First Report on the Promotion of Regulatory Reform and the Opening Up of Government-driven Markets for Entry into the Private Sector

"Achieving a Private Sector-led Economic Society through the Opening Up of Government-driven Markets for Entry into the Private Sector"

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Council for the Promotion of Regulatory Reform

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Finalization and Publication of the First Report on “Achieving a Private Sector-led Economic Society through the Opening Up of Government-driven Markets for Entry into the Private Sector”

1. Awareness of issues related to the opening up of government-driven markets to the private sector

After a prolonged recession, the Japanese economy is gradually picking up; this is primarily due to steady private sector demand based on the restructuring efforts of business enterprises. In order to maintain this upturn and move into a phase of continuous growth, it is essential that structural and regulatory reforms are implemented.
Public administration reform is progressing very slowly as compared with business enterprise reform. Needless to say, the public administration must divest itself of compartmentalized bureaucracy, operational overlaps, and waste. Faced with a complicated socio-economic environment, and diversified and expanded demand for its administrative services, the public sector should specialize in those intrinsic functions, allocate human and other resources correctly to its internal sections, and make any other efforts necessary for the successful accomplishment of administrative and fiscal reforms. Administrative services are not subject to the principle of competition, thus they rarely adapt to changes in the socio-economic environment; inefficient services and service providers are protected and retained at the citizens’ expense. Subject to fiscal restrictions, the public sector is unable to upgrade its services quantitatively and qualitatively, which often gives rise to long waiting queues and various other complications.
The efforts aimed at relaxing and reforming regulations over the past 10 years or so, which started primarily with the relaxation or abolition of industrial activity regulations, have been redirected to areas more closely related to citizens’ daily lives. This shift has occurred in response to citizens’ needs changing with the diversification of their sense of value and lifestyle, the declining birthrate, the aging population, diversification in types of employment, etc. The regulations covering these areas were left untouched for many years under the name of “social regulation”, and they served as a breeding-ground for various strongly entrenched interests. Moreover, they narrowed choices, forcing expensive, low-quality services, etc. on consumers and users, who should act as standard bearers for regulatory reform but, in reality, tend to accept regulations as given preconditions and hesitate to support their reform.
The Council for the Promotion of Regulatory Reform (Council), formed as an advisory organ

for the prime minister in April 2004, has been investigating and discussing the opening up to the private sector of those service areas which the national and local governments are involved in. Other areas include those involving the public sector's deeper commitment for which only specified corporations are permitted to carry out services, etc. Both of these areas will be called "government-driven markets". The opening up of these areas to the private sector is a difficult task but is essential for the conversion of the Japanese economic society into a private sector-led economic society.

A summary of the Council's efforts over the past few years is presented in this report under the title "Achieving a Private Sector-led Economic Society through the Opening Up of Government-driven Markets for Entry into the Private Sector".

The matters agreed to by the government agencies concerned during the course of our deliberation are presented in different chapters as "specific measures".

2. Promotion of the opening up of government-driven markets to the private sector by market testing, etc.

(1) “Market Testing” as a cross-sectional method for promoting the opening up of government-driven markets to the private sector

As stated in the Operation Policy for the Promotion of Regulatory Reform Council in April 2004 (revised in September, then November 2004), the Council intends to promote regulatory reform and the opening up of government-driven markets to the public sector more intensively by studying the issue from a number of novel viewpoints, using novel methods, etc.

As part of its efforts, the Council adopted the market testing technique, which had already been applied in many advanced foreign countries as a cross-sectoral method of opening up government-driven markets to the public sector. It has also been employed as a method of opening up those areas in which the national and local governments provide services, etc. (“government-driven markets”) to the private sector. Market testing features competitive tendering between the public and private sectors for the rendering of public services. The entity excelling in terms of both price and quality is accepted, and that entity is entitled to provide the service.

As stated in the Interim Summary (August 3, 2004): a) guidelines on the tendering procedures, etc. necessary for the implementation of market testing (competitive tendering between the public and private sectors), for the government-driven markets, will be established by the end of the year, and b) model projects will be selected on the basis of applications from the private sector by the end of the year in preparation for the trial introduction in 2005. Further details will be given in I.

Even those applications which are not involved with the model projects being implemented in 2005, will be studied as candidates for market testing prior to the full-scale introduction of the system.

(2) Promoting the opening up of government-driven markets to the public sector

In its Second Report Regarding the Promotion of Regulatory Reform, the Council for Regulatory Reform, the predecessor of the Council for the Promotion of Regulatory Reform (December 12, 2002), circulated the following principle associated with the specific government-driven markets to be opened:

The public sector's role should be administrative-specific handling only those tasks beyond the private sector's capacity.

We examined all public services exhaustively and considered whether, in light of the above principle, they were indispensable within the government-driven markets. The ministries responsible should clarify the indispensability of public services in order to manage the separate, individual opening up of each public service to the private sector. Any task regarded as "administrative-specific" will be subject to a fundamental review from the viewpoint of "whether or not government employees are truly required to handle them". Adopting this approach would enable the feasibility of opening up public services to the private sector to be investigated thoroughly. We gave our views in response to various government agencies' arguments against the opening up of a specific service to the private sector.

As for II, we named the following categories as examples of the areas to be privatized, transferred or entrusted to the public sector. There are 81 varieties of office work and services listed in our Interim Summary, the following are examples: a) benefits and collections; b) improvements, management and public facility operations; c) statistical research, production, etc., and d) inspections, registrations, qualification examinations, etc.

Of course, the office work and services to be privatized are not limited to the foregoing. We will explore other varieties of office work and services, as well as others for items suitable for privatization.

3. Promoting the reform of major government-driven markets

The Council for Regulatory Reform has worked enthusiastically on regulatory reform in those service areas that are provided under strict administrative control by selected private enterprises. The Council has been applying an advanced pilot scheme, the Structural Reform Special Districts System. As a result, in special structural reform districts, the participation of private companies in hospital and school management has become authorized, albeit under certain criteria. The opening up of government-driven markets to the private sector has gradually been achieved, yet there are still restrictions to be overcome: thus further effort is needed.

The Interim Summary specifies seven priorities related to medical care, nursing care, and education, including the lifting of the ban on "mixed medical care services" and the overall review of Central Social Insurance Medical Council operations. This review is being carried out on the basis of "Action Plan - 17 Priorities for the Promotion of Regulatory Reform"

proposed by the Council for Regulatory Reform after an active period of intensive work. In September, seven items were added, including the opening up of Hello Work job placement services and social insurance services to the private sector. Subsequently, information was demanded from the ministries concerned, forums held, deliberation opportunities provided for cabinet members and our representatives, etc. in respect of the 14 priorities named. The results of these activities are summarized in III.

It is important that service users and consumers have a fundamental right to free choice in any area, and that any regulations and systems that hinder such rights should be reformed. It is equally important that this reform create flexibility and fair competition between the public and private sectors. Potential demand needs to be discovered while at the same time new demand being created. Consequently, the Council hopes to create a virtuous circle in which the private sector has more freedom to demonstrate its resourcefulness and creativity, which will be of benefit to service users and consumers. It is hoped that this report will contribute in some way to the formation of a social consensus of opinion favoring the reform based on the belief that it will ultimately bring benefits to users and consumers.

4. Promoting reform in individual areas

Apart from the opening up of government-driven markets to the private sector, we have organized working groups in charge of IT, competition policies, legal affairs, finance, energy, transportation, housing and land, the environment, employment and labor, agriculture, distribution, etc., whose tasks involve the monitoring of plan implementation, follow-up, response to requests, discovery of new tasks, etc.

The achievements of these working groups are not reflected in this report, which focuses on the opening up of government-driven markets to the private sector. An additional report dealing with their achievements will be produced in February next year.

I. Market Testing (competitive tendering between the public and private sectors) as a cross-sectional method for promoting the opening up of public services to the private sector

[Issue recognition]

1 Description and significance of market testing

(1) Outline of market testing

Market testing is a mechanism that prepares the ground upon which both the public and private sectors can compete equally. It also helps to determine “what should be done by the private sector”. Market testing is a system that conducts competitive tendering between the public and private sectors under transparent, neutral and fair conditions in order that quality services at affordable prices are assured following the successful bidding by highly-capable providers.

Market testing has already been applied in many advanced countries, including the US, the UK and Australia. Private firms in Japan also enjoy optimal production by using the system when comparing the cost-benefits between in-house and outsourced production. In order to provide high-quality public services for the nation, with the more effective use of limited financial resources, the public sector (i.e. all national government operations, including internal and external sections, local branches and sub-branch sections of the ministries, offices and independent administrative agencies, and local authorities) must be based on the same principles as private firms.

In Japan’s case, many routine public services, such as cleaning and public facility security are often contracted out to private firms. However, the privatization of key public service areas to the private sector, including planning and design, has seldom been promoted. Market testing must therefore be implemented on a full scale in FY2006, as a means of accelerating the process of transferring authority and administration from the public to the private sector. This move will encourage the privatization and entrustment of public services, which are not only restricted to outsourcing, but are also more comprehensive in what they have to offer.

(2) Types of market testing

Market testing is subdivided into the following two types: commission- and entrust-based.

1) Commission-based

Bidding for part or the whole of a public service is carried out by candidate commissioned entities from both the public sector (independent administrative agencies and special public corporations), and the private sector. In addition, the requirement of the commissioned service may be:

(a) The commissioning of all management, including the determining of utility charges.

(b) Alternatively, the commissioning of those services to which (a) does not apply.

2) Entrust-based

Bidding for part or all of a public service is carried out by the original public entrustor and private candidate entrustees.

The bidding result may be that:

(a) The original public entrustor bidding proves successful.

(b) Alternatively, the entrustor may need to take measures to privatize or assign the service to the private sector.

(3) Course of discussions and deliberations over market testing in Japan

The discussions and deliberations carried out by the Japanese government relating to the introduction of market testing are described below.

a) The "Third Report Regarding Promotion of Regulatory Reform" (prepared by the Council for Regulatory Reform, December 22, 2003), subsequent to which the "Three-year Program for Promoting Regulatory Reform" was approved by the Cabinet (March 19, 2004).

