused for a profit-making entity to establish a medical institution, no joint-stock corporation should be allowed to acquire a voting right at a general meeting of company members through investment in the medical corporation. Directive No. 1 dated January 17, 1991 from the Manager of the Guidance Section of this Ministry addressed to the President of the Tokyo Bar Association, which was mentioned by the Council, was a reply based on the principle of disapproving a profit-making medical institution under the Medical Care Law. It is incorrect to state that there are no legal grounds for the said reply.	• The passage "permission may be refused for a profit-making entity to establish a medical corporation" cannot be construed as the prohibition of such permission. The act of restricting "citizens' right" in general by such a reply from a section manager to a specific person is something definitely short of "administrative guidance without binding power" in the light of the Administrative Procedure Law.

[Specific measures] b (Ministry of Health, Labour and Welfare)	The provisions of Article 7, 5 of the Medical Care Law stipulate that permission may be refused for a profit-making entity to establish a medical corporation, and Article 54 of that law prohibits the appropriation of surplus to pay dividends. The intent of this article is to induce medical corporations to set aside the surplus, if any, remaining after the closing of accounts as a reserve to be added to the medical corporation's basic assets, with the aim of providing additional funds for upgrading its medical care services. Investment of such surplus in another medical corporation is a violation of Article 54 of the Medical Care Law and must not be tolerated.	• It is necessary in some cases to invest a portion of retained earnings in another medical corporation, apart from its appropriation as funds for expanding the present hospital facilities, to maintain close ties with the said medical corporation and make efficient use of its facilities and the facilities of the investing medical corporation for the purpose of upgrading the medical services of the investing medical corporation. The Ministry's argument is groundless since the merger of medical corporations with one party wholly owning the other one is legitimate.
[Specific measures] c (Ministry of Health, Labour and Welfare)	Article 65, 3 of the Civil Code, upon which Article 68 of the Medical Care Law is based, approves the inclusion of provisions on differential voting rights in the articles of incorporation of the public utility corporations mentioned in Article 55, 1 of the code. It is pointed out in a publication regarding the operations of public utility corporations ("Theory for and Practices of Public Utility Corporations", Public Utility Association) that if differential voting rights is introduced, the right to operate the corporation passes to the members with the majority voting rights, and consequently, the public utility corporation may change into a private company controlled by the dominant members. Medical Care, which is based on the Civil Code, is in line with this view. A notice dated June 26, 1986 from the Chief of the Health Policy Section of the Ministry, addressed to the prefectural governors, quotes a passage in the articles of incorporation of a medical corporation, which reads as follows: Each company member has one resolution vote and one election vote at a general meeting of company members.	• In light of the provisions of Article 65, 3 of the Civil Code, upon which Article 68 of the Medical Care Law is based, medical corporations should be allowed to prescribe differential voting rights in their articles of incorporation. The notice mentioned by the Ministry must quote a passage from "Theory for and Practices of Public Utility Corporations" of the Public Utility Corporation Association as grounds for its argument, and this indicates that there are no legal grounds for the argument.
(3) Reconsidering the pricing mechanism in the medical field (Ministry of Health, Labour and Welfare)	The Central Social Insurance Medical Council (abbreviated to "CSIM") was established as a council for both parties of the insurance contract, namely 1) representatives of the insurer, the insured and the employer on the premium-paying side and 2) representatives of the doctors, dentists and pharmacists on the side providing medical care services, where the parties hold a discussion and reach an agreement. Altruistic members have the role of mediator for the two sides. As for the desirable state of CSIM, it is necessary to have extensive and serious discussions, including discussions within the Council. It is essential to distinguish between reforms that must be addressed promptly and reforms that call for wide-range	• A fair discussion cannot be expected in respect of a reform needed because of a CSIM problem if CSIM's argument or view is adopted as the basis for discussion. Verification from the viewpoint of a third party - that of citizens in particular - would be required. The Council's suggestions were made from a third party's standpoint. If they are branded as inappropriate and rejected, no fair discussion can be expected. • It is important to call attention to specific matters such as those mentioned by the Council, ask for the pros and cons from various fields and take the correct action. The discussions at CSIM should be disclosed to the citizens,

	discussions regarding the ideal state and promptly implement a measure or plan once it is adopted. Hence, it is undesirable to give a description in the Interim Summary suggesting a certain direction before an agreement is reached. As for the prices of medicines in the First Report on the Promotion of Regulatory Reform in the Interim Summary, the prices of those previous items in respect of which subsequent items were reported for the first time were lowered by a certain percentage, the calculation coefficient for the new subsequent items was reviewed, and the incremental rates for first-ever new medicines and others were sharply raised, as part of a revision of the calculation rule. The “205 yen” rule was abolished, and the practice of referring to the overseas prices of medical care materials was introduced.	and their understanding should be secured before implementing reform.
(4) Reconsidering the community health care program (regulation of the number of hospital beds) (Ministry of Health, Labour and Welfare)	The Second Report on Promotion of Regulatory Reform made by the Council for Comprehensive Regulatory Reform, predecessor of the Council for Promotion of Regulatory Reform, in December 2002, states that action shall be taken early in FY2005 to review the community health care program. The Ministry held meetings with various persons concerned for discussion based on the 3-year Plan for Promotion of Regulatory Reform and Opening Up of Areas of Work Under the Government to the Private Sector, which was approved at a cabinet meeting (on March 19, 2004) on the basis of the above statement.	• Regulation of the number of hospital beds within a community has given the local hospitals a certain vested interest, which prevents competition among them. The review should be front-loaded to promptly eliminate this undesired effect.
2. Nursing care field (1) Integrating institutional services and in-home services [Specific measures] 1) Burden of accommodation costs, etc. on users for three facilities covered by long-term care insurance 2) Abolishment of	• As for the accommodation costs, the burden on users shall be reviewed on the basis of the Basic Principle 2004 Regarding Economic and Fiscal Administration and Structural Reform, etc., as part of the reform on nursing care insurance. • Institutional service expenses account for 53% of the total cost of nursing care. The number of nursing facilities and their capacity in a community have a great effect on the nursing care cost, which is an indicator of the level of nursing care, for the community. The effect may take the form of an extra burden on the insurer, extra tax or extra premium payable by the No. 2 insured. Subsidies as funds for facility maintenance, expansion, etc. perform the function of adjusting the overall strength of facilities in the community. As for special nursing homes in particular, the capacity number of residents per population of 100,000 persons aged 65 or more varies from	• A conclusion should be obtained at the earliest date possible from the review of the accommodation cost and other burdens on users, and action should be taken before the end of 2005. • Grounds are unclear for the claim that the construction of nursing care facilities would increase, even though the subsidies are being abolished, not raised. Even if such sizeable facilities for large areas should temporarily increase for some reason, it is expected that new entry of private firms would be enhanced due to the equalization of competition criteria, which would lead to selection through competition. Thus, it cannot necessarily be said that the abolishment of subsidies on the maintenance, expansion, etc. of facilities would lead to an increase in insurance payments and decline in the service quality.

subsidies to social welfare corporations on the maintenance of facilities (Ministry of Health, Labour and Welfare)	one prefecture to another. The maximum prefectural capacity figure is approximately 1.8 times the minimum figure, which indicates that the administration was successful and prevented an undue increase of insurance payments. If the subsidies were abolished in this situation, conventional-type large-scale facilities serving a wide area might be constructed in surplus numbers in some cases, which would seriously hinder the efforts to improve the quality of nursing care and the sound fiscal administration for long-term care insurance. • The Ministry recognizes the need for reform in respect of the present subsidies such as those granted as funds for maintenance, expansion, etc. of social welfare facilities and similar subsidies for health promotion facilities for aged people, so as to enhance the initiative of provincial communities, promote the maintenance, expansion, etc. of small-scale, multi-function facilities, improve the living environment of the residents of nursing facilities and so on.	• Subsidies to social welfare corporations as funds for maintenance, expansion, etc. of their facilities should be abolished, with the accommodation cost, etc. charged to users, in order to equalize the competition criteria for such welfare corporations and other entities, widen the scope of choice and improve the service quality.
3. Education field (1) Unifying competition criteria between schools with different management styles [Analysis of current state] (Ministry of Education, Culture, Sports, Science and Technology)	Public assistance is extended to schools in different manners because they are in different categories and provide different functions. For example, municipalities are obligated to run public elementary schools and lower secondary schools in compliance with the constitutional demand for equal opportunity for education and free-of-charge compulsory education. All children in an administrative area are admitted to public schools. Private schools, on the other hand, provide a unique education under their own founding principles to children seeking it. Thus, public and private schools play different roles and there is no need to extend exactly the same financial assistance to school-operating entities in different categories.	• Although there are substantial overlaps in educational content between public and private schools, the gap in the overall cost burden between them is quite wide, which is attributable to a wide difference in financial backing from the government. The scope of educational options for children is accordingly narrowed. It is true that whereas public schools are run by municipalities under the obligation to run them, private schools offer unique education based on their own founding principles. This, however, does not justify the present wide gap between the public expenditure on public schools and that on private schools. There is not much difference between public schools and private schools at the elementary and secondary levels in the educational content in fundamental subjects. As for higher education, national and public universities and private universities are supposed to provide equal educational content in each majoring field - law, economics, mechanical engineering, medicine, etc. Recently, an increasing number of national and public universities have been shifting to specialty curricula, in pursuit of unique education. Extremely differentiated public support for public and private schools, both of which are equally authorized as educational institutions, lacks substantial

		grounds and is not justifiable. It is true that a public school is obligated to admit every child desiring to enter and even one with a serious physical handicap. Public schools should therefore be entitled to additional public support on the grounds of their extra responsibilities. But that is a matter separate from whether schools are publicly or privately run. Moreover, it is essential to accurately calculate the cost of discharging the extra responsibilities. The current preferential treatment of public schools is not justifiable. To enable every citizen to have his or her children receive the desired education service, it is essential to encourage various entities to operate an educational institution, provide equal competition criteria for various entities (municipality, private school, joint-stock corporation, etc.) and thereby promote the rendering of varied and high-quality services by entities competing with one another.
[Specific measures] 1) Application of private educational institution aid and preferential taxation to schools established by joint-stock corporations or NPOs (Ministry of Internal Affairs and Communications)	1. “Preferential taxation” should be deleted. Reason: The matters related to the current preferential taxation have been exempted from regulatory reform including establishment of special structural reform zones.	• That is not true. The Ministry’s proposition is unacceptable. The Third Report on Promotion of Regulatory Reform (December 22, 2003) by the Council for Comprehensive Regulatory Reform contains a reply regarding the application of preferential taxation. This report states that the action to be taken immediately at least for the special structural reform zones is to provide equal competition criteria for joint-stock corporations, etc. and school corporations (this action includes the application of private educational institution aid and preferential taxation to joint-stock corporations, etc.). The Council’s view expressed at this time is similar to the above report in purport.
(Ministry of Finance)	Since taxation is not regulation and “no conventional fiscal measure shall be taken for special structural reform zones”, it is inappropriate to apply the preferential taxation mentioned by the Council.	• The Third Report on Promotion of Regulatory Reform (December 22, 2003) by the Council for Comprehensive Regulatory Reform contains a reply regarding the application of preferential taxation. This report states that the action to be taken immediately at least for the special structural reform zones is to provide equal competition criteria for joint-stock corporations, etc. and school corporations (this action includes the application of private educational institution aid and preferential taxation to joint-stock corporations, etc.) The Council’s view expressed at this time is similar to the above report in purport.