○ **Market testing [Action to be taken during FY2004]**

Market testing is a system that conducts bidding between public and private service providers of mutual specializations under fair competitive conditions so as to determine those providers capable of offering quality services at affordable prices. Market testing has already been exercised in other countries, including: the UK,

Australia, Holland, Denmark, and Sweden. The Japanese government has a role in ensuring a safe and secure living for its people. Consequently, Japan should carry out its own research into the adoption of market testing in order to secure fair competitive tendering conditions for both public and private sectors. This research should be done in parallel with an investigation of other countries' examples.

b) **The "Basic Policies for Economic and Fiscal Management and Structural Reform 2004" [Decision by the Cabinet on June 4, 2004]**
In order to accelerate the introduction process of systems, such as market testing, that clarifies the indispensability of public services and determines the numerical targets needed in order to promote the opening up of government-driven markets to the private sector, the design of institutional arrangements must be completed during FY2004. Further discussion will be held prior to the pilot introduction of the systems.

Taking all these into consideration, we finalized and published our "Interim Summary" on August 3, 2004, in which we propose basic policies for the introduction of market testing, the implementation process, future study schedule, etc.
Market testing is a cross-sectional method of promoting the opening up of the market. At the Economic and Fiscal Advisory Meeting on September 10, 2004, Prime Minister Koizumi instructed that the pilot introduction of model projects should be successfully carried out in FY2005 as the first step. At this meeting, it was pointed out that the services of the public employment security offices (Hello Work), and those of the Social Insurance Agency, should be designated as model projects.
In response to this argument, we called, from October 18 to November 17, for proposals about those services to be designated as model projects from private business enterprises, etc. As a result, 119 proposals were made by 75 business enterprises (refer to attachment). Those proposals came from numerous business enterprises in various industries and trades and demonstrated the high expectations that the private sector holds for market testing. Prime Minister Koizumi stated at the Economic and Fiscal Advisory Meeting on November 25, 2004 that market testing should be carried out.

[Specific measures]

Specific measures means translating into reality "what can be done in the private sector as compared to what should be done in the private sector". This is the core of the structural

reform, the establishment of a system, including a legal framework tentatively known as the "Market Testing Law", which will be studied in preparation for the full-scale introduction of market testing (competitive tendering between public and private sectors), in conformity with the market testing guideline presented in 1 below.
The model projects mentioned in 2 below will be trialed in FY2005.
It is essential that this area be studied further to see whether any of those services not designated as models for implementation in FY2005, among those items proposed by business enterprises, are suitable for market testing, prior to the full-scale introduction of the system.

1. Market testing guideline

This guideline is intended as the basic guiding principle to be followed when implementing model projects for market testing (competitive tendering between public and private sectors), and when studying the system to be introduced on a full scale. It outlines the series of procedures for implementation and presents the points to remember about each of those procedures.
The guideline may be revised where necessary in the light of a future review of market testing, the way it will be conducted, etc.

(1) Description and significance of market testing

Market testing is a system for making the public and private sectors compete with each other on an equal footing. In other words, putting "what can be done in the private sector as compared to what should be done in the private sector" into reality. Under this system, the public and private sectors will make a competitive tender for the delivery of a public service under transparent, neutral, and fair competitive conditions. The best tender in terms of price and quality will be accepted. That provider will be entitled to deliver the service.
Privatization, etc. has already been implemented in respect of certain government-driven markets. Cross-sectional measures for opening up the market to the private sector, such as PFI, the designated controller system and the structural reform special districts, have occurred in some places, but they have some inherent limitations. Hence, market testing will be implemented as a new cross-sectional approach with the aim of opening up the markets correctly.

(Reference: Existing systems)

a) PFI system

Private Finance Initiative (PFI) is a means of providing social infrastructure. It is a model of how the private sector can finance investments in and apply its experience and knowledge to various types of public services, such as the planning, construction, maintenance, and management of public facilities, which have traditionally been financed and managed by the public sector. In 1999, the Japanese government enacted the PFI Law (Law No. 117, 1999). Since then, 172 projects, of which 17 are by central government and the rest by local authorities, have been implemented. To date (end November 2004), a good result has been achieved while at the same time demonstrating the effectiveness of PFI.

However, there have been some criticisms in terms of the application of PFI:

(a) Roads, rivers and canals, airports, ports and harbors, city parks, and sewage systems are protected by the Public Properties Administrative Law, and are managed by the central government and local authorities who act as “operators”. This restricts the amount of public facility administrative work that can be executed by those private operators selected under the PFI Law.

(b) The criteria for selecting PFI operators and the selection procedures adopted by central government and local authorities do not necessarily provide grounds upon which private operators can generate and demonstrate their resourcefulness to the fullest.

b) Designated operators of public facility systems

In line with the review of the Local Autonomy Law (Law No. 67, 1947) in June 2003, the Designated Operators of Public Facilities System has been put into effect since September of the same year. The administration and operation of public facilities belonging to local authorities were traditionally passed over to the third sector after certain criteria had been met. The passing over of public facility administration and operation to private providers, i.e. “designated operators”, was approved by the Council for Regulatory Reform, as supported in the Second Report Regarding Promotion of Regulatory Reform, in FY2002.

However, some criticisms of the system include:

(a) The system may be applied to facilities under local government authorization but not to centrally-administered facilities.

(b) There has been a lack of coordination between the system and the Public Properties Law, this hinders the smooth administration and operation of all local public facilities.

c) Structural reform special districts system

The structural reform special districts system provides regionally-tailored preferential regulatory measures to promote local structural reform and revitalization. The Structural Reform Special Districts Law was established in 2002 (Law No. 189, 2002). Currently, there are 475 special districts projects approved by the government (December, 2004). The system receives positive feedback, as private sector-oriented regulatory reform can be achieved within a short period of time. There have also been some criticisms made about the system:

(a) The system will remain a locally-effective program that provides preferential measures.

(b) The private providers may participate in project planning and the proposing of special districts along with local authorities. However, only local authorities, not private providers, are entitled to apply directly for proposal approval.

(2) Basic policies for full-scale introduction of market testing

Listed below are the basic policies upon which institutional arrangement design, including a legal framework, should be carried out before the full-scale launch of market testing.

A study will be carried out to determine which main promoting body for market testing is preferred, and the necessary action taken. In FY2004, the Cabinet Office (Office for the Promotion of Regulatory Reform, etc.) will make full use of personnel well versed in business management or in a specific business in the private sector, to plan for and promote market testing.

a) Main focus on services provided by the central government

All public services of the central government (including internal and external sections, local branches and sub-branch sections of ministries and agencies, independent administrative agencies, etc. (known as public services) will be studied, as in the past, to select those services suitable for market testing. The central government, however, will initially make preparations for market testing targeted at its own services. This preliminary step will take place before the actual market testing of local authority services.

The central government will revise any laws, etc., which hinder leading local authorities from introducing and implementing the test on their own initiative. Central government will also carry out any necessary research or provide a more favorable environment for local authorities.

b) Target at a wide range of services based on proposals from the private sector

All public services are subject to market testing.

Public services subject to market testing are determined annually by central government, across as wide a range of areas as possible. Prior to such decision-making, central government will welcome a wide variety of proposals from private providers, etc. and consider them carefully.

c) Studying the system including its legal framework

The establishment of the system, including its legal framework, will be studied before the full-scale introduction of market testing, with attention directed to the following aspects in particular:

a. Reform of various related regulations

Legal constraints by the Public Properties Administration Law, the regulations associated with trade laws and administration laws, etc. can hinder the inclusion of public services in the private sector by market testing. It may therefore be necessary to review the required legal constraints. The standardizing of competitive conditions between the public and private sectors may also need to be ensured.

In order to achieve the effective opening up of public services to the private sector by taking into account proposals made by the private sector, it is necessary to take the following actions:

(a) Relaxing those legal constraints that discourage the opening up of public services to the private sector.

(b) Consideration of the establishment of a system, including its legal framework, which involves action to provide uniform competitive conditions for both public and private sectors, etc.

b. Establishment of a competitive tendering system between the public and private sectors

Establishing a competitive bidding procedure based on the assumption that the private sector is to provide the public sector with services. This does not always ensure fair competition between the public and private sectors. Truly fair competition between the public and private sectors can be achieved by the expeditious discussion and implementation of preferential measures based on the statutes regarding the current bidding procedures or other measures. This will ensure that the necessary action is taken prior to the full-scale introduction of market testing.

d) Disclosure of information on public services

The achievement of genuine competition between the two sectors calls for unrestricted disclosure of sufficient referential information for private entities, etc. intending to tender for a public service subject to market testing.

e) Establishing monitoring procedures to ensure an equal competitive footing between the public and private sectors

The standardizing of competitive conditions between the public and private sectors should be ensured once transparent, neutral, and fair practices have been established. The entire market testing implementation process should be monitored by an independent third-party body.

(3) Market testing implementation process and other major aspects

A market testing system of the central government's public services should be designed before the full-scale introduction of the test, with attention directed to the following aspects:

a) Selection of target services

The central government will seek proposals from private entities, etc. every year. These proposals will be listed, subjected to market testing and other associated measures (e.g. associated regulatory reform action, standardizing the competitive conditions for both sectors, etc.), target services decided on, and then publicized.

b) Deciding on and announcing a policy for implementing competitive tendering between both sectors

The government will formulate and announce a policy concerning competitive tendering between the public and private sectors for the chosen target services.

In order to provide information helpful to private entities, etc. intending to tender, and ensure the proper performance of public services, said policy should cover the following:

(a) target services (e.g. their range, contract periods, etc.); (b) details of the related regulatory reform action, and the action needed to standardize the competitive conditions for both public and private sectors; (c) selection of a bid winner (e.g. details of an evaluation criterion conducive to service cost reduction and the upgrading of quality, bidders' requirements, selection schedules, etc.); (d) service delivery (e.g. contract terms and conditions, etc.); (e) monitoring (e.g. time, frequency, details, etc.); (f) public service performance guarantees; (g) information to be disclosed to private providers, etc., and (h) preventing insider dealing with information within the government organization.

It is preferable that the contract period should extend for more than one year.

The minimum required level of public service delivered should, in principle, be specified in order to enable private entities, etc. to exercise their resourcefulness to the fullest. The requirements in terms of specifications, etc. should be kept to a minimum.

The evaluation criterion should be objective. It should also be comprehensive with attention directed primarily, in light of its purpose, to the quality and price of the service.

The terms and conditions of the contract should include the actual required level of service specified as quantitatively as possible, and, where necessary, the degrees of risk to be borne by the public and private sectors, etc.