(Cabinet Legislation Bureau)	The Council states that “it is sufficient to take action to ensure that government subsidies will not be expended on religion-related business, as a measure to keep the education business or the like free of religious bias”. It also states that “the behavioral regulation under the School Education Law is adequate for the purpose.” As the Ministry understands it, the purport of the latter part of Article 89 of the Constitution, in summary, is as follows: The government shall stop its wasteful public spending seen in the past. Public institutions shall be prevented from unjustly interfering with education business. The Bureau is aware that the majority academic opinion endorses this. Even if the understanding that exclusion of religious bias from education business or the like is all that is meant by the latter part of Article 89 of the Constitution is a minority view, it is inappropriate to make the sweeping statement that “it is sufficient to take action to ensure that government subsidies will not be expended on religion-related business”.	• The reply of the Legal Affairs Poling Director of the Legal Affairs Agency in 1949 recognizes separation of state and religion as an element in the original purport of Article 89 of the Constitution. To the Council’s knowledge, the government has never changed its view. If there is an official statement that totally negates inclusion of the principle of separation of state and religion in the original purport of Article 89 of the Constitution - even if only the latter part - the Council desires to be informed of the occasion upon which the statement was made and the person who made it. It is also demanded that legal grounds for the above statement based on the Council’s view be presented in a concrete and accurate manner. It is not fair to try to justify one’s argument without distinctly indicating the parent population or presenting examples in respect of what one refers to as majority opinion or minority opinion. Concrete grounds should be presented. In this connection, the Council understands that contrary to the Ministry’s argument, academic opinion negating the presence of the politico-religious separation principle in the original purport of Article 89 of the Constitution is notable in a relatively small percentage of the academic treatises published in the past dealing with the original purport of the said article. If the prevention of wasteful public expenditures is accepted as the purport of the article, there is little rationale for the prevention of only the wasteful public expenditure on education business, etc. named in the article. This is definitely not a logical interpretation. As for encroaching upon independence, it is optional for individual educational institutions to receive public subsidies. It is illogical to conclude that the independence of an educational institution is encroached upon if it receives subsidies. If the above view is held, the Bureau should make an in-depth study of the concrete grounds for the Council’s view, the academic opinion supporting it, etc. based on the Bureau’s own view as the governmental bureau specializing in legal affairs, instead of merely counting academic theories, and present its own view together with concrete and logical grounds.

(Ministry of Education, Culture, Sports, Science and Technology)	It is difficult to give private educational institution aid to joint-stock corporations and NPOs since the Constitution prohibits public expenditure on educational enterprises not under the control of a public authority. From the standpoint of legal technique, it is not impossible to introduce new regulations so as to place certain educational institutions under the control of a public authority. The Ministry believes that they would have to be placed under regulations equivalent to those imposed on school corporations. It is desired that unique schools be established in special structural reform zones by joint-stock corporations and NPOs free of the restrictions imposed on school corporations. It would defeat the original purpose of allowing such schools to be set up in those zones by joint-stock corporations and NPOs if they are subject to the said restrictions to qualify for public subsidies.	• The Council believes that the aim of the control-by-public-authority requirement of Article 89 of the Constitution is to prohibit expenditure of public funds on religious education, etc. in light of the principle of politico-religious separation. Hence, the said requirement can be met by regulatory action to prevent expenditure of public funds on religious education by private schools. Such regulatory action, unlike that directed to school corporations, does not vitiate the characteristics of joint-stock corporations and others. The Ministry pointed out the need for regulations similar to those imposed on school corporations, etc. The remark may be based on the replies of the Cabinet Legislation Bureau and the Vice-Minister of Education, Culture, Sports, Science and Technology in a Diet session. But it is dogmatic and vastly different from even the said replies and is not acceptable as a correct interpretation of the law.
a. Expending public funds on behalf of charitable, educational or benevolent enterprises not under the control of a public authority is prohibited by Article 89 of the Constitution. (Ministry of Education, Culture, Sports, Science and Technology)	The Ministry understands that the prevalent interpretation of the latter part of Article 89 of the Constitution directs the main attention to either the prevention of wasteful public expenditure (demand for control by a public authority to prevent wasteful consumption or use of public property from the standpoint of fiscal democracy) or the ensuring of educational institutions' independence (demand for action to guard primarily privately-run charitable, educational or benevolent enterprises from intervention by a public authority). The Council states that the aim of the latter part of Article 89 of the Constitution is not prevention of wasteful public expenditure, etc. but rather politico-religious separation and that it is sufficient for the intended purpose to take action to ensure that no public funds will be expended on behalf of a religious-related enterprise. The Council's view above differs from the prevalent opinion.	• If the aim of Article 89 of the Constitution is to prevent wasteful public expenditure, there is little rationale for reducing wasteful public expenditure on only education business, etc. Hence, this is not a logical interpretation. As for the securing of educational institutions' independence, educational institutions may choose to receive or not to receive public subsidies. The fear that the independence of educational institutions may be encroached upon by receiving subsidies is not logical. None of the past academic treatises dealing with the matter negates the Council's view. According to an academic theory that has recently become dominant, the aim of the said article is reconfirmation of the principle of politico-religious separation from a fiscal standpoint.
b. Whether or not it is "under the control of a public authority" is decided by comprehensive consideration of the by the regulations by the School Education Law,	The control-by-public-authority requirement in Article 89 of the Constitution is met by comprehensive judgment based on the legal regulations of the School Education Law, Private School Law and Private School Promotion Subsidy Law. This is the government's confirmed interpretation. Subsidies are granted to the schools subject to Article 102 for a fixed period on the condition that they will be turned into school corporations within 5 years. These schools were judged to be under the control of a public authority on the basis of the provisions on the above subsidies, the aim of	• The only logical view is one based on the understanding that the aim of the requirement for control by a public authority demanded by Article 89 of the Constitution is prevention of public expenditure on religious education, etc. under the principle of politico-religious separation. Thus, regulation so as to prevent public expenditure on private religious educational institutions, etc. is sufficient for the purpose of meeting the control-by-public-authority requirement. The view that the control-by-public-authority requirement is met by the

the Private School Law (Law No. 270 of 1949) and the Private School Promotion Subsidy Law (Law No. 61 of 1975), and aid that lacks any condition of the laws would be regarded as unconstitutional. Otherwise, the decision would be unconstitutional. (Ministry of Education, Culture, Sports, Science and Technology)	those provisions and the provisions of the School Education Law and Private School Promotion Subsidy Law. Thus, a comprehensive judgment was passed on the control by a public authority. The Ministry does not believe that the behavioral regulations under the School Education Law are sufficient.	regulations under the School Education Law presupposes that the above interpretation of the constitutional provisions is based on coordinated study of the statutory regulations. The view of the Cabinet Legislation Bureau may be presupposed. However, it is obvious from replies of the Bureau in Diet sessions and the like that the Bureau does not consider it imperative to retain the provisions of the School Education Law, Private School Law and Private School Promotion Subsidy Law as they are. The Ministry's view is unique and differs from the Bureau's view. Some of the schools subject to Article 102 did not repay granted subsidies, although they were not turned into a school corporation within 5 years.
Reply of Vice-Minister of Education, Culture, Sports, Science and Technology at a meeting of Cabinet Committee Members of the House of Councilors (Ministry of Education, Culture, Sports, Science and Technology)	The reply of the Vice-Minister of Education, Culture, Sports, Science and Technology at a meeting of Cabinet Committee Members of the House of Councilors on May 20, 2004 is based on the reply of the Minister of Education, Culture, Sports, Science and Technology in a session of the House of Councilors on May 14, 2004. (Outline of the Minister's reply: If an equivalent of the regulations on school corporations is to be imposed under the School Education Law, Private School Law and Private School Promotion Subsidy Law, it would defeat the purpose of allowing exceptions in consideration of the characteristics of joint-stock corporations, etc. The dilemma is quite difficult to overcome. In fact, breaking through the legal barriers seems impossible at present.) Thus, the Ministry finds it difficult to grant private educational institution aid to joint-stock corporations hoping to establish a school.	It is true, as mentioned in the Interim Summary, that the Vice-Minister of Education, Culture, Sports, Science and Technology made the reply quoted in the Ministry's remark, on May 20.