The ministries and agencies should respond appropriately to inquiries from the private providers, etc. intending to tender.

c) Competitive tendering between the public and private sectors, evaluation of its outcome and the choice of a bid winner

The ministries and agencies will give public notice of the bidding in accordance with the policy described earlier.

The ministries and agencies should respond properly to inquiries from private entities,

etc.

A private provider intending to tender for a target service and the supervisor in charge of the section of a ministry or agency which has been delivering that particular service and intends to tender for it now, should participate in the competitive tendering between the public and private sectors in response to the said notice. When participating in the competitive tendering, the public sector may, of course, incorporate its own efforts for improvement in the bid. If the public-sector tenderer wins the bid, that tenderer, as with a private-sector bid winner, should perform the particular service according to those conditions that bind the bid winner, and will be monitored. The expenses directly incurred for the performance of the service, as well as the indirect expenses, should be counted according to the principle of cost accounting on the activity base. The subsidy, tax exemption, etc. should also be included in order that the public and private sectors compete on an equal footing.

The proposals from both sectors will be protected in such a way that their contents will remain inaccessible.

A bid winner will be chosen according to the evaluation criterion previously formulated and made public, the name of the bid winner will then be announced.

d) Signing the contract, starting service, etc.

If a private entity or the like wins a bid, the ministry or agency concerned will sign a contract with it according to the policy stated earlier.

The hand-over between sectors or between entities in the private sector and other procedures should be conducted properly so that any subsequent service will be performed smoothly.

If the public sector wins a bid, no contract needs to be signed, but the service should be performed according to the conditions binding the bid winner.

e) Continuous monitoring

Operation of services by successful bidders should be monitored on a regular basis so as to ensure that the services provided are consistent with the conditions binding them.

This applies to service providers in both the public and private sectors. Rebidding should be implemented after a prefixed period of time.

f) Appropriate allocation of government employees

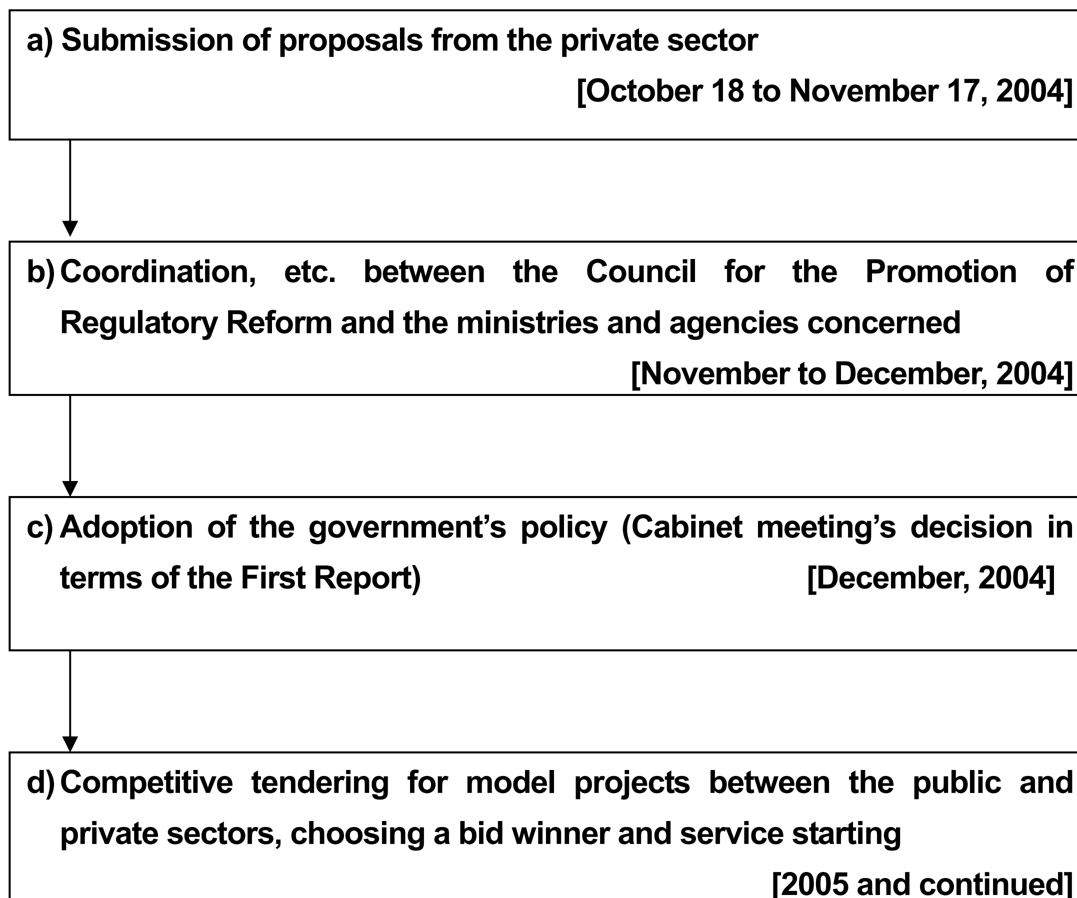
When a private entity, for example, wins a bid, the Council for the Promotion of Regulatory Reform and others will consider an arrangement for the smooth re-placement or transfer of those government employees engaged in the particular service. This could mean cross-sectional re-placement in another ministry or agency, or transfer to a private entity, including the bid winner, if the government employees desire it. The Council will keep in close touch with ministries and agencies and coordinate with them throughout the process until full-scale market testing is introduced.

(4) Model projects subject to market testing [trial introduction in FY2005]

In line with (2) and (3), central government (including internal and external sections, local branches and sub-branch sections of ministries and agencies, independent administrative agencies, etc.) will initially open up its own public services as model projects in FY2005.

Between October 18 and November 17, 2004 we received proposals on model projects from a wide range of private entities. On the basis of those proposals, the services mentioned in (2) have been adopted as model projects. If a revision of an existing law is required to open a model project, the necessary revision will be made during the next regular Diet session.

(Reference: Steps for the opening up of a model project to the private sector)



◊ Bids from the public and private sectors will be called for again according to the policy put forward earlier, and the tendering will be conducted.
  The public sector will not tender for a model project. Competitive bidding among private tenderers will be carried out. In exceptional cases, this may open up the way for comparison with the efficiency of another public service retained in the public sector, which is conducive in terms of competition between the two sectors.

◊ The necessary action will be taken with (3) b) to e) in mind.
  The Council will function as the third-party organ needed for the full-scale introduction of market testing.

◊ When the tenderers are evaluated, and a bid winner is chosen, the proposals from the private sector will be evaluated with the main focus on the cost and quality of the public services.

2 Model projects to be introduced for trial in FY2005

In order to translate the regulatory reform motto "what can be done in the private sector to what should be done in the private sector" into reality, the model projects described here will be properly implemented in FY2005 on the basis of the proposals sought by us from October 18 to November 17, 2004.
Their implementation will be preceded by disclosure of sufficient unrestricted information. This base data will be helpful to private entities, etc. when they are considering whether to make a bid. If a private entity wins a bid, action will be taken to enable the bid winner to exercise his resourcefulness to the fullest. The aim will be to enable the bid winner to operate smoothly at no disadvantage when compared with the public sector.
We expect that the model projects will prove significant. It is hoped that the quality of the particular public services will be improved, and their cost reduced. Efficiency comparisons with the services remaining in the public sector's hands will be possible.
We received a wide variety of proposals from the private sector in the period from October 18 to November 17, 2004, which points to the sector's high level of enthusiasm about entry into a field monopolized in the past by the public sector. The model projects, however, do not fully reflect those proposals from the private sector. The actual performance of the particular services by the public and private sectors, and other matters, will be properly evaluated. If the private sector fares better in terms of cost and quality, then it will be necessary to widen the range of model projects or take some other action.
As part of the activities related to model projects, we will carry out an in-depth study of small-scale statistics on the retail trade utilizing specified statistical functions belonging to the government's statistical research services. We will discover those defects involved in the comprehensive entrusting of the actual research activities, as distinguished from planning, to the private sector, as well as any practical measures available to prevent such defects, etc. The necessary steps, including tests and investigations, will be promptly adopted.

(1) Hello Work (public employment security offices)

a. "Publicly established and privately run" Carrier Exchange Plaza

The "Carrier Exchange Plaza" now operates in 15 places throughout Japan as part of the Hello Work organization. The "Carrier Exchange Plaza" helps job seekers (people with administration experience and engineers, in particular) in various ways (e.g. career

consulting, seminars, etc.).

Service cost should be reduced, and service quality should be improved, by drawing on the knowledge of private entities, etc. Five out of the 15 Carrier Exchange Plaza establishments across the country will be operated as facilities supplying a wide range of support activities for job seekers. These activities will include a free job placement service. These five establishments will be subjected to market testing (model project). They will be operated as "publicly established and privately run" facilities (facilities established by the government, etc. and entrusted to private entities, etc. for comprehensive management and operation), to enable private entities, etc. to exercise their resourcefulness to the fullest.

It will be important to discover those factors on the part of a bid-winning private entity, etc., which has improved service quality and reduced service costs below the levels achieved by the functions still in the public sector's hands, owing to the knowledge of that particular private entity, etc. In order to achieve that purpose, suitable action should be taken to allow an unbiased, neutral, and fair comparison of the operation by said entity, etc. with that of the public sector. A timely, proper supply of recruitment information possessed by the Hello Work establishments will be started, and suitable action should be taken to enable a bid-winning private entity to operate without disadvantage in comparison with the public sector. Said supply of recruitment information, however, will be limited to the extent approved by the recruiting entities. The recruitment entities will be clearly notified that the private entities, etc., using said information are prohibited from using it for any purpose unrelated to the entrusted service.

b. "Publicly established and privately run" Carrier Exchange Plaza for youths

In addition to the service mentioned in a. above, the operation of a facility for a series of wide ranging activities, including job placement for young job seekers, which will be operated as a "publicly established and privately run" facility to enable the commissioned private entity to exercise its resourcefulness to the fullest, will be subjected to market testing. As in the case of the public service mentioned in a., the timely and proper supply of recruitment information possessed by the Hello Work establishments will be started, and suitable action should be taken to enable the bid-winning private entity, etc. to operate smoothly without any disadvantage when compared with the public sector.

c. Privatization of public services related to the search for employment offers to the private sector

Public services related to the search for employment offers based on the job hunting trend at the Hello Work establishments will be subjected to market testing (model project) in three areas.

d. Privatization of the job training service provided by Ability Garden to the private sector

"Ability Garden" (Center for Promotion of Life-long Occupational Ability Development) conducts research and development related to job training courses for people in white-collar positions. Currently, this job training involves a facility established and run by the Employment and Ability Development Organization, an independent administrative agency.