2) Introduction of an educational voucher system (Ministry of Education, Culture, Sports, Science and Technology)	The Ministry finds it inappropriate to consider introducing an educational voucher system for the reasons given below. The Ministry believes that it is essential to maintain and increase the support to educational institutions, as well as scholarships and other support for pupils and students to promote education and studies. 1) An educational voucher system is operated in a limited number of areas in foreign countries, and not all vouchers systems are permanent. In the U.S., for example, it was introduced as a relief measure for children of low-income families and for pupils/students of schools with a low academic performance. Thus, an education voucher system is limited in scale or operated for a short period. There is not a large enough collection of information for a practical analysis, and no obvious effect has been recognized yet. Many people take a negative view of the system. In the State of California, it was rejected as a result of a poll of residents. 2) Subsidies to educational institutions are indispensable for the establishment of a basis for promotion of education and studies including the teaching for pupils/students and researchers' studies of their own choice. It is inappropriate to introduce an educational voucher system with extra funds raised by the abolition or reduction of subsidies to educational institutions, 3) It is imperative to meet the constitutional demand for equal opportunity for education and free-of-charge compulsory education. However, if the shift from subsidies for educational institutions to a voucher system is implemented, operation of schools would become impracticable in areas with a small number of children such as depopulated areas. A wide educational gap would present itself among schools. The responsibility for providing public education could not be fulfilled.	• The educational voucher system was developed in the U.S. and other countries as a system for securing the freedom of choice for pupils/students and promoting competition among educational institutions, and its effect is widely recognized. The Ministry argues that it has no distinct effect and that many people take a negative view of it. The Ministry should give examples backing up its argument and indicate the actual disadvantages detected after the introduction of an educational voucher system. As the Council pointed out repeatedly at open debates in the past, the voucher system is not intended as a benefit for researchers. The Ministry states that subsidies to educational institutions are indispensable. It should present concrete grounds for this statement. No explanation has been given regarding the connection between subsidies to educational institutions and researchers' studies of their own choice. The problem with a depopulated area or the like can be easily solved by increasing the amount for those who select a school in that area if such increase is judged necessary as an administrative measure. The Ministry's view is a conclusion based on unrealistic presuppositions and is opportunistic and groundless.
2) Lifting the ban on schools "Publicly established and privately managed" (Ministry of Education, Culture, Sports, Science and Technology)	As for the comprehensive outsourcing of the management or operation of institutions established by local governments, etc. to private organizations, the said outsourcing shall be further studied on the basis of the conclusion reached by the Central Education Council under the 3-year Plan for Regulatory Reform and Opening Up of Areas of Work Under the Government to the Private Sector adopted at a cabinet meeting in March 2004. (The study shall be continued in 2004 and thereafter, and it is hoped that a conclusion is reached as soon as possible.	• The Council believes that the system is certainly practicable. a. The public-establishment-to-private-management system is something in between public schools and private schools. Disciplinary actions such as dismissal from school are performed under the responsibility of the local governments, etc. b. The system is one type of private school. For example, an action equivalent to dismissal from a public school is performed through cancellation of the contract.

	The matter is under study in this Ministry also. The following controversial matters have been pointed out. Education at public schools is provided on the basis of the public will of the local governments that established them. That education, unlike day nurseries, comprises acts by exercise of public authority such as admission to a public school, acknowledgment of course completion, approval of graduation, disciplinary actions including dismissal from school and adoption of curricula and day-to-day teaching activities inseparably associated with those acts. It is legally inconsistent to outsource the management or operation of institutions established by local governments to private organizations, and yet recognize them as public schools. An arrangement under which these private organizations perform only daily education activities while admission, dismissal, adoption of curricula, etc. are still committed to the local governments, etc. is unacceptable in light of the essential qualities required of education. The Ministry is therefore directing full attention to the above matters and conducting a study on desirable approaches, etc. to implement the exceptional measure for special structural reform zones to the maximum extent and open the way for unique school management that flexibly meets consumer needs in such areas where it is hard to set up private schools, in response to the Council's demand, by drawing on the creativeness and ideas of the private sector.	• There are no grounds to reject the system through an abstract argument involving the mention of public will and essential qualities of education.
[Analysis of current state] (Ministry of Education, Culture, Sports, Science and Technology)	The ideal form of system was discussed by the Central Education Council on the basis of the Basic Policy 2003 Regarding Economic and Fiscal Administration and Structural Reform, etc. The outcome of the discussions was outlined in an interim report in December 2003 and in another report in March 2004. Further studies on the system shall be made on the basis of the outcome of discussions by the Central Education Council under the Three-Year Program for Promoting Regulatory Reform and Opening Government-driven Markets. (Further studies shall be made in 2004 and thereafter, and it is hoped that a conclusion is reached as soon as possible. The Ministry is therefore conducting a study on desirable approaches, etc. to implement the exceptional measure for special structural reform zones to the maximum extent and open the way for unique school management	• The Fifth Proposal Concerning Special Structural Reform Zones mentions a total of 14 requests. The Council demands early implementation of the system.

	flexibly meeting consumer needs in such areas where it is hard to set up private schools, in response to the Council's demand, by drawing on the creativeness and ideas of the private sector.	
[Specific measures] (Ministry of Education, Culture, Sports, Science and Technology)	The ideal form of system was discussed by the Central Education Council on the basis of the Basic Policy 2003 Regarding Economic and Fiscal Administration and Structural Reform, etc. The outcome of the discussions was outlined in an interim report in December 2003 and in another report in March 2004. As pointed out in the latter report by reference to examples in the U.S. and others, there is some apprehension regarding the following adverse consequences of outsourcing: • Lowering of the quality of education due to expense cutbacks from a managerial standpoint. • Vagueness as to who is to undertake the responsibility - the entity that established the school or the one to whom its management or operation is to be committed. • Encroachment upon the pupils' or students' right to education in cases where a school is closed due to reasons such as cancellation of the contract, managerial failure or the like on the part of the entity to which the management or operation is committed. It is of the utmost importance that education is provided with a high level of quality regardless of whether or not it is compulsory education. Compulsory education, demanded by the Constitution, is a fundamental system implemented for the benefit of all citizens and for the very existence of Japan, and must be reliably and steadily provided without interruption or problems. A careful study is necessary before the public-establishment-to-private-management system with its predicted defects is introduced into the current compulsory education system. Problems may be encountered at any grade level - elementary, secondary, etc. Should compulsory education become problem-ridden, the consequences would be irremediable. The opportunity for education, demanded by the Constitution, would be encroached upon.	• Fourteen proposals for introduction of the system into compulsory education and others were put forward in response to the 5th solicitation in June 2004 for proposals regarding special structural reform zones. In view of the high number of requests for application of the system to compulsory education and others, the necessary action should be taken to apply the system promptly to upper secondary schools, kindergartens and other schools including schools providing compulsory education. The said system as well as any other program must not degrade the quality of education in general regardless of whether or not it is compulsory education. The argument that compulsory education alone would be adversely affected by the system should be supported with concrete evidence. As to cancellation of the contract and managerial breakdown on the part of a private entity running an educational institution, it is widely known that even now, some of the existing school corporations are faced with problems too serious to be overlooked. It is incorrect to assume that school corporations never become problem-ridden or that problems arise only in schools originally established by a local government but run by a private entity. It is feared that cost saving would lead to deterioration of the quality of education. But schools directly run by a local government are not totally free from decline in the quality of education. Hence, the said system should not be rejected on the grounds of a possible decline in the quality of education

	The Ministry is presently studying ways to introduce the said system for upper secondary schools and kindergartens without impairing the required quality of school education.	
[Specific measure: To be implemented by the end of 2004/09/09] (Ministry of Education, Culture, Sports, Science and Technology)	[Specific measure: It is hoped that conclusion is reached as soon as possible]	Fourteen proposals for application of the system were put forward in response to the 5th solicitation for proposals regarding special structural reform zones.

IV. Major remarks of government agencies concerned about the promotion of opening up areas of work under the government to the public sector

The major remarks of government agencies concerned regarding "IV. Promotion of opening up of areas of work under the government to the private sector" in the Interim Summary are presented here. The Council's views concerning the major reasons for their objection to the opening up of areas of work in their charge to the public sector are given in the main text. Their other arguments have not yet been proven to be rational or legitimate to the Council's satisfaction. If they persist in their refusal to open up areas of work in their charge to the public sector, it shall be necessary for them to provide a convincing reason based on data worthy of discussion in response to the Council's view. The Council shall conduct a comprehensive study of the opening up of areas of work under the government to the private sector, not limited to the matters presented in IV, through discussions within the Council, hearings intended for the relevant government agencies, talks and negotiations, etc.

Subject (Government agency)	Remarks
1. Basic philosophy for the promotion of the opening of public services to the private sector (1) Exercise of public authority by government employees (Ministry of Health, Labour and Welfare)	Exercise of public authority at a high level, such as exercising the power of forcible collection, shall be performed by a government agency, in principle. However, corporations with certain administrative powers such as independent administrative agencies, special corporations associated with the government and public unions (including health insurance unions) are on occasion permitted to exercise public authority. In other words, purely private business enterprises are not permitted to exercise public authority. A health insurance union, which is a public union, is not a suitable example of an entity to which areas of work under the government are to be opened. Advance approval from the competent minister shall be obtained, in principle, before an administrative agency is given permission to carry out forcible collection. (This is not exactly the same as an administrative organization's action against arrearage.) It should be noted that when a large number of cases of arrearage must be dealt with (in 2002, a total of 20, 467 seizures were effected on the grounds of arrearage of Welfare Annuity Insurance premiums), the necessary action is generally delayed because of the extra time required for obtaining advance approval before a deposit is withdrawn or a credit is transferred to a third party. The desired future status of the Social Insurance Agency shall be studied by the Expert Council for Studying the Desired Future Status of the Social Insurance Agency under the Chief Cabinet Secretary and other authorities.
(1) Exercise of public authority by government employees Ex. 1: The handling of illegal parking (National Police Agency)	The passage "by adding the standpoint of demand for discharge of responsibility" should be changed to "by adding the standpoint of demand for discharge of responsibility and introducing certain work not involving exercise of public authority" to improve the accuracy of the wording.
(5) Execution of administrative office work and operations by government employees in agreement with conventions (Foreign Ministry)	The purport of the argument is unclear. The Council's view is as follows: No sweeping statement can be made about the point. Whether the said work/business exists or not depends on the provisions of the relevant convention. Generally speaking, even if each country that is a party to a convention is obligated to take action, the country is often allowed to decide at its own discretion who shall take the said action (government employees or other individuals or an organization). Even if, for example, such individuals or organization are referred to as the "authority" in the convention, action taken by someone other than a government employee is not necessarily directly rejected, construed as a violation of the convention, provided that measures (ex. obligation under domestic law) are taken to impose on the said individuals or organization the same obligation as that imposed on the "authority" mentioned in the convention.
2. Radical promotion of the opening of public services to the private	Health insurance unions are corporations with administrative authority as public unions established with permission from the Minister of Health, Labour and Welfare under the Health Insurance Law and therefore differ from purely private business enterprises.