In view of the need to reduce service costs and improve service quality by drawing on the knowledge of private entities, etc., the job training service (including assistance in job-hunting for those who have finished training courses, such as job placements) by using the facilities and equipment of Ability Garden on Fridays and Saturdays, and at night, will be subjected to market testing (model project).

As for details of job training (e.g. course planning and operation, effective use of facilities, etc.), action should be taken to enable the bid-winning private entity, etc. to exercise their resourcefulness to the fullest.

(2) Social Insurance Agency

The following public services were chosen as model projects to be implemented at five social insurance offices and two telephone pension counseling centers.

a. Collection of national pension premiums

In view of the sharp decline of the payment rate of national pension premiums, the functions related to their collection (a series of actions ranging from reminders about delinquency to action on delinquency, although the selection of people for exemption is based on information on their income, decisions on and implementation of the seizure of property in cases of delinquency, etc. will remain in the hands of the Social Insurance Agency) will be collectively subjected to market testing. The Agency's information on those failing to pay national insurance premiums will be supplied in a

prompt fashion to the entrusted entities while maintaining their privacy obligations.

b. Prompting those entities not yet registered in the welfare pension insurance and government-managed health insurance systems to join those systems

Legal individuals and private business enterprises hiring five or more employees are obliged to join the welfare pension insurance and government-managed health insurance systems. However, it is reported that many entities have withdrawn illegally from these systems and that increasing numbers of new business enterprises are not joining these systems. It is imperative that such uninsured business enterprises are checked at an early date and prompted to join the systems.

Hence the above prompting activity will be subjected to market testing. The Social Insurance Agency's information on said uninsured entities will be supplied without delay to the entrusted entities while complying with privacy obligations.

c. Telephone pension counseling

At present, the Social Insurance Agency provides a counseling service at the counters of its social insurance offices and from its telephone pension counseling center. As at July 1, 2004, approximately 2,100 employees, including part-time employees, are engaged in pension counseling, and approximately 300 of these employees work at a telephone pension counseling center. It is pointed out that the service is not always delivered from the standpoint of service users, i.e. citizens. A greater number of persons will seek the service when the baby-boomers become eligible for the pension. The telephone pension counseling service, which will presumably be confronted with a surge of people seeking advice, will be comprehensively subjected to market testing.

(3) Prison administration

At present, there are 59 prisons, eight juvenile prisons, and seven detention houses in Japan. Inmates live under watch and control within these facilities. In recent years, there has been a constant increase in the number of inmates, which has placed an excessive burden on prison guards and given rise to problems such as an increase in security-related accidents.

It is hoped that the better operation of prisons by using the private sector's vitality will be made possible through efficiency upgrading by private entities, etc. and the increased transparency of prison administration at the hands of such entities. Thus the guarding of prison buildings, patrols outside the premises, security functions, counseling for inmates,

guarding of the receptionist's office and other parts of the facility, and auxiliary functions related to the treatment of inmates, will be subjected to market testing (model project) in at least some existing prisons that are fit for testing.

Attachment

November 19, 2004

Proposals on Market Testing (Competitive Tendering Between Public and Private Sectors) from the Private Sector

Council for the Promotion of Regulatory Reform

1. Overall review

(1) The Council for the Promotion of Regulatory Reform asked private entities, etc. to propose those public services to be subjected to market testing from October 18, 2004 to November 17, 2004, as a preliminary step prior to the selection of services (model projects) for market testing (competitive tendering between the public and private sectors) which will be trialed in FY2005.

(2) As a result, 119 proposals in total were received from 75 private entities, etc.
*Refer to the attached list.

2. Schedule

(1) The Council will make the necessary adjustments with the government agencies in charge of the particular services with regard to the proposals received. Said adjustments will be disclosed, as necessary, on the Council's homepage.

(2) Model projects subject to market testing will be adopted in December after the adjustments have been made.

For further information, please contact:

Council for the Promotion of Regulatory Reform,

(Attached list)

<Major proposals>

1. Hello Work (public employment security offices) → 18 entities, 27 proposals

Example 1 A publicly established and privately run Hello Work office

Example 2 Combination of job placement and job training

Example 3 Job placement, etc. for the middle-aged and elderly, youths, people with supervisory experience, etc.

2. Social insurance → 23 entities, 27 proposals

Example 1 A publicly established and privately run social insurance office

Example 2 Collection of national pension premiums, etc. and registration

Example 3 Pension counseling and acceptance of applications

Example 4 Back office service, including data entry

3. Prison administration → 1 entity, 1 proposal

Example Operation of part of the existing prisons and similar facilities (prisons, etc.)

4. Statistical research → 2 entities, 2 proposals

Example Research related to specified statistics and approved statistics

5. Audit Board → 2 entities, 4 proposals

Example Part of the examinations by the Audit Board

6. Maintenance and management of facilities → 8 entities, 12 proposals

Example 1 Control of rivers, erosion control works, dams, etc.

Example 2 Maintenance and control of roads

Example 3 Improvement, management, and operation of the national museums of art, museums, etc.

7. Services of independent administrative agencies → 3 entities, 3 proposals

Example 1 Service related to foreign trade insurance currently performed by Japanese Foreign Trade Insurance, an independent administrative agency

Example 2 Editing, printing, etc. of publications currently performed by the National Printing Bureau, an independent administrative agency

Example 3 Public job training, etc. (Ability Garden, i.e. Center for the Promotion of Life-long Occupational Ability Development) currently performed by the Employment and Ability Development Organization, an independent administrative agency, are to be undertaken by a publicly established and privately run entity

8. Back office services of central government ministries and agencies → 11 entities, 13 proposals

Example 1 Services related to personnel administration and wages of central government ministries and agencies

Example 2 Storage of, and search for, drawings and documents by public work ordering organizations

Example 3 Privatization, operation, and management of electronic malls for procurement of articles

9. Others

Example 1 Collection of national taxes

Example 2 Part of contract work supervision

Example 3 Part of the Administration Evaluation Bureau of the Ministry of Internal Affairs and Communications services

Note: The total number of entities in the examples does not match the number of entities given at the beginning of this attachment as some entities submitted a number of proposals.

II. Promoting the opening up of individual public services

[Issue recognition]

In order to further develop and deepen the efforts of the Council for Regulatory Reform, we intend to promote the opening up of public services to the private sector over the next three years after adopting it as an important study subject. These next three years, including the current one, will be used to re-establish the basic philosophy and make a more comprehensive search for suitable markets. The Council for Regulatory Reform has directed particular attention at the roles of the public and private sectors. Its “Second Report on the Promotion of Regulatory Reform” (December 12, 2002) is founded on the principle that “the public sector’s role should be administrative-specific, in other words, handling only those tasks which are beyond the private sector’s capacity”. While observing this principle, our Interim Summary (August 3, 2004) asked ministries and agencies to explain why “the public sector should handle only those tasks which are beyond the private sector’s capacity”. If such tasks are to be carried out by ministries and agencies, why should government employees only carry them out? We held an in-depth discussion on this point and have resolved to explore thoroughly those functions that can be committed to the private sector.

The Interim Summary gives our views based on past discussions of the issue in respect of the reasons ministries and agencies have given for the impossibility of certain public services being opened up to the private sector.

We intend to adopt market testing, which permits objective determination of the marketability, efficiency, etc. of particular office work or a particular public service subject to the principle of competition, as a method of promoting the opening up of the public sector to the private sector.

We have studied the following varieties of office work and services, given as examples in the Interim Summary, and performed under ministerial and agency management in a wide range of fields in which the national government and others deliver services, etc.

Eighty-one varieties of office work and services (given as examples in the Interim Summary)

Collection of national and local taxes and public charges; payment of the retirement benefit at a young age; granting international cultural exchange subsidies; deciding on and implementing livelihood protection; services related to the welfare and national

pensions; services related to government-managed health insurance, nursing care insurance, employment insurance; lodging and recreational facilities (e.g. Forest Administration Bureau, Seamen’s Insurance, government-managed health insurance, Welfare Pension Fund Center, National House of Nature for Boys, National House for Youth, Olympics Memorial General National Youth Center, and National Education Hall for Women); government office buildings; lodgings; conference facilities; information communication systems; national defense facilities; prisons; ports and bays; National Archives of Japan; World Expo Memorial Park; procurement of parking space for automobiles; registration-related office work, e.g. notary public services, copyright, registration of species, registration of agricultural chemicals, registration of fertilizer brands, registration of industrial proprietary rights, registration of mining rights, registration of crude mine rights, automobile registration, survey business registration; issuing of electrical technician’s licenses; statistical work; minting; printing of Bank of Japan notes; fabrication of honor decorations, metallic handicrafts, etc.; production of negotiable instruments, printed matter, White Papers and other publications; foreign trade insurance; assessment of articles for public auction; weather observations, etc.; surveying; fostering of Japanese seamen; alcoholic beverage research and other research and training by independent administrative agencies; approval and examinations related to the production, etc. of medicines, etc.; examinations prior to approving the establishment of mining rights; examinations prior to the issuing of housing site and building dealer’s licenses; inspection of agricultural machines and tools; inspection of standards; other examinations including: driver’s license, certified public accountant, confectionery hygienist, chief gravel extractor, rock extraction supervisor, national aircraft factory inspector, measurement technician; librarian training; auditing of overseas diplomatic establishments; physical inspection of national property; witnessed inspection, etc. of food markings; quarantine for animals and plants; quarantine; inspection of social welfare corporation services and property; inspection of automobile roads, etc.; monitoring of radio waves, household goods, medical care, food, etc.; monitoring and guidance of environmental hygiene; handling of accidental property damage; first aid; auction procedures; job placements; air traffic control, and other varieties of office work and services by independent administrative agencies.

In view of the foregoing, we concluded that the public services in the following categories (1) to (4) (specific measures) should be opened up to the public sector.

(1) Benefits and collection

(2) Improvement, management, and operation of public facilities, etc.

(3) Statistical surveys, production, etc.

(4) Inspection, registration, qualifying examinations, etc.

The opening up to the private sector, which will be described below, is of two types: a) assignment to the private sector (privatization and assignment), and b) comprehensive entrustment to that sector. Privatization in a) above means that the public organization, originally performing a particular service, has been transformed into a private entity. Entrustment is the entrusting of a particular service to the private sector.

Comprehensive entrustment to the private sector involves a contract with a private entity which stipulates the nature and scope of the service to be entrusted by the public sector, the degree and level of the achievement sought, major points to remember about the service, the supervision needed for the performance of the service, inspection and acceptance of the outcome of the entrusted service, etc. The public sector's involvement should be reduced to the minimum extent possible so as to enable the entrusted private entity to exercise its resourcefulness and achieve higher levels of efficiency as well as performances that better serve the purpose. Thus the entire service is entrusted to the private sector.

In the light of the purpose of opening up to the private sector, we believe that entrusting everything that can be entrusted to the private sector is the most desirable course of action. If a service cannot be entrusted for the time being, efforts should be made to entrust it comprehensively.

Partial entrustment (e.g., entrusting printing and delivery to an outside agency) has been undertaken in the past. Needless to say, it will be essential to continue the promotion of such partial entrustment in the future.

We do not demand in the subsequent section that the public sector find suitable private entities and immediately open up all varieties of office work and services mentioned, to the private sector. If some other office work or service is proposed by the private sector as a

candidate, the proposal should be studied without insisting that it can only be done by the public sector because it involves the exercise of public authority. If it meets the given requirements, the particular office work or service should be opened up to the private sector.

A public service opened up to the private sector will usually be handed over to a private legal entity or an individual (collectively referred to as the “private sector”). However, those private entities, etc. taking over from the public service should not be limited to specific legal entities and individuals.

In order to promote this opening-up process aggressively to the public sector, the details and cost structures of all types of office work and services, which are to be made accessible to the private sector, should be disclosed. This would assist those entities, etc. that are hoping to tender to make an appropriate judgment.

1 Area-by-area analysis of actions leading to greater accessibility for the private sector

(1) Benefits and collection

[Issue recognition]

The public services related to benefits and collection are basically the office work associated with individual benefits and collections decided on by reference to a certain standard. Generally, they leave no room for political judgment or discretion and are, in our opinion, suitable for being opened up to the private sector.

It is sometimes argued that committing benefit-related services to entities without fiscal responsibility may defeat the purpose of preventing lavish payment of benefits. If a clear benefit payment criterion is established and proper supervision is conducted, there will be no room for discretion or judgment to play a part, and lavish payments can be avoided. Thus the alleged need of such discretion or judgment gives no reasonable ground for opposition.

The following arguments are sometimes brought forward:

a. Exercising the right to enforced collections in terms of public charge collections is an instance of “exercising public authority”, and only government employees are entitled to make such a collection.

b. The private sector may be unable to make fair and neutral collections.

c. Collection-related services involve the handling of personal information, and should preferably be left in the hands of government employees who have a strict obligation to observe confidentiality.

Our views:

a. Those entities entitled to exercise “public authority” should be determined by legislative policy. It is not imperative to give the right for government employees to exercise public authority. The opening of collection-related services to the private sector is therefore possible by modifying the system. Some people argue that these services should be left in the hands of the public sector because exercising this right calls for discretion. Collection carried out at the discretion of the individual is, we feel, undesirable. It is imperative that exhaustive guidelines, manuals, etc. are provided to reduce the need for discretion to a minimum. Assuming that these are provided, then collection-related services can be handed over to the private sector.

b. Fairness and neutrality can be ensured by enacting a law or signing a contract that will enable this area to be opened up to the private sector.

c. The alleged obstacle to opening up the area to the private sector can be eliminated by imposing, under a law or a contract, the same level of government employee observance of confidentiality in terms of the particular private entity, etc.

None of the other arguments appear to provide quantitative or concrete grounds for preventing the opening up to the private sector. Thus we have concluded that there are no grounds for negating the practicability of opening up benefit- and collection-related services to the private sector. Higher efficiency is expected of those services that are passed over into the hands of the private sector. We believe that the opening up of these services to the private sector should be aggressively promoted.

[Specific measures]

1) Hello Work services (see "Promotion of major government-driven market reforms, 10")

2) Social Insurance (see "Promotion of major government-driven market reforms, 11")

3) Collection of local taxes [Action in FY2005 or later]

It is important to have local tax collection activities performed by those private entities, etc. that have the collection knowledge in order to raise the collection rate and dispense with citizens' feelings of inequality.

The local tax collection functions likely to benefit from such private entity knowledge should be given further opportunities in the private sector. Caution will need to be exercised in order to coordinate it with the personal information protection policies of local authorities.

The private sector is permitted to collect part of the rent, fees, etc. Some local authorities demand that the collection of a wide range of taxes and public charges be committed to the private sector. Using the private sector's strength in terms of collection purposes should be promoted in order to meet that demand to the fullest extent.

4) Foreign trade insurance

Due to recent changes in the environment surrounding financial institutions and insurance companies, which include the renovation of financial techniques and the diversification of risk hedging techniques, some of the risks initially predicted by the foreign trade insurance authorities can now be committed to private insurance companies. NEXI has concluded a business-commissioning contract with three Japanese property and casualty insurance companies, and now consigns part of its merchandise to them under that contract. Only currently existing NEXI articles, however, are consigned in this way to those insurance companies.

Foreign trade insurance operations are carried out in different ways in foreign countries. In advanced foreign countries, the foreign trade insurance business is undertaken by an agency like NEXI, to which the national government is committed, or to private insurance companies commissioned by the government. Part of the merchandise is supplied by some other private entities.

It is therefore necessary to declare that private insurance companies, etc. are free to undertake foreign trade insurance business, both legally and in reality.

[Action in FY2004.]

Cooperative comprehensive insurance will be thoroughly reviewed in areas such as the introduction of the members' option to take out insurance, and an across-the-board review of premiums.

[To be started in FY2004. Action at the earliest possible date.]

Rigid restrictions should be imposed on those parts of the national government's foreign trade insurance operations, which virtually or absolutely deny the participation of private entities. If the likelihood of such participation and the performance of adequate and steady service by private entities becomes obvious to users, the national government should withdraw from foreign trade insurance services.

[Action in FY2004 and subsequent years.]

5) Retirement benefit for young retirees [Action in FY2005 or later.]

The public service related to the young retirees' benefit involves the payment of an amount of money fixed according to specified criteria, and therefore leaves no room for discretion. The service can be performed by private entities, etc. if an adequately detailed guideline or manual is available. Some people are fearful of a decline in service quality if it is passed into private entity hands, etc. On the contrary, the quality is expected to rise if it is committed to private entities with the relevant payment

knowledge. Hence efforts should be made to promote the opening up of this service to the private sector.

(2) Improvement, management and operation of public facilities, etc.

[Issue recognition]

Those existing public lodgings still managed and operated by the national government, independent administrative agencies, etc. should, at the earliest possible date, be promptly abolished, sold or otherwise assigned to the private sector, or comprehensively entrusted to that sector in order to eliminate competition with the private sector and subsequent inefficient operation. Reconstitution or integration should be considered for facilities similar to those lodgings.

As for other public facilities, the reasons already given for the nominated PFI entities' inability to perform certain functions and other associated matters should be strictly re-examined in order to further promote the use of PFI. The range of functions that can be performed by those entities should be made as broad as possible.

The designated controller system is applicable to the public facilities managed by the local authorities. A measure should be taken to entrust the maintenance and management of facilities managed by the national government, independent administrative agencies, etc. to private legal individuals, and other entities.

In foreign countries, many governmental and municipal office buildings, lodgings, etc. are not owned by the government or a municipality but rented. Management by appropriating part of the annual operational expense budget is a more democratic way of handling administrative assets.

More of the national and other public facilities, including those facilities meeting short-term administrative needs, should be rented instead of owned.

[Specific measures]

1) Lodgings, etc.

a. Recreation facilities, etc.

(a) Forest Administration Bureau recreation facilities [Action in FY2004.]

The Forest Administration Bureau has six facilities for recreation, conference, etc. for its staff. However, their occupancy rates for most of these are less than 20%. The government's management of these facilities is hardly justifiable. It is

imperative that a plan be made to abolish or sell all of these facilities at an early date.

(b) Seamen's Insurance recreation facilities

[Action in FY2004 and subsequent years.]

In FY2003, there were 21 Seamen's Insurance recreation facilities in Japan, and another outside Japan. Their take-in rate, however, was as low as 43.6%. Something should be done about this promptly. By the end of FY2005, the accommodation will be reduced to half the number of facilities in FY2001. Since most of the above recreation facilities are not operated profitably, further streamlining is necessary.

A streamlining plan for FY2006 and subsequent years should be made based on the opinions of those concerned.

(c) Government-managed health insurance recreation facilities

[Action in FY2004 and subsequent years.]

There are 21 government-managed health insurance recreation facilities in Japan. Based on the cabinet decision in FY2000 and the government-managed health insurance authorities' financial difficulties, the insurance authority decided to abolish or sell its recreation facilities instead of improving or taking other action on these facilities by spending its insurance premiums. The Ministry of Health, Labor and Welfare will work out a reconstituting and streamlining plan for them in FY2004, present an investment in kind in an independent administrative agency, to be set up in FY2005, and sell the facilities to local authorities and the private sector in five years time. The incoming charge for use is insufficient to cover the operating expenses of many of these recreational facilities.

Hence, the reconstituting and streamlining plan should be moved up, and those facilities remaining unprofitable should be abolished or sold at an early date.

(d) Welfare Pension Fund Center [Action in FY2004 and subsequent years.]

The Welfare Pension Fund Centers, owned and operated by the Welfare Pension Association, are facilities for training, recreation, and other purposes intended for the insured and pensioners. These centers are required, from FY2004, to meet all their expenses from the usage charges they earn. (Thus they are to operate as fully self-sustaining entities.) Of the two centers in Japan, the Tokyo Pension Fund

Center or "Seven Cities" was judged unable to operate as a fully self-sustaining entity. It was decided in September, 2004 that Seven Cities be closed and sold. The necessary action will be taken for the Kyoto Pension Fund Center or "Ranzan" after monitoring its operation for the three years from FY2004 to FY2006.

If it remains in the red over a prolonged period, the Kyoto Pension Fund Center should be abolished and sold promptly.

b. Educational facilities for youth and women

(a) National House of Nature for Boys, National House for Youth, and National Olympics Memorial General Center for Youth [Action in FY2006.]