sector (2) Public services which The Council believes should be priorities for entry to the private sector 1) Benefits packages and collections A. Circumstances concerning entry to the private sector (b) Collection-related services Private health insurance associations are authorized to conduct compulsory collection in accordance with the procedures for the collection of national tax delinquency.	Public unions' power to carry out forcible collections shall be exercised only by their members, with the approval of the Minister of Health, Labour and Welfare in respect of each kind of business. Hence, a health insurance union is an inappropriate example of a business enterprise empowered to carry out forcible collections.
B. Perspectives in favor of the promotion of the opening of benefits and collection-related services to the private sector (b) Collection-related services (Ministry of Finance)	The superintendents of tax offices are vested with the considerable power to force revision, finalization, etc. on taxpayers who fail to submit a proper tax return or pay their tax, under the relevant law, and to search their residences, seize property and so on in cases where they persist in non-payment. This is an instance of exercise of public authority peculiar to the state that directly affects the rights and obligations of citizens. It would be inappropriate to allow private business enterprises to perform such work involving exercise of public authority. Even if such work were to be committed to them, it would have to be under very strict regulations. They should be obligated to observe secrecy and should be regarded as being equivalent to government employees. The approval of the taxation authorities would have to be obtained with regard to the establishment of an institution and forcible collection made in lieu of the competent government agency. Committing the work in this way can hardly be called opening up to the private sector.
	Being profit-making entities, private business enterprises allowed to collect national tax might tend to concentrate on those taxpayers who readily pay their tax and postpone time-consuming collections involving complex issues. Coercive action might be taken without heeding the actual circumstances of the taxpayer. It would be difficult to preclude the possibility of such deviations and, therefore, proper and fair collections could not be ensured.
	To upgrade the openness of tax administration, the national tax authorities take every opportunity to present official interpretations of laws and directives and administrative guidelines in their notices, etc. The transactions, properties, rights and claims to be examined, however, vary from one taxpayer to another, and would be impossible to compile a manual for standard handling procedures applicable to all cases. Where deliberation is needed as to the application of laws and the appropriateness of a disposition, the section in charge of such deliberation in the tax office, National Tax Bureau or National Tax Agency examines and analyzes the taxpayer's transactions, properties, rights and claims and then makes a decision based on a standard principle according to the applicable laws, etc. As mentioned earlier, it would be impossible to prepare a manual covering all possible cases, and the collection work could not be committed to the private sector. The foregoing is also true of levying work.
	The problems described below might be posed if national-tax collection were committed to profit-making private enterprises. If such problems were to actually arise, however, it would impair the relationship of mutual confidence between the tax administration authorities and taxpayers, and the tax return system would cease to function normally, with serious adverse effects on the tax collection system as part of the foundation

	of national finance. 1) Familiarity with the applicable laws and directives is essential for tax collection work. If they lack the necessary expert knowledge, the tax collecting entities might take coercive action such as seizure in disregard of the actual circumstances of the taxpayer, encroaching upon their rights as a result. 2) Highly confidential information on taxpayers' transactions and properties is necessary for tax collection. A tax collecting private enterprise might be tempted to use such information for its own transactional purposes.
	If no action is taken against tax arrears, the majority of citizens who pay their tax before the fixed time limit might see the situation as one of inequality, which might undermine the principle of tax return submission and tax payment through the taxpayers' initiative, which is the foundation of the tax return system. The National Tax Agency takes strict action against tax arrearage with the support of its collection specialists and levying officials. In fact, the number of uncollected arrears has decreased over the past few years. Thus, the statement that action against taxpayers failing to pay their tax by the specified time limit is not taken because of staff shortage, etc. is not correct.
	To help tax collecting business enterprises perform their committed function smoothly, they must be supplied with highly confidential private information including the information on taxpayers' transactions and properties possessed by the national tax authorities. Even if those enterprises were obligated to preserve secrecy by the national tax authorities in respect of the confidential information made available to them, the relationship of mutual confidence between taxpayers and the tax authorities might not be fully maintained, or the tax administration might be otherwise affected adversely. Thus, it would be hardly practicable to place such obligation to preserve secrecy on private business enterprises. It is feared that taxpayers may not disclose their private information needed for tax levying and collection to the tax collecting entities because they are private business enterprises. Consequently, the tax levying and collection work might be impeded.
(c) Benefits and collection-related services to be considered for entry to the private sector Sponsorship delivery for international cultural exchange (Foreign Ministry)	As for the granting of international cultural exchange subsidies mentioned by the Council, the benefit-related work is, in actuality, the automatic granting of individual benefits according to the given criterion and leaves no room for political judgment or discretion. The International Cultural Exchange Fund, an independent administrative agency, grants an international cultural exchange subsidy upon application for those activities or programs judged to be effective from a diplomatic standpoint by that agency in the light of the Foreign Ministry's diplomatic policy. Thus, a subsidy is granted at its discretion based on the judgment of its specialists. Hence, the agency's subsidies do not belong to this area of work and need no deliberation.
(c) Benefits and collection-related services to be considered for entry to the private sector Sponsorship delivery for international cultural exchange (Ministry of Education, Culture, Sports, Science and Technology)	The work related to the granting of international cultural exchange subsidies involves talks with the governments of foreign countries and selection of high-priority countries based on high-level political judgment with a view to upgrading and promoting Japanese arts and culture through exchange with inspiring overseas arts and culture and furthering the understanding of Japanese culture in overseas countries. Thus, this area of work is unsuitable for opening up to the private sector and should be excluded.
(c) Benefits and collection-related services to be considered for entry to the private sector Formulation and implementation of income benefits	1) Whether or not an individual is eligible for a livelihood protection subsidy is judged according to the possibility of his or her employment by a business enterprise or the like, his or her self-help efforts to secure such employment and other factors. It is not automatically judged by benefit-granting criterion. 2) If an individual applying for a livelihood protection subsidy is able to secure livelihood for himself or herself with another social security benefit, support from his or her relatives, etc., counseling, advising or the like precedes the granting of the subsidy to the individual. Recipients are provided with life guidance, assistance in their job hunt, etc. by officials of the competent department to help them earn their own living. 3) Prior to approval or payment of a livelihood protection subsidy, the competent department gathers highly

(Ministry of Health, Labour and Welfare)	private information to gain knowledge of the applicant's history, family, properties, health status, living conditions, etc. 4) Since guidance or directions are provided as necessary and the benefit payment is stopped at the discretion of the competent department if such guidance or directions are rejected, the benefit is closely related to exercise of public authority. In view of the foregoing, it would be difficult for private entities to perform the work in this area. "Approval and payment of livelihood protection subsidies" should be excluded.
(c) Benefits and collection-related services to be considered for entry to the private sector Employment insurance (Ministry of Health, Labour and Welfare)	Verification of a state of unemployment, which is the object of employment insurance, precedes approval and payment of the benefit under the employment insurance system. This verification involves confirmation of the will to work on the part of applicants for the benefit and cannot be conducted through a standard procedure that only scratches the surface of the circumstances. Applicants for the benefit must be separately interviewed to provide them with job hunt guidance and information on available jobs, and whether or not they are willing to work must be judged carefully from the applicants' attitude, the condition of the labour market, etc. All these are essential to prevent indiscreet lavish granting of the benefit. It would be inappropriate to separate the benefit payment work from the placement function by opening up the former to the private sector. Even if both benefit payment and placement functions were committed to the private sector and performed under the government's supervision, it would be difficult to make an ex post facto check to verify the correctness of the confirmation on the basis of the application rejection rate or other figure. There is no alternative but to have government officials interview applicants separately and provide them with job hunt guidance, etc. This procedure, however, is very inefficient. It is impossible to find out retrospectively about on-going recruitment activities, the applicant's job hunt efforts, etc. at the time of confirmation by a private entity, and it is therefore hard to assess the past confirmation accurately. If it is decided as a result of such assessment that the past confirmation of a state of unemployment must be revoked, the confirmation must be officially revoked, restrictions should be placed on the benefit, and a repayment order, payment order, etc. should be issued to the recipient. This would take a longer time than what it does now, and recovery of the amounts illegally received would become more difficult. If both functions were to be committed to the private sector, applicants would supposedly be free to choose a particular private placement agency. If a check for eligibility for the benefit or a state of unemployment is made a number of times by different entities for one person, it would be necessary to provide a system for the sharing of records of past interviews so that confirmation of a state of unemployment, accompanied by proper job hunt guidance and placement service, may be conducted for the person through a standard procedure followed throughout Japan. However, such important records of interviews are highly confidential information and a trade asset for the said entities, and it would be quite difficult to make the said records accessible to each of the entities (and to keep them under surveillance). The fundamental revenue of privately run placement agencies would be the fee for placement service payable by the applicants that they find. In actuality, it would be difficult to have them provide proper job hunt guidance and placement service for those applicants not qualified for the openings found by the agencies, through use of the recruitment information of public employment security offices or otherwise. If this area of work were to be opened up to the private sector, therefore, fair and correct administration of the employment insurance system would be impeded, or the operation of the system would entail enormous cost. The citizens' would lose confidence in the system and the benefits would be lavishly and indiscreetly granted. Sound financial management would also be impeded. To the Ministry's knowledge, confirmation of a state of unemployment is exclusively conducted by the insurer in major advanced countries including the United Kingdom, U.S., Germany and France. In view of the foregoing, it would be inappropriate to open up this area of work to the private sector.
2) Improvement, management and operation of public facilities B. Perspectives in favor of the promotion of the opening of public facilities to the private	Article 35 of the General Law for Independent Administrative Agencies stipulates that "at the end of the interim-target period for an independent administrative agency, the necessity of continuing the activities of that agency, its proper organization and other matters related to its organization and various aspects of its activities should be studied, and the necessary action should be taken on the basis of the outcome of the study." Hence, the wording should be changed to "those existing public accommodations, etc. managed or operated by the government or an independent administrative agency that are not in absolute need of management or operation by the government or an independent administrative agency should be promptly closed or privatized to release them from competition with privately run accommodations, etc. at the earliest

sector	possible date.”
B. Perspectives in favor of the promotion of the opening of public facilities to the private sector Facilities including government office buildings and dormitories/lodgings: A wide-range study, not confined to those meeting short-term administrative needs, should be conducted. Lodgings in particular: The government does not need to rent lodgings for its employees. Instead, the payment of a resident allowance should be considered. (Ministry of Finance)	To be excluded The governments of foreign countries supposedly acquired buildings as offices and provided dormitories/lodgings for their employees in their own way according to the conditions in the past. Basically, the Japanese government was able to construct its office buildings on state-owned land due to the conditions in an early part of the Meiji Era and other factors. Renting including leaseback of privately owned facilities to meet long-term administrative needs entails extra expenses and is financially undesirable. The government is uncertain whether or not the necessary office buildings can be acquired in that way. To be excluded Dormitories/lodgings for government employees are provided under the Law Concerning Residences for Government Employees to ensure the necessary efficiency of their work for smooth performance of state operations and businesses. Government employees are transferred to new positions at various places in Japan due to the needs associated with their duties. Transfers converge at a certain peak season every year. To ensure stable administrative services, residences for government employees must be secured at the places to which they are newly assigned. To meet this need, the government establishes its own residences for its employees. The shift to a residence allowance would place a substantial extra financial burden on the government due to incurring various rental expenses (margin for the realtor, financing expense, risk of vacancy, extra expense for acquisition of rental rights, etc.). The shift, therefore, is undesirable. Moreover, many transferred employees would have to take the time to find a residence, follow the formalities to secure a lease and so on, which might compel them to leave their work place for that purpose. This would have a considerable adverse effect on the efficiency of the administrative work.
B. Perspectives in favor of the promotion of the opening of public facilities to the private sector (Defense Agency)	The Council proposes that a residence allowance be paid to individual employees instead of providing residences for them at the expense of the government. This proposal appears to totally negate the need for dormitories/lodgings for government employees. The Agency keeps many units at out-of-the way places and on remote islands due to needs related to its duties. In some of those locations, it is nearly impossible to find a house to rent. It is absolutely necessary for the government to secure residences for corps members in such locations on the government’s own responsibility as their employer. There is some controversy as to whether such residences are owned or rented by the government. Hence, the proposal should be deleted.
C. Public facilities to be considered for entry to the private sector National Nature House for Boys, National Youths House and National Olympics Memorial Youth Center and Children (Ministry of Education, Culture, Sports, Science and Technology)	In view of the increasing cases of juvenile delinquency and other matters, the entire government now regards the sound fostering of youths and children as a top-priority task. It is often pointed out that they have only limited opportunities for hands-on activities, and the importance of such activities is frequently stressed. The National Nature House for Boys, National House for Youths and Multi-functional National Olympics Memorial Center are not just accommodation facilities. They are expected to play the central role in promoting extracurricular education outside school for youths and children. They are expected to perform different functions and serve different purposes, including the training of leaders for educating youths and children, offering of opportunities for varied hands-on activities, development of advanced or model programs reflecting governmental measures and introduction of such programs into public schools. These state-run facilities differ in aim or purpose from private accommodation facilities and will not compete with them. Abolition or privatization of the said state-run facilities would likely impede the government’s present efforts to promote sound fostering of youths and children, which is vital for the entire nation. These facilities are therefore unsuitable for inclusion in the list of accommodation facilities in need of review. The pertinent statement by the Council should be deleted.

C. Public facilities to be considered for entry to the private sector National Women's Education Center (Ministry of Education, Culture, Sports, Science and Technology)	• The National Women's Education Center is Japan's sole national center for women's education. At this center, advanced or model training and cultural activities reflecting governmental measures are conducted with the assistance of expert officials of the center by making organic use of the results of experts' investigations and research related to the education of women and abundant associated information, to upgrade women's qualities and abilities and their status under the Fundamental Law for Realization of a Gender-Equal Society and the Basic Plan for Realization of a Gender-Equal Society. Such highly specialized training activities closely linked to governmental measures with modern tasks in view can be performed only by an independent administrative agency - not by a privately run institution. • Accommodations are available to participants in events (training sessions, etc.) held by the center and members of women's organizations, etc. in Japan that conduct training on their own at the center. Hence, this center differs in aim and purpose from hotels and other privately run accommodations. • Abolition or privatization would lead to the loss of function of the center that is indispensable for the formation of a gender-equal society currently promoted by the government. • In view of its nature, the center is not suitable for inclusion in the list of public accommodations to be abolished or privatized and should be excluded from review.
C. Public facilities to be considered for entry to the private sector National defense facilities (Defense Agency)	Some of the accommodations and other facilities owned by numerous government agencies and facilities peculiar to specific government agencies are included in the list named by the Council. However, all of the Defense Agency's facilities and the facilities for the U.S. armed forces in Japan are named as defense facilities. Some of the defense facilities, however, are not suitable for committing to the private sector. It is therefore inappropriate to subject all of the Defense Agency's facilities and facilities for the U.S. armed forces in Japan to a review. The defense facilities should therefore be excluded. * "Defense facilities" refers to all of the Self-Defense Forces' facilities and the facilities and compounds for the U.S. armed forces in Japan (Article 2, 2 of the Law Pertaining to Maintenance, Improvement, etc. of Living Environment around Defense Facilities).
C. Public facilities to be considered for entry to the private sector National archives of Japan (Cabinet Office)	It is the government's fundamental duty and function to properly keep public documents in custody, store important public documents worthy of passage to future generations and others in a systematic way and to make them available to the citizens. Some original public documents, etc. have no duplicates and hence should be stored securely and permanently in the same facility. In foreign countries, the counterpart of this library is a national institution directly maintained, managed and run by the government. Since this library is a public institution unsuitable for maintenance, management and operation by a private organization, it should be excluded from the facilities in need of review named by the Council.
C. Public facilities to be considered for entry to the private sector Expo Memorial Park (Ministry of Finance)	To be excluded The World Exposition Memorial Park is maintained and operated by an independent administrative agency in commemoration of the success of the world exposition held in Japan, in compliance with the demand that this park, rich in greenery, be properly maintained, operated and accessible to the public for a low admission fee. Independent administrative agencies are expected to further raise the efficiency and quality of work through high-mobility, medium-term operation based on their own managerial judgments to attain their objectives, by having their performance evaluated by a third party to indicate who is to take responsibility and so on. In view of this, operation of the park by an independent administrative agency is considered rational. It is unsuitable for operation under the appointed-management system, under which no one takes management responsibility. The said independent administrative agency performs only the planning, ordering and contract closing functions associated with the maintenance and operation of the park. A number of other functions have already been committed to the private sector.
3) Registration-related services B. Perspectives in favor of the promotion of the opening of registration-related services to the private sector	It would be inappropriate to commit patent registration and registration of industrial property to the private sector for the reasons listed below, and therefore, the relevant passages in the Council's proposal should be deleted. 1) Registration of industrial property including patents involves exercise of public authority at a high level essentially with a view to granting an officially recognized exclusive right in respect of a newly developed technique. This is a function to be performed directly by the government from the standpoint of neutrality and fairness and is unsuitable for committing to the private sector. 2) The significance of the intellectual property protection system has recently increased with the prospect of

C. Registration-related services to be considered for entry to the private sector Registration of industrial property rights (Ministry of Economy, Trade and Industry)	coming into competition with its counterparts in foreign countries. In March 2003, the Intellectual Property Headquarters was set up within the cabinet to start governmental efforts to attain status as one of the major intellectual-property powers in the world. Accelerating the patent examination procedure is a high-priority task. The target length to which the waiting period should be shortened has already been specified (Intelligent Property Protection Promotion Plan 2004). The Law for Accelerating the Patent Examination Procedure is to be enacted during the current regular Diet session, and 500 new examination officers with a fixed term of office will be appointed in the next five years. Hopefully, Japan will lead the world in speed and accuracy of patent examination. Japan was the first to open up this area of work to the private sector including joint-stock corporations investigating conventional techniques under the above law. 3) If industrial property registration work were to be committed to the private sector, rights registered by private entities after examination by them might prove to be insecure or unstable, with resultant confusion. It might take an unduly long time to secure a right, or it might not be fully protected. This would prevent Japan's growth into one of the major intellectual-property powers of the world and directly cut down its international competitiveness. 4) Industrial property registration is performed exclusively by the government in all major foreign countries, none of which have introduced market testing into this area of work.
C. Registration-related services to be considered for entry to the private sector Certificate of automobile parking space (National Police Agency)	To be excluded To verify the existence of a parking space, the pertinent data is entered, the parking space is inspected and checked against the content of the application for parking space registration, and a report is made on that inspection. This inspection work has already been committed to the private sector. Measures including the formation of a network interconnected with the government agencies concerned have been taken to implement a one-stop service by the end of 2005 to further accelerate and streamline the verification procedure and improve it in other respects. A falsified application made by the owner of a car not garaged but illegally parked on a road, impedes the proper use of roads, impedes the reduction of danger on them and interferes with the smooth flow of traffic. A car registered in response to a falsified application is even used for criminal purposes in some cases and seriously undermines public security. It is therefore imperative for the police to carry out the said verification by reference to their database of information, etc.
C. Registration-related services to be considered for entry to the private sector Registration office work (Justice Ministry)	To be excluded Registration work is performed by registrars who are independent state institutions with the power to investigate and subject offenders to punishment, using a standard national criterion and following a semi-juridical procedure. With the citizens' confidence, they function effectively as the basis for various administrative measures and for the economic activities in a capitalist society. They play the highly important role of verifying the present state of real estate (registration of particulars), which is perhaps a citizen's most valuable asset, and providing means for countermeasures (registration of rights). Commercial and corporate registration has a very important function. It maintains economic order, verifying the establishment of companies and corporations, which lies at the basis of various rights and obligations, and ensuring security of various business transactions. Registration is repetitive work as the information is renewed repeatedly by updating the present particulars. The functions mentioned above cannot be performed by the private sector and should not be committed to it.
C. Registration-related services to be considered for entry to the private sector Notarization office work (Justice Ministry)	To be excluded Notarization is not mere presentation of a fact. It is official certification of particulars associated with a citizen's rights by preparing a deed or the like to prevent legal disputes between private citizens and to clarify and stabilize private legal relations. It is semi-juridical work with the function of preventing a dispute and the function of settling it. The work demands not only advanced legal knowledge and skills but also strict fairness and neutrality free of any bias towards any one of the parties of the case. It is incompatible with the principle of market competition. (Notarization is defined as an administrative act to officially certify the presence of a fact or legal relations (Dictionary of Legal Terms compiled by the Cabinet Legislation Bureau and "Kojien" (4th edition)). It should be performed by an administrative agency. The work of notaries public has already been committed to the private sector. A system for public recruitment of notaries public has been introduced.
C. Registration-related services to be	The objective of registration of copyrights or the like is to secure the proprietary right of a writer, etc. by publicizing the date of first publication of the writer's book, transfer of a copyright, etc. and by providing