The National House of Nature for Boys, National House for Youth, and National Olympics Memorial General Center for Youth have and operate lodgings for trainees and participants in educational field activities. Streamlining and efficiency upgrading efforts should be stepped up by integrating these three legal entities or by better use of the private sector's facility management knowledge, etc.

Hence the three legal entities should be promptly integrated.

In order to raise the efficiency of these legal entities' measures in terms of the sound fostering of youth, efforts should be made to open up the activities related to facility maintenance, management, etc. to the private sector.

(b) National Education Hall for Women [Action in FY2006.]

The National Education Hall for Women owns and operates lodgings for trainees and participants in exchange activities. It is essential to streamline the management, etc. of these facilities and raise the efficiency of the operation through better use of private sector facility operation knowledge.

In order to further raise the efficiency of the Hall's measures to promote the education of women, efforts should be made to promote the opening up of facility maintenance, management, and other functions to the private sector.

c. Governmental and municipal office buildings, lodgings, etc.

(a) Governmental and municipal office buildings, lodgings, etc.

[Action in FY2004 and subsequent years.]

National ownership was the customary practice in the past to procure property for administrative purposes. The Central National Property Council report in June, 1999 states that the decision whether to own or rent a particular piece of property should be decided on the basis of considering all of the conditions pertaining to that piece of property. This past customary practice should be abandoned on the basis of the above statement.

Not only office buildings and lodgings, which are to meet short-term administrative needs, etc., but also property for long-term administrative purposes should be individually assessed on the basis of an accurate cost-performance calculation. Renting as well as possession should be considered.

It is imperative that the commitment to maintenance and management of governmental and municipal office buildings and lodgings be promoted to the private sector.

PFI should be further utilized to procure office building complexes and lodgings and high-rise office building and lodging complexes.

(b) Defense facilities (e.g. public relations facilities, warehouses, repair factories) [Action in FY2005 and subsequent years.]

Entrusting defense facility construction, maintenance and management to the private sector was concluded in the first-ever PFI contract for the maintenance of the Tachikawa Lodging for Government Employees, in March, 2004. A contract for the maintenance of the Kure Archives will be concluded late this year. In view of these and the merit of using PFI for the Defense Agency, the opening up of functions for the following facilities to the private sector should be promoted for the time being.

• Lodgings for government employees
• Public relations facilities (new facilities and additional functions, in particular)
• Welfare facilities (new facilities and additional functions, in particular)

Comprehensive or partial entrustment of the maintenance, supply, transportation, education/training, information processing, etc. to the private sector in future should be promoted by exploring the possibilities for PFI. A valuable lesson can

be learned from the UK Defense Ministry's entrustment to the private sector through PFI.

d. Prisons, etc. [Action in FY2005 and subsequent years.]

Prisons, etc. currently have an excess of inmates, and new prisons, etc. are needed to ease the space shortage. Better treatment of inmates by guards is also being demanded.

The PFI system should be fully applied to the future construction of new prisons, etc. The Rehabilitation Promotion Center (tentative name) to be constructed using this system, should be closely monitored. Steps should be taken to entrust the private sector with the security of prisons, etc. and the activities related to the accommodation and treatment of inmates. A lesson should be learned from the operation of the Rehabilitation Promotion Center.

(3) Statistical research, production, etc.

[Issue recognition]

Essentially, the above-mentioned public services can be performed by the private sector. In the past, however, they were performed primarily by the public sector because they are too large in scale, too sophisticated, too specialized, etc. to be available on the market to an adequate extent. Basically, they should be committed to the entity, etc. that meets the specified requirements and can perform the services most efficiently.

It is not essential to have bank notes and passports produced by the public sector alone, if the risk of forging can be eliminated. Hence such public services should be closely examined to see whether they can only be performed by the national government. Even if a service is judged to be an essential function of national government, etc., those parts of the service suited to conversion into a private enterprise definitely need to be opened up to the private sector.

[Specific measures]

1) Statistical service [Action in FY2005 and subsequent years.]

Many kinds of statistical service, field surveys, compilations, etc. should, in principle, be opened up to the private sector. However, an equivalent obligation in terms of confidentiality by statistics researchers in the public sector should be imposed, under a law or a contract, on their public sector counterparts. A manual describing a standard research procedure, etc. should be provided or some other action should be taken to ensure a uniform level of work by more than one private entity entrusted with statistical research. Such a manual or action is essential in order to maintain and improve the present quality of work done by the public sector.

The specified statistics collected or handled directly by the national government should be promptly committed to the private sector. The specified statistics collected or handled through local authorities should also be committed to the private sector, with the roles of the national government and the local authorities duly taken into consideration.

There are some approved statistics, apart from those specified statistics already in the hands of private entities. This area should be opened up as extensively as

possible to the private sector.

2) Research on alcoholic liquor [Consideration and conclusion in FY2005.]

Analysis and assessment of alcoholic liquor, the development of analysis and assessment methods ensure the accurate analysis of alcohol content in liquor and the accurate assessment of liquor type. These functions are closely integrated with the imposition of the liquor tax. National and private universities, public research institutes, private research institutes of major liquor producers, etc. have certain analysis capabilities. The Laboratory for General Research on Alcoholic Liquor carries out general activities related to alcoholic liquor. Research directed to individual alcoholic liquor and individual areas is underway at national and private universities, public research institutes and private research institutes of major liquor producers, etc.

The organization and activities of said laboratories should be reviewed in accordance with the cabinet decision in 2003, which demanded, among other things, that the laboratory's functions be committed to the private sector.

3) Auction [Action in FY2005.]

Public auction is an indispensable procedure for exercising rights under a substantive law. In Japan, auctions are conducted solely by the courts. Apart from judicial auctions held by a court, private auction is a widespread practice in the US. The latter is favored as a less expensive and quicker procedure.

Hence, an investigation into private auctions in the US and other foreign countries should be undertaken, and a study should be carried out to see whether there is anything can be imported and introduced into the Japanese auction system to improve it.

4) Fostering of Japanese seamen [Consideration and conclusion in FY2005.]

At present, three independent administrative agencies: the Marine Technology Academy, Navigation Training School, and Seamen School, teach academic theory, knowledge, etc. concerning the navigation of ships, and conduct other activities for Japanese seamen. In addition to the upgrading of the efficiency and streamlining of navigation, fostering of personnel suited to shipping industry needs is an important task.

These independent administrative agencies' curricula, including English lessons,

should be committed to the private sector.

Practical training in individual jobs should be upgraded. The on-the-job training technique for merchant seamen should be introduced into the practical training subjects taught at the Navigation Training School to ensure that the shipping industry's needs are directly reflected.

For said independent administrative agencies, a higher operational efficiency should be sought by dividing those operations, for example, into education and training.

5) First aid [Action in FY2005.]

Using private sector capability is supposedly effective and beneficial in many cases such as transportation involved in welfare and other activities, various transportation services primarily for hospitals, long-distance transportation of patients, first-aid guarding/security services, stand-by and certain transportation peculiar to business activities, etc. An emergency right-of-way may have to be given to a private entity carrying out first-aid transportation, one of many possible situations. Favorable conditions should be provided for the opening of first-aid transport services to the private sector.

Possible problems with first-aid transport being in the hands of the private sector should be identified, and opportunities for discussion and negotiation between the organizations concerned should be provided in order to deal with those problems. Steps should be taken to promote the entrustment and assignment of these first-aid transport services to the private sector.

6) Air traffic control [Action in FY2005.]

The air area available for training and other purposes has reduced due to civil air traffic growth, a worldwide tendency toward increased flight efficiency, and the improved performance of the Self Defense Forces airplanes and equipment, etc. It is therefore essential to make better use of the available air space. It is necessary to start with the full-scale operation of the Air Traffic Control Center (tentative name), which has a combined air traffic flow control function and an air space control function.

7) Handling of accidents [Consideration and conclusion in FY2005.]

About a third of the property damage automobile accidents are handled by questioning the parties about the accident at a suitable police station without

dispatching a police officer to the scene of the accident. In only about 20% of the accidents, the scene of the accident is inspected by a police officer. Arrests, etc. are carried out in a very limited number of cases. It is therefore unnecessary to commit the disposition of traffic accidents to police officers alone. In recent times, the number of terrible crimes in Japan has been increasing, and the offender arrest rate has been declining sharply. A lowered arrest rate gives rise to more crimes, which starts a vicious circle. It has now become an urgent task to concentrate police power on efforts to improve the arrest rate. Hence the police functions suitable for being entrusted to the private sector should be opened up to that sector as much as possible.

8) Back office [Implementation in FY2004 and subsequent years.]

A review of those back office functions related to core cabinet secretariat activities, system improvements, etc. was carried out according to the "Policy for Review of Internal Administration Functions" (decision made at the CIO's of ministries and agencies meeting, July 17, 2003). Nevertheless, it is vital that these functions be streamlined and system efficiency raised, among other things.

Hence those internal administration functions, outsourced in private business enterprises to a substantial extent, should be opened up to the private sector as much as possible.

(4) Inspection, registration, qualifying examinations, etc.

[Issue recognition]

Administrative examinations sat prior to approval/permission, and others, which leave no room for political judgment in respect of a particular matter under study, should be opened up to the private sector. The administrative examinations in many areas, even if they leave room for political judgment, can be made suitable for opening up to the private sector by providing a detailed manual or guideline, thus avoiding the need for such political judgment. Otherwise, only the minimum judgment necessary should be left in the hands of the public sector, and the rest could be opened up to the private sector. These examinations, etc. should be checked again to see whether they are really necessary. Those examinations, etc. for which the need cannot be proved, should be abolished.

Activities related to registration, including examinations, etc., are basically suitable for opening up to the private sector since there is no room left for political judgment in the relevant office work and services. Higher levels of convenience, rapid handling, low-cost servicing, etc. are all aspects demanded of activities related to registration, etc. The principle of competition should be introduced where possible into every area, and this can be achieved by opening up the activities to the private sector.

Supervisory and monitoring functions such as inspection, verification, and monitoring activities, are indispensable in an “ex post facto check society” in order to ensure that the principle of competition is working effectively. Reviews should be continually repeated to see whether any of these functions, which are superfluous or are not promptly adapted to the situation, is actually being performed. Not all socially indispensable functions need to be performed by government employees. Some of them are suited to the private sector. Currently, the public sector fails to function adequately. In many cases this is due to human resource restrictions, or the like. Thus the principle of competition should be introduced wherever possible, in order to improve functions at a lower cost. The opening up of such functions to the private sector should also be promoted.

[Specific measures]

1) Inspection and registration

a. Automobile-related registration

(a) Procedure for procuring automobile parking space [Action in FY2004.]

In 2003, the prefectural police authorities were instructed to entrust more private entities with the procedure for procuring automobile parking space. On the other hand, it is commonly understood that it is preferable for the procedure to be entrusted to one entity in each prefecture. Accordingly, the procedure is seldom entrusted to anyone other than a specific legal individual.

In order to promote the entrusting of activities to a wider range of private entities, the prefectural police authorities should be given written instructions to the following effect, and their gist should be made known to the public:

- In view of the fact that the procedure is seldom entrusted to anyone other than a specific legal individual, it is preferable that competitive tenders should be called for from a wider range of private entities.
- A predetermined number of trustees meeting the requirements, etc. and conducive to competition, should be decided on in the light of the actual conditions of the prefectural police authorities.

(b) Automobile registration

The automobile registration service has two sides: administrative registration, for the collection of the necessary administrative data, and civil registration, for the certification of proprietary rights. It is often argued that these services are difficult to open up to the private sector because of the need for smooth and efficient coordination between administrative bodies and the exercise of public authority involved in the services, which imposes tight restrictions on private persons' rights and obligations. However, fairness, neutrality, and public welfare can be assured by requiring the trustees, under a law or contract, to fulfill the requirements associated with the services. Fairness, neutrality, and public welfare can also be ensured in many cases by providing a manual, etc.

Further promotion of the services to the private sector should be considered.

[Action in FY2005 and subsequent years.]

Issuing of number plates and sale of inspection and registration fee stamps were entrusted to external entities in compliance with requests from private entities. A measure should be taken to ensure fairer entrustment to private entities.

[Action in FY2005.]

b. Registration and notary public services

(a) Registration services [Action in FY2005 and subsequent years.]

The registration services should be performed correctly, fairly, and neutrally, as they involve the act of exercising public authority by putting information on a public record and certifying important matters related to a right to real estate or to a company or a legal individual. It is often argued that the registration services are difficult to open up to the private sector for the following reasons:

Improper registration seriously affects the actions that protect citizens' rights and smooth economic transactions. The registration services call for highly specialized abilities that can only be acquired through study and training by registry office personnel handling numerous applications every day. All registration services under the charge of a registry office should be consistently managed for that office. There is no room for a user to choose a private entity entrusted with the services: thus the principle of competition is not applicable. It is therefore difficult to weed out unqualified private entities.

Fairness, neutrality, and public welfare, however, can be assured by imposing the necessary requirements on the trustee under a law or contract. As for the necessary skills, lawyers, judicial notaries, etc. who have gained a certain level of experience or training are able to perform the services with the aid of a proper manual. Hence it is imperative that these services be opened up to the private sector.

(b) Notary public services [Action in FY2005.]

Notaries public are appointed by the Minister of Justice under the provisions of the Notary Public Law (Law No. 53, 1908). They are not government employees under the Government Employee Law (Law No. 120, 1947) but operate on a self-sufficient basis. In FY2002, applicants were sought from the private sector. However, few applicants have come from the public so far. None of them has been appointed as a notary public.

Screening tests matched to applicants' aptitudes and abilities should be introduced. The method of public recruitment should be modified in order to attract more applicants from the public. The recruitment system should be made more extensively known to the public. An outline of the examination should be disclosed as part of the efforts to provide an environment conducive to promoting the opening up of this area to the private sector.

(c) Registration of industrial proprietary rights

[Action in FY2005 and subsequent years.]

The services related to the establishment and registration of an industrial proprietary right, such as a patent, involve a powerful right of exclusivity. A patent right, for example, is of an exclusive nature. In cases where it is infringed, payment of damages may be demanded. Hence it is often argued that the registration of such a right involves the exercise of high-level judgment related to fairness, neutrality, and public welfare. In foreign countries, the registration of industrial proprietary rights is carried out by the national government. Part of the registration services, however, can, to a certain extent, be opened up to the private sector by imposing a confidentiality agreement, an obligation to maintain neutrality, etc. This can be imposed under a law or contract or by providing a proper manual, etc.

The opening up of services related to the registration of industrial proprietary rights to the private sector should be considered in terms of the increase of outsourced investigations of conventional techniques, participation by joint-stock companies, etc. A watch should be kept on the movement toward the medium- and long-term targets set by the Intellectual Property Strategy Headquarters, the confidence in the system from inside and outside, the effects of international harmony being established among systems, and cooperation in terms of deliberations on the efforts in progress, private business enterprises' ability to perform entrusted jobs, etc.

c. Agriculture-related registration

(a) Registration of species [Action in FY2005.]

Once a species, for which an application has been filed, is registered, the applicant is granted the nurturer's right to that particular species, effectively

disallowing its use by anyone else. This is used as the grounds for the argument that high-level neutrality and fairness are essential in the registration process. Imposing an obligation under a rule or a contract can ensure such neutrality and fairness. Entrusting a cultivation test to a private entity or taking some other action should promote the opening up of registration to the private sector.

(b) Registration of agricultural chemical and fertilizer brands

[Consideration and conclusion in FY2005.]

In cases where it is found that an agricultural chemical or fertilizer is dangerous to human beings, cattle, etc., the issuing of a retrieval order, or some other action, has to be taken promptly. A single body should perform all registration, inspection by witnesses, and administrative disposition. These are the grounds used for the argument that these functions should be performed by the national government or an independent administrative agency.

But the above need can be fulfilled by ensuring fairness and neutrality, providing a clear procedural standard for the smooth and proper performance of the work, ensuring that private sector trustee requirements are satisfied, etc. Hence, the opening up of registration to the private sector should be considered.

(c) Inspection of agricultural machines and tools [Action in FY2005.]

Inspection of agricultural machines and tools is conducted with the primary aim of securing safety, but not all of the items are inspected. Inspection is optional. Approximately 300 fatal accidents have occurred annually in recent years as a result of farming work with an agricultural machine or tool. In view of these, inspections appear not to be effective. The national government does not need to perform all of the functions involved. Instead it should provide guidelines for the inspections.

The opening up of inspections to the private sector should be promoted by utilizing applicants' data, entrustment to the private sector, etc.

d. Inspection of automobile roads [Action in FY2005 and subsequent years.]

The safety demanded of the structure of, and the equipment for, an automobile road (a road intended solely for automobiles apart from those roads under the Road Law (Law No. 180, 1952), as stipulated in the Law on Transport on Roads (Law No. 183, 1951), Articles 2, 8) is equivalent to the safety demanded of the structures of, and

the equipment for, the toll roads managed by the Japan Road Public Corporation and others.

Inspection of toll roads has been practically opened up to the private sector. Efforts were made to open up the inspection of automobile roads to the private sector. These efforts should be continued in the future.

2) Quarantine

a. Quarantine [Action in FY2005.]

Quarantine involves the employment of force that may directly harm citizens' bodies or property. The opening up of quarantine to the private sector should be promoted by taking the following, and other measures:

A definite procedural standard should be established to ensure a fair, neutral, smooth, and proper quarantine service. The private sector should be led to specific qualification requirements, etc.

b. Quarantine for animals and plants [Consideration and conclusion in FY2005.]

It is often argued that quarantine for animals and plants involves the use of force, which may directly harm citizens' property and thus is unsuited to private sector involvement.

However, it can be made suitable by establishing a definite procedural standard to ensure a fair, neutral, smooth and proper quarantine for animals and plants, and by leading the private sector to specify qualification requirements.

3) Qualifying examinations

a. Driver's license examination [Action in FY2004.]

Driver's license examinations, among the public services related to driver's licenses, may be entrusted to the private sector by law, but the paper tests, apart from the temporary driver's license test, cannot be outsourced. Although the driver's license renewal may be entrusted to a legal entity approved by the Public Safety Commission, few legal entities, other than some specific legal entities, are entrusted with this function.

In order to promote the opening up of services related to driver's licenses to the private sector, the following written instructions should be issued to the prefectural

police authorities. The gist of these instructions is as follows and should be made available to the public:

- The paper tests and all other services should be further opened up to the public in accordance with the current situation being operated under by the prefectural police authorities.
- Since few legal entities, other than some specific legal entities, are entrusted with the necessary functions, competitive tendering would be desirable.
- A predetermined number of trustee meetings involving the specified requirements, etc. and conducive to competition, should be decided on according to those conditions in operation at the prefectural police authorities.

b. Chief gravel extractor and rock extraction supervisor examinations

[Consideration and conclusion in FY2005.]

Both of the chief grave extractor and rock extraction supervisor examinations are conducted by the prefectural governors. The functions related to the preparation of questions for these examinations are entrusted to the Aggregate Resource Engineering Society by the Prefectural Gravel Extraction Law Coordination Council and the Prefectural Rock Extraction Law Coordination Society, respectively. Uniform examination questions are put to all applicants throughout Japan. The number of applicants for these examinations has been declining, and there are only a very limited number of applicants in many prefectures. The examinations should be reviewed at an early date in order to reduce the social cost.

Prefectural governors should be asked to work together with the national government to combine these two examinations, determine whether there are any similar examinations that can be combined with them, and consider the opening up of these public services to the private sector.

2 Making national property available for use in the private sector

[Issue recognition]

More reports will be made by the Council on the promotion of public services to the private sector. It will be imperative that an environment in which the public facilities, etc. needed to perform what were public sector-run office work and services, are readily available to the private sector.

Owing to a recent revision of the law, the selected PFI entities are granted the private right to borrow national property. In June 2004, the “Criterion for Cases Where Use of or Income from National Government’s Office Buildings, etc. is Permitted” (Notice dated January 7, 1958, Chief of the Property Management Bureau of the Ministry of Finance) was revised. As a result, the regulations on the private sector’s use of national property can be interpreted and applied more flexibly than in the past.

It is feared that the present national property management system may prove to be an obstacle to the opening up of public services to the private sector. This fear must be eliminated.

[Specific measures]

The national organizations, etc. should be reminded of the following preconditions for the opening up of public services to the private sector, even if the present national property system is to be retained. **[Action in FY2004]**

- National property should be available for use by private entities entrusted with public office work or public services under an entrustment contract and on the same principles as the particular national property is currently used by national organizations.
- If the private entities need to use the national property currently used by national organizations, the property, now categorized as an administrative property, can be promptly re-categorized as an ordinary property available for sale or rent.