considered for entry to the private sector Registration concerning copyright (Ministry of Education, Culture, Sports, Science and Technology)	supposed effectiveness and means of countermeasure against a third party. Registration of the copyright to a program is entrusted to specified registration institutions as an exception under the law pertaining to exceptional cases of registration of the copyright to a program, for the following reasons related to the special nature of programs: Advanced specialized knowledge of programs is required of registrars examining applications for registration of a copyright to a program. This requirement is confined to a program among all works. A means for long-term preservation of a duplicate of the program submitted by an applicant is required, and a computer system for registration work is also necessary. It would be inappropriate to take this measure for other works also. Since the present law was put into force, 400 copyrights, etc. on average have been registered each year. The work has little market potentiality. If it were to be committed to the private sector, a high registration fee would be charged. The extra financial burden placed on the applicants might result in reluctance to make an application. “Registration of copyright” should therefore be excluded in view of the foregoing.
C. Registration-related services to be considered for entry to the private sector Registration of breeds (Agriculture, Forestry and Fisheries Ministry)	To be excluded Cultivation tests to investigate the characteristics of a breed are carried out as part of breed registration under the Seed and Seedling Law to determine if a new breed is distinguishable from existing breeds or to verify other points. Breeder’s rights are granted (registration of the breed) after general deliberation of the test results and other matters to be evaluated. Examination of applications for registration of a breed, which includes a cultivation test, can be performed only by an institution with highly specialized technology and knowledge in addition to a greenhouse or the like for strict control. In the private sector, seed and seedling companies, universities, private research labouratories, etc. are expected to have such technology, knowledge and facilities. Fairness and neutrality cannot be secured if the function of granting breeder’s rights, which are exclusive rights, the examination preceding it and others are committed to private entities. It is therefore inappropriate to include registration of breeds in the areas of work to be committed to the public sector.
C. Registration-related services to be considered for entry to the private sector Registration of agrichemicals and fertilizers (Agriculture, Forestry and Fisheries Ministry)	To be excluded 1. Agricultural chemicals and fertilizers are products containing ingredients harmful to humans, animals and the environment. They may seriously affect citizens’ health and the environment unless they are placed under strict control. The objective of official registration of agricultural chemicals and fertilizers is to ensure proper quality and proper use of those articles. Registration should be performed by the state on its own responsibility. 2. A mere check of the particulars on an application is not sufficient. Comprehensive judgment should be carried out in coordination with the government agencies concerned, with attention directed to effectiveness and effects on humans, animals and the environment, the method of application, etc. Strict examination should be made drawing on standard specialized techniques applied throughout Japan. It would therefore be inappropriate to commit the registration work to the private sector. 3. BSE, use of non-registered agricultural chemicals, etc. spurred public demand for safe foods. There is growing concern about the safety of agricultural chemicals and fertilizers and their methods of use. It would be inappropriate to commit the registration work to the private sector.
C. Registration-related services to be considered for entry to the private sector Mineral property rights (Ministry of Economy, Trade and Industry)	Registration is a prerequisite for the granting of mining rights and is part of the process of exercising public authority at a high level. It is unsuitable for committing to the private sector. On average, each of the bureaus of this Ministry engaged in activities related to the granting of mining rights handles only about 46 applications (in 2003) annually. If the registration alone among all actions related to the granting of mining rights were to be committed to the private sector, it would place an extra cost burden on the Ministry where the entire right-granting work is performed by a small number of personnel. The registration work should therefore remain under the Ministry’s charge.

4) Services related to statistical research, production, etc. (Ministry of Internal Affairs and Communications)	The specified statistical investigations carried out by investigation officials should remain under the charge of an administrative organization for the reasons given below. The Council's remarks on these reasons would be appreciated. 1. The reliability and accuracy required of the specified investigations are realized by the effort to fulfill the obligation for observing secrecy under the law and the effort to earn the confidence of those who are investigated, in the investigations conducted by neutral local and central government agencies. 2. The results of specified statistical investigations are used for various significant purposes. These investigations are a highly important task. An equivalent of the accuracy of the present governmental statistics would be required of the investigations performed by private organizations, and not a single failure would be tolerated. 3. In the case of a failure in specified investigation - a decline in accuracy, delay in investigation or disclosure of its result, etc. - results from trial commitment of the work to the private sector, it would mean discontinuity from the work persistently carried out over many years. It would impede proper administrative activities, giving rise to serious confusion in the socio-economic system, and the administration would be unable to discharge its responsibility.
B. Perspectives in favor of the promotion of the opening of services related to statistical research and production to the private sector C. Statistical research and production-related services to be considered for entry to the private sector Trade insurance services (Ministry of Economy, Trade and Industry)	The objective of foreign-trade insurance is to guard against risks not covered by ordinary types of insurance such as restriction on foreign-exchange transactions involved in dealings with overseas business connections. Thus, it differs from insurance that compensates for damage resulting from a specific accident, such as property insurance by a private insurance company. In all advanced countries of the world, the national government, which enjoys absolute trust, takes part in foreign-trade insurance. In Japan, the government provides efficient and effective foreign-trade insurance through the Japan Foreign Trade Insurance Corporation. This independent administrative agency began committing part of the insurance activities to privately run property insurance companies and would consider expanding the range of activities so committed to the private sector. It is essential to remember the foregoing in deciding whether or not to push forward with such commitment to the private sector and to make a decision with the primary attention directed to a course that would consistently provide foreign-trade insurance services desirable to Japanese business enterprises in general.
B. Perspectives in favor of the promotion of the opening of services related to statistical research and production to the private sector There is no absolute need to have bank notes and passports, for example, printed by the public sector. C. Statistical research and production-related services to be considered for entry to the private sector Production of banknotes and coins (Ministry of Finance)	To be excluded If the currency in circulation were to be in short supply or if confidential information related to the printing of bank notes or minting of coins were to be divulged, it might disrupt Japan's economic order into an irremediable state, with serious adverse effects on national administration activities. Such disruption and damage on a national scale would be too severe to be remedied by compensation for damage under contracts with private business enterprises or withdrawal from the market. Hence, currency remains stable as long as it is available for citizens to spend in the case of a disaster or other emergency, etc. Furthermore, currency should be ready for spending without the suspicion that it might not be authentic. The following essentials are necessary for that purpose: Steady and consistent printing capacity not affected by business fluctuations including the risk of bankruptcy or the like Advanced technology for prevention of counterfeiting Statutory prohibition against disclosure of confidential information Only the Mint Bureau, which is composed of independent administrative agencies under the applicable law, and the National Printing Bureau are able to meet the above requirements and print or mint the currency efficiently and effectively.

C. Statistical research and production-related services to be considered for entry to the private sector Pruduction of decorations (Ministry of Finance)	To be excluded Among all metallic craft products, honorary medals require elabourate work and should be manufactured and supplied steadily without a hitch as an instrument for officially commending distinguished individuals. These medals are manufactured under the Mint Bureau with an established reputation among the citizens for its long history of excellent bank note printing and coining work, through drawing on expert traditional skills. It is an undeniable fact that some private business enterprises have production techniques at or above the required levels. However, unlike other metallic craft products, honorary medals must be in constant supply available for awarding to distinguished individuals at any time. Therefore, they must be manufactured, as in the past, by the Mint Bureau agencies, which boast advanced production techniques highly rated by the general public.
C. Statistical research and production-related services to be considered for entry to the private sector Production of metallic artifacts products and printing of valuable papers, White Papers, etc. (Ministry of Finance)	To be excluded Manufacturing of certain metallic craft products and the printing of certain valuable papers, White Papers, etc. are already performed by businesses in the private sector. However, those metallic craft products necessary for the public's interests are produced by the Mint Bureau independent administrative agencies, and the valuable papers, White Papers, etc. that are required as part of the items to be supplied for the public's interests are printed by the National Printing Bureau. These bureaus should continue performing the above functions to meet the public needs.
C. Statistical research and production-related services to be considered for entry to the private sector Research on alcoholic liquors and other research and training activities by independent administrative agencies (Ministry of Finance)	To be excluded Research on alcoholic liquors including basic or fundamental research, now carried out by the General Labouratory for Research on Alcoholic Liquors, an independent administrative agency, should be performed by a government agency or the like on a continuous basis for a long or medium period to ensure high quality and safety and to upgrade the technical basis of the entire alcoholic liquor industry. It would be difficult for the industry, which comprises many small and medium business enterprises, to do such research work. Even if it were to be performed by some enterprises, the fruit of the research work would probably be withheld within the organization and not passed on to other members of the industry including small and medium enterprises.
5) Services related to inspection, certification etc. A. Assessments, inspections, certification and qualification exams related to approvals and licenses (c) Inspection and certification-related services to be considered for entry to the private sector Approval assessment of pharmaceutical production (Ministry of Health, Labour and Welfare)	The effectiveness, safety, etc. of pharmaceuticals are directly related to the lives and health of the citizens. It would be inappropriate to urge profit-making business enterprises to account for these matters. Scientific and proper deliberation of these matters based on sufficient data, etc. and approval based on its outcome should be performed by the government, which is committed to safeguarding and improving citizens' lives, or to a public institution commissioned by the government. In foreign countries, deliberation and approval functions for pharmaceuticals, etc. are entrusted to public institutions. Thus, only public institutions should be allowed to perform the functions related to deliberation and approval of the manufacture, etc. of pharmaceuticals. This area of work is unsuitable for committing to the private sector and should therefore be excluded.

(c) Inspection and certification-related services to be considered for entry to the private sector Assessment prior to granting/denying of mining rights (Ministry of Economy, Trade and Industry)	The Mining Law prohibits acceptance of an application for mining rights if extraction of minerals in the area where the mining activity is to be carried out is of no economic value or if mining in that area is likely to be hygienically maleficent or would impair the agricultural, forestry and other interests, or otherwise undermine the public welfare. Examination of such an application involves high-level administrative deliberation including comparison of the economic value of the mining activity in the area and the predicted adverse effects on the public's interests. The deliberation procedure, unlike a test or inspection, defies description in a manual or guidelines. This area of work should therefore remain under the charge of this Ministry.
(c) Inspection and certification-related services to be considered for entry to the private sector Inspection of agricultural equipment (Ministry of Agriculture, Forestry and Fisheries Ministry)	To be excluded Examination on the type of agricultural equipment and tools serves the purpose of promoting extensive introduction of safe and high-performance agricultural machinery to ensure the safety of agricultural workers, enhance their productivity and so on. The obligation to observe secrecy at a high level is demanded in this area of work. It is imperative to guard the technical seeds, advanced know-how and other intellectual property belonging to private business enterprises that have become known to the inspecting personnel. It is also necessary to observe strict secrecy in respect of such details of non-conforming items the disclosure of which would place the producer of the item under examination at a disadvantage. Discreet examination by the government agency is crucial. Individual private business enterprises producing or dealing in agricultural machinery specialize in machines for a specific purpose since varied machines are needed for different farm products and for different kinds of farming work. Hence, no third party is likely to acquire technical knowledge of all of the varied agricultural machines, technical abilities essential for proper examination and varied inspection facilities. In view of the wide variety of agricultural machines and the meteorological, topographical and other conditions under which they are used, it is absolutely essential to guard the lives of agricultural workers, secure safety in other aspects and ensure full fairness and neutrality. In almost all major countries in North America and Europe, this area of work is under the charge of a government agency. In view of the nature of this area of work, the mission involved and the conditions in overseas countries, it is inappropriate to include examination of agricultural equipment and tools in the list of areas in need of review.
(c) Inspection and certification-related services to be considered for entry to the private sector Weights and measures inspection (Ministry of Economy, Trade and Industry)	Weights and measures are one of the socio-economic fundamentals. In most countries of the world, the state undertakes the ultimate responsibility in this area of work. The top governmental institutions of individual countries (the General Industrial Technology Research Labouratory in the case of Japan) acknowledge the accuracy and technical capability of one another's national standards to establish universal reliability for weights and measures, according to an accepted international rule. Under the Measurement Law of Japan, as revised in 1993, a system for utilizing the private sector's power for inspections and verifications was introduced, and increasingly more capable entities are now joining the system. Reliability is ensured for the examination of standards that are a prerequisite for reliability of measuring instruments since the standards used for examination are interconnected with national standards. Even if the examination of standards were to be committed to the private sector, it would be crucial to have the standards initially examined by the General Industrial Technology Research Institute. The procedure would become unnecessarily complicated. This area of work has limited market potential, and whether or not capable entities would enter the market is uncertain.
(c) Inspection and certification-related services to be considered for entry to the private sector Driving tests (National Police Agency)	To be excluded Statutory provisions for committing driving tests to the private sector were put into force, and some private entities were allowed to conduct such tests.

(c) Inspection and certification-related services to be considered for entry to the private sector Certified public accountants exams (Financial Services Agency)	As for the said test, some private entities have already been allowed to perform such functions as the transport of question papers and answer papers, witnessing of the test and marking of the answer sheets. Printing of answer papers cannot be committed to the private sector due to the need for observing secrecy and preventing the guessing of questions from the answer papers.
(c) Inspection and certification-related services to be considered for entry to the private sector Librarians certificate courses (Ministry of Education, Culture, Sports, Science and Technology)	Librarian training is conducted primarily at universities through a library science course or the like, because of the need to acquire specialized knowledge and skills related to libraries. The particular librarian training course mentioned by the Council is intended for those who did not major in library science at a university. The above universities have a good educational environment and ample equipment and facilities. They employ teachers specializing in library science and have a library in which the students can practice. These universities offer a librarian training course (360 hours in all) for a low tuition fee (approximately 100,000 yen on average). Supposedly, no private entity is able to offer the equivalent to this librarian training course in quality and content, for a low tuition fee. Hence, there is no point in opening up this area of work to the private sector. Librarian training is conducted by universities (including school corporations) - not by the state directly. For this reason, it should be excluded from the list of areas in need of review.
B. Other types of inspections, certification and monitoring (c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector Surveillance of overseas diplomatic establishments, etc. (Foreign Ministry)	If "surveillance of overseas diplomatic establishments, etc. "refers to this Ministry's surveillance of its own organization and surveillance of overseas diplomatic establishments, the said surveillance is unsuitable for inclusion in the list of items in need of review and should be excluded. The Ministry's surveillance and inspection activities are directed toward the accounting work at the Ministry proper and its overseas diplomatic establishments, its activities and operations, and the efficiency, training and general performance of the Ministry's personnel. Investigations and checks are carried out to verify that the Ministry is performing its duties in the proper manner. A remedial measure, if necessary, is proposed. The information handled as part of the surveillance and inspection activities includes information related to national security and mutual trust between Japan and foreign countries, and it is therefore impossible to commit this area of work to the private sector. As for the obligation to observe secrecy mentioned by the Council (P20), the loss of benefits due to failure to observe secrecy associated with the surveillance and inspection functions is too great to recoup. The obligation to pay damages in the case of failure to observe secrecy or the slight decline in reputation is insufficient as measures to inhibit disclosure of confidential information. The surveillance and inspection functions should therefore be performed by government employees who are obligated to preserve secrecy under the Government Employee Law. • If "surveillance of overseas diplomatic establishments" refers to surveillance of accounting activities of these establishments, the establishments, like other government agencies, are already under surveillance based on statutory accounting regulations. There is no need to single out surveillance of overseas diplomatic establishments for inclusion in the list of areas in need of review. "Surveillance of overseas diplomatic establishments" should therefore be excluded. • A portion of the expenses for overseas diplomatic establishments are incurred in taking safeguard action against "menace to the national security or mutual trust between Japan and a foreign country or an international organization or a disadvantage in negotiations with a foreign country or an international organization" or incurred otherwise. An audit of these establishments may impede their activities. This area of work is unsuitable for committing to the private sector and should be excluded.
(c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector	To be excluded A physical audit of the national properties instead of their physical inventorying is conducted by this Ministry. Its objective is supervision and guidance related to the national properties maintained, managed, operated, etc. under the supervision of the heads of government agencies. In the case of a violation of the National Property Law or any associated law detected as a result of the said audit, the head of the government agency violating such law is instructed to take the necessary action with regard to national property administration or disposal, such as discontinuation of use for the present purpose or commitment to another agency's charge

Physical inventorying of national properties (Ministry of Finance)	or a study of the matter. Investigation of the actualities and judgment based on the applicable law should be inseparable. If investigation of the actualities is singled out and committed to the private sector, it may result in future adoption of an inappropriate action or the like. The result of the audit, the demanded action, etc. are part of the planning activities, which might prove helpful toward sound national property administration in the future. This area of work, unlike a quantitative inspection or the like, is therefore unsuitable for committing to the private sector.
(c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector On-the-spot inspection to check food labeling (Ministry of Agriculture, Forestry and Fisheries Ministry)	To be excluded 1. Food labeling is an important guide to help consumers select goods. Business enterprises are expected to provide proper food labeling conforming to the labeling criterion. False labeling, dating, etc. have been detected frequently in recent years. It is a major task of the government to ensure that proper food labeling is provided to regain the citizens' confidence. 2. The government's on-the-spot inspections, etc. related to food labeling under the JAS Law are indispensable for the purpose of demanding remedial measures from a violator of the regulation on food labeling. In view of the citizens' fast-growing concern about safety and trustworthiness of food and their increasingly strong demand for correct food labeling, on-the-spot inspections should continue to be made by the government. 3. The said on-the-spot inspections are inseparable from the judgment as to a suspected deliberate violation, error, etc. and the judgment as to the action to be taken, i.e., instructions, guidance, etc. The former judgment, unlike a routine job, is an administrative judgment and should be passed by the government. A high-level administrative judgment is required since a heavy penalty (a fine up to 100 million yen on a corporation) is ultimately imposed on the violator.
(c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector Plant and animal quarantine (Ministry of Agriculture, Forestry and Fisheries Ministry)	To be excluded 1. The cause of an infectious disease originating in cattle or noxious insect spoiling plants, even if it is very slight in quantity, spreads rapidly and inflicts enormous harm. To prevent its spread, it is imperative to take strict action (i.e., killing, disposal, burning or the like) immediately after detection. Such action should be taken by the government on its own responsibility. 2. The citizens are now more deeply concerned about the process of farming, stock farm products and the safety of food because of BSE and other disasters, and they strongly demand remedial and preventive measures by the government on its own responsibility. The government should continue taking strict action to keep infectious diseases originating in cattle and noxious insects off the shores of Japan. 3. In most foreign countries, a quarantine institution is established and operated by the state. Quarantine activities are carried out on the basis of mutual trust according to an international arrangement or agreement between two countries. It would be inappropriate to commit this area of work to the private sector.
(c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector Medical inspection 1. A basic idea for promoting the opening of areas of work under government to the private sector (5) According to convention (Ministry of Health, Labour and Welfare)	Quarantine lies at the basis of measures to keep infectious diseases off the shores of Japan. These measures should be promptly taken by a national institution. Since any action is based on the overall consideration of the effects on the lives and health of the citizens, etc. and on an appropriate administrative decision, these measures differ from routine work. In spite of the Council's proposal, this area of work should not be committed to the private sector and should be excluded from the list. For the above reasons, it is inappropriate to include quarantine as an example. It should be excluded or replaced with another example.

(c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector Inspection of services and resources provided by social welfare agencies (Ministry of Health, Labour and Welfare)	In the Interim Summary, the Council proposes that investigations of corporations' activities and properties be committed to the private sector. These corporations obviously include civil-code corporations (foundational and corporate juridical persons) and school corporations. It is inappropriate to single out social welfare corporations as a representative example since review of a specific type of corporation alone must be avoided. Civil-code corporations, which take the regular form of corporation, are preferable to social welfare corporations as an example.
(c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector Radio wave monitoring (Ministry of Internal Affairs and Communications)	As this Ministry stated at the recent hearing, radio wave monitoring is unsuitable for committing to the private sector for the following and other reasons: 1) Radio wave monitoring should be conducted without encroaching upon the citizens' right to privacy with regard to their communication. 2) It involves investigations related to frequencies withheld and a check of conversations, in respect of highly confidential matters of the police, defense authorities, etc. 3) The results of investigations of the actual use of radio waves should be reflected in radio wave policies because of the need of centralized radio wave allocation, etc. by the government. 4) The government should discharge the national responsibilities in coordination with foreign countries and through international cooperation to eliminate interference. The proposed opening up of this area to the private sector should be reconsidered.
(c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector Household goods monitoring (Ministry of Health, Labour and Welfare)	The objective of surveillance of home-use articles is to prevent harm to citizens' health by non-conforming home-use articles. The surveillance activity should be carried out promptly on a nationwide scale to accomplish this goal. It is essential to take into account previous violations, effects on the lives of citizens, etc. and to make an administrative decision. The surveillance activity is not routine work. In spite of the Council's proposal, this area of work should not be committed to the private sector and should be excluded from the list.
(c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector Medical care monitoring (Ministry of Health, Labour and Welfare)	Under Article 25 of the Medical Care Law, on-the-spot inspections are carried out at hospitals, clinics and birth centers to check the list of personnel, state of cleanliness, building structure, equipment, clinical records, birth center records, accounting books, etc. to ensure high-quality and proper medical care. These inspections are performed to promote public welfare associated with private property rights guarded by the Constitution. Hospitals and other medical facilities are compelled to carry out the provisions of the Medical Care Law, which prescribes the building structure and equipment of hospitals, etc. since a penalty is imposed in the case of violation. Under Article 26, 1 of the Medical Care Law, medical surveillance officers are appointed from among the officials of this Ministry, the prefectural government and the municipality or ward, if it has public health centers, to enforce the pertinent provisions of the law. Surveillance officers are allowed access to the personal information on medical records, etc. for the purpose of investigation, to check for proper high-quality medical services at the institution under surveillance while they are obligated, as government or local government employees, to observe secrecy in respect of the information. In view of the foregoing, if the surveillance were to be conducted by private entities, it would be difficult to perform adequate investigation of a hospital or the like. Consequently, high-quality and proper medical care services would not be rendered for citizens. Moreover, it might be necessary for the public sector to conduct a new investigation if it suspects that the investigation made by the private entity was not adequate.

	Furthermore, there is no guarantee that the obligation for secrecy would be observed for clinical information that shows the medical measures taken to cure a patient, which is of a highly confidential nature and must be guarded. In view of the effects on the lives of citizens and other matters, on-the-spot inspections under Article 25 of the Medical Care Law are unsuitable for committing to the private sector.
(c) Services related to other types of inspections, certification and monitoring to be considered for entry to the private sector Monitoring and supervising of food products (Ministry of Health, Labour and Welfare)	Surveillance of food and administrative guidance include on-the-spot inspections and tests/examinations to verify if entities in the food industry are conforming to the criteria of the Food Hygiene Law, etc. as well as administrative guidance with the objective of preventing health hazards originating in food, etc. Last year, the Food Hygiene Law was revised so as to allow the commitment of labouratory tests and analyses of food, etc. among the said surveillance and guidance activities to privately run examination institutions with the required techniques and neutrality, and those tests and analyses are presently conducted at such private institutions. The rest of the surveillance and guidance activities, however, call for emergency administrative judgment in some cases. If administrative action is to be taken, the improvements made and other matters must be evaluated comprehensively. Therefore, this area of work should be carried out by government employees who have the authority to take such administrative action.
6) Other office work and operations B. Other work and operations to be considered for entry to the private sector Processing of property damage accident reports (National Police Agency)	To be excluded In the case of an accident causing minor property damage where there is no need for police officers to restore traffic to normalcy or to take other action, and the parties to the accident do not desire police officers' inspection on the spot and are able to drive to the police station, the said inspection may be omitted and thus save a portion of the police work. The parties are asked about the actualities of the accident at a police box or elsewhere, and an inspection of the vehicles, etc. is conducted by way of investigation. In all other cases, police officers show up at the scene of the accident for the following reasons: 1) Police officers are required to regulate traffic if action is necessary to prevent danger on the road or to promptly restore the traffic to normalcy. 2) Police officers are required to conduct an investigation including on-the-spot inspection if there is a risk that the accident may lead to the injury or death of a person or persons, or further investigation is judged necessary in respect of a driver's traffic offense. 3) If the parties disagree about the accident, for example, police officers must question them about the accident or take some other measure to prevent aggravation of the dispute. The traffic regulation, etc. and investigation mentioned above should be carried out by police officers. Furthermore, the presence of police officers at the scene of an accident is often helpful toward the prevention of an intense dispute.
B. Other work and operations to be considered for entry to the private sector Emergency services (Ministry of Internal Affairs and Communications)	To be excluded Rescue activities by fire-fighting organizations are administrative actions essential for reduction of the damage to citizens in an accident, in the case of a disaster, etc. and for protection of citizens from injury or death. These organizations have life-saving teams and rescue squads whose mission is to save lives in an emergency. Special powers including the emergency right of way and the power to demand cooperation are given to these organizations. Approximately 70% of the rescue team members double as fire fighters. To single out the rescue activities and commit them to the private sector would be inefficient and challenging. Organizations or individuals other than the fire-fighting stations and employees are not prohibited from transporting patients, etc. to a hospital on a commercial basis.
B. Other work and operations to be considered for entry to the private sector Auction procedures (Justice Ministry)	To be excluded Because of its nature, the auction procedure is a means for forcible exercise of rights under a positive law, affecting the interests and legal status of numerous interested parties. Fairness and neutrality of the procedure are indispensable for proper exercise of rights. Even now in Japan, criminals attempt to obstruct the procedure in order to obtain funds for their group. It is particularly essential to keep out gangsters, etc. to ensure that the procedure is properly followed. In the case of real estate occupied by gangsters, etc., coercive action is taken to expel them or to settle the problem otherwise. Hence, action based on the government's public authority is crucial. Thus, the auction procedure should be followed through exercise of public authority by the government who is empowered to take such coercive action, in order to ensure fairness and neutrality of the procedure.

B. Other work and operations to be considered for entry to the private sector Job-search services (Ministry of Health, Labour and Welfare)	Basic job placement services should be rendered through a nationwide network for the reasons given below, and committing this area of work to the private sector would defeat this purpose. Article 27 of the Constitution guarantees the right to work. Convention No. 88 of the ILO stipulates that a nationwide network of public job placement institutions be maintained under the supervision of a government agency to render placement service free of charge. The free placement service provided by the government as the minimum safety net is based on this provision and is therefore indispensable. People seeking a job can receive the above service at any location in Japan. It is essential to render the said service through a nationwide network of establishments run by a single organization in view of the necessity of labour migration from one area to another and other factors. The right to work should be guaranteed in depopulated areas, etc. where a private placement business is not profitable, and in cities also. The placement service must be provided by the government. The unemployment benefit payment and the guidance for entrepreneurs, both of which should remain under the charge of the government, are effective only when combined with the placement service. This is another reason for the need of a governmental placement service. In the U.S., U.K. and other major foreign countries, the government performs both of these functions.
3. Review of the management system for national and public assets If the present criteria were to be retained, the public and national property administration system might prove detrimental to the opening up of areas of work under the government to the private sector. Not all public and national properties are fully utilized. (Ministry of Finance)	To be excluded It is possible under the current system to ensure that the facilities for certain work or certain business are available to the private entity to which the work/business is committed, with the said facilities retained as administrative properties. The present criteria do not prevent opening up to the private sector. If a certain publicly run business were to be privatized or transferred to a private entity, the public sector would lose that business and would not need to make direct use of the facilities belonging to the public sector. Those facilities would be freed from their present purpose of use and would be properly disposed as ordinary assets. It is difficult to think of a case where the present criteria obstruct commitment to the public sector. Hence, this area of work needs no review from the standpoint of promotion of the opening up of areas of work under the government to the private sector.
3. Review of the management system for national and public assets It would be inappropriate to grant private rights to a public or national property as an exception if the said approval would seriously impede use of the property for the prescribed purpose or achievement of the prescribed objective. (Ministry of Finance)	To be excluded Administrative properties should be used to provide administrative services equally to the citizens. Granting someone private rights to an administrative property in a case where the said granting would seriously impede its use for the prescribed purpose or achievement of the prescribed objective might impair the public nature of the said property or the public's interests and lower the level of administrative services to be performed equally for the citizens. Such granting act is essentially prohibited in the case of certain administrative properties, e.g. a road, a river, properties of the Imperial Family and National Defense facilities. Hence, it would be inappropriate to permit the said granting of private rights as a rule.

3. Review of the management system for national and public assets Only the present distinction between administrative properties and ordinary properties or other parts of the system should be reviewed. (Ministry of Finance)	To be excluded The administrative properties should be used to provide administrative services equally to the citizens. In view of their public nature, it is appropriate to distinguish administrative properties from all other properties, i.e., ordinary properties. Specific administrative properties shall be reclassified as ordinary properties and properly disposed of prior to privatization or the like. In view of the above and other matters, the present distinction shall not impede the opening up of areas of work under the government to the private sector.