[Further issues]

The public office work and services to be opened up to the private sector should not be limited to the varieties described above in "Specific measures". They should include the 812 varieties identified through this year's investigation. It is essential that a thorough wide-ranging search is carried out to identify more public services that can be opened up to the private sector. Aggressive promotion of such private sector activity should also be initiated.

Among the 41 varieties covered during the final negotiations with government agencies this year, the government agencies concerned persistently argued that there was absolutely no room for a further opening up of the area to the private sector. No agreement has been reached about details of the particular public services. As a result they could not be added to the section on "Specific measures". We intend studying these and other public services further to see whether they are suitable for opening up to the private sector.

National tax collection

In order to improve the tax collection rate and dispel any feelings of inequality among Japanese citizens, it would be effective, in our opinion, to seek an efficient and fair collection method utilizing those private entities with the appropriate knowledge. In the case of near-prescription tax delinquency, in particular, a proper incentive for private entities to be entrusted will contribute to a rise in the collection rate. The National Tax Agency's collection knowledge can be imparted to the private sector over an appropriate transition period and will be used by that sector. In addition, the tax collection knowledge of licensed tax accountants, etc. in the private sector can be fully utilized.

World Expo Memorial Park

Among the functions of the Japanese World Expo Memorial Institute, an independent administrative agency, is park improvements and operations. These are now in the hands of the Institute's staff and can be said to being performed by a private entity. The Local Finance Bureau, or some similar organization, on the other hand, can perform the services related to the fund.

Mint-related services

Among all of the Mint's services, the production of metalwork is carried out extensively by the private sector. There are a number of excellent metalworking facilities in the private

sector. If the practice of choosing the better product from between those handicraft pieces produced by the private sector and the Mint is established among customers, then the opening up of services to the private sector will be promoted.
As for the minting of coins, it is imperative that the qualifications and other requirements (confidentiality, discipline in the workplace, etc.) on the part of entrusted private entities, are adhered to and the methods of ensuring them developed.

Printing-related services
Production of some negotiable instruments, printed matter, statutes at large, etc. and related functions of the National Printing Bureau, is performed by private entities. The printing of statute drafts, budget drafts, etc., also known as government documents and official gazettes, by the private sector should be studied as part of the “review of the need to continue the production, printing, etc. of postage stamps, postcards, negotiable instruments, government publications, etc. and other matters” under the “Three-year Plan for the Promotion of Regulatory Reform and the Opening Up of Public Services to the Private Sector” (cabinet meeting decision, March 19, 2004).
As for the production and printing of Bank of Japan notes, it is essential that the qualifications and other requirements (confidentiality, discipline in the workplace, etc.) on the part of the entrusted private entities are guaranteed and that a way of ascertaining the qualification and satisfaction of the other requirements is also met. The progress toward establishment of the necessary conditions, including techniques for preventing counterfeiting, should also be monitored.

Physical audit of national property
Requests for improvement addressed to the heads of ministries and agencies with jurisdiction over national property, among the series of actions from preliminary preparation to physical audit (on-the-spot inspection of actual conditions), and requests for improvement, should, of course, be made in the name of the Finance Minister. The office work related to on-the-spot inspection of actual conditions preceding such a request, and the office work related to the preparation of a draft for a request for improvement, can be performed by private entities with advance knowledge.

III. Promotion of reform of major government-driven markets

1 Lifting the ban on “mixed medical care services” (combined use of insured and non-insured medical care services)

[Issue recognition]

The combined use of insured and non-insured medical services (so-called “mixed medical care services”) is not currently permitted in Japan, although there are no clear provisions in the law that prohibit mixed medical care services. Accordingly, if a series of medical treatments includes any non-insured treatments, the insurance will no longer apply to any of the medical treatments even to those that were originally insured treatments. Subsequently, the patient who receives the treatments will have to bear the entire cost. Therefore, even when the effectiveness of a non-insured treatment is acknowledged by both doctor and patient, the current condition, as mentioned above, creates an absurd yet unavoidable situation where the patient especially has to resign himself/herself to dismiss such a treatment. “Patients’ Testimonials” in the attachment demonstrate the unbearable financial burden borne by patients.

Medical services are primarily to be provided based on a free-will agreement between doctor and patient, and the applicable range of medical services and medical insurance should be assessed as a separate matter. Furthermore, medical insurance is provided based on the combined financial source of premiums and public obligation borne by insurers, and the determination of a medical treatment to which medical insurance is applicable should be made independent of policy-related issues surrounding “mixed medical care services”. Hence, “adequate medical services as part of social security” should remain available as insured medical services, irrelevant to individual financial capacity. Meanwhile, there is great feasibility in lifting the ban on “mixed medical care services”, and criticism to support the view that the lifting of the ban on “mixed medical care services” will lead to the collapse of the universal health care system is simply besides the point.

In response to the inquiry made by the Council for the Promotion of Regulatory Reform in relation to the above, the Ministry of Health, Labor and Welfare indicated safety issues, regarding non-insured medical services in its statement (October 22, 2004), that when medical insurance is provided based on legal agreement between the medical service provider and cost bearer, it is inappropriate that the insurance covers any medical treatment

other than those that are stated by the agreement. The provision of uncertain medical treatments packaged with insurance benefits should be prevented, as this may damage the nation's trust in and expectations of the public medical insurance system. On the other hand, the Council for Regulatory Reform, the predecessor of the Council for the Promotion of Regulatory Reform, made a point, from the perspective of patients' health and safety, regarding the necessity of assessing the certainty of non-insured medical services (free medical treatment), and the Ministry of Health, Labor and Welfare stated in its reply (April 2, 2003), with an emphasis on a certain degree of the safety assurance of non-insured medical services, that the necessary measures had already been taken to ensure the nation's health and safety by the Medical Practitioners Law, the Medical Services Law and the Pharmaceutical Law, and that it was not the ministry's intention to dismiss the health and safety assessment on non-insured medical services. Consequently, a summary of the above statements made by the same ministry make a rather illogical argument that the combined medical services of the insured and the non-insured, the health and safety aspect of which are assured and confirmed respectively, still "lack safety".

"Patients", who are those directly involved in and are customers of medical services, also support the view that "the lifting of the ban on mixed medical care services will increase the reliability of the universal healthcare system. The banning of the combined use of insured and non-insured medical services by the Ministry of Health, Labor and Welfare from the safety point of view clearly indicates too much interference by the government. From the legal perspective also, such interference is an infringement of the statutory rights of "patients (the nation)", who are the insured and have a legal obligation to take out health insurance. The "Specified Medical Care Coverage System" established in 1984 in accordance with Article 86 of the Health Insurance Law (Law No. 70 of 1922) acknowledges the availability of "highly advanced medical treatments" and "selected medical care" in combination with insured medical services. The system also indicates that any mixed medical care services other than the above are prohibited in principle. Such a concept of "a ban subject to conditions" requires a review in the light of its legal adequacy.

The Ministry of Health, Labor and Welfare expressed concern over "the wide spread use of medical treatments that are unconfirmed for their effectiveness and safety" following the lifting of the ban on mixed medical care services. This leads to the question "who would actually perform such medical treatments?". The crack down on practitioners who may perform unsafe and harmful medical treatments should be the whole idea of primary aim in providing highly-reliable medical services, regardless of whether treatments are insured,

non-insured or part of mixed medical care services.
From the patient's point view, as the introduction of any new medical treatment naturally generates great concern, it is essential to set up specific measures that reflect proper attention to and due consideration for patients.
The existing Specified Medical Care Coverage System is considered to be adequate, but from the perspective that non-insured medical technologies and medical institutions have to be approved of individually prior to combining non-insured medical services with insured medical services, and that subsequently insurance payments are made towards the essential areas of the mixed medical services (i.e. the first and subsequent medical care fees, hospital fees etc.), the current system procedure indicates inadequacy and insufficiency in responding to patients' diverse needs and in facilitating on-site effectiveness and enhancing medical technology. Moreover, in March 2004, the simplification of procedures was promoted, where specifically insurance-approved medical care facilities would not require approval individually once they met a certain set of criteria, and where they would also receive approval for their new medical care technologies promptly upon notification. However, only 20 out of 97 highly advanced medical treatments were approved under this procedure. In addition, since the credibility of the Central Social Insurance Medical Council has become significantly questionable, the approval process by the Council needs to undergo a thorough review.
The appropriate lifting of the ban on so-called "mixed medical care services", when detached from the existing system that is very much under the influence of administrative discretion and arbitrariness, will entitle patients to public insurance benefits, which will cover their medical fees partially, thus reducing their burden of paying all fees incurred by the medical care which they have received. It will therefore increase the availability of medical practice as well as providing patients with more choice and subsequently, it will open a path to the true form of "patient-oriented medical care services".
This issue was addressed by the Council on Economic and Fiscal Policy at the meeting on September 10, 2004 and the direction was given by the Prime Minister to "reach the conclusion from the perspective of supporting the lifting of the ban on mixed medical care services by the end of the year". The same notion was also included in the basic policies of the new cabinet that was formed towards the end of the same year, and also in the Prime Minister's policy speech at the latest extraordinary Diet session.
Furthermore, on December 15, the fundamental agreement regarding "mixed medical care services" was reached between the Minister of Health, Labor and Welfare and the Minister for Regulatory Reform under the Chief Cabinet Secretary.

The above agreement is reflected specifically in the following measures, while outlining the basic framework for further development. The Council for the Promotion of Regulatory Reform intends to clarify the details of the measures at the earliest possible time, followed by the close and stringent monitoring of the implementation of the measures, based on which the Council will make suggestions and proposals to promote further practicality.
The Council firmly supports the view to approve, principally and comprehensively, for medical institutions, to provide mixed medical care services, insured and non-insured medical services together, when the quality of such medical care services is ensured to be of a high standard. Also, the application of such medical care services should be implemented according to the medical institutions' discretion and their patients' freedom of choice, based on the assumption that all necessary information is available to the patients prior to such decision making. It is the Council's intention to engage itself in the realization of the availability of mixed medical care services as actively as it always has done.

[Specific measures]

Reform policies such as the following should be considered.
The reform procedures should be coordinated and priorities should be ascertained within the existing system's framework so as to facilitate the realization of the process for completion by summer 2005. Policies concerning the application of medicines yet to be approved should meet the necessary measures by the end of FY2004.
The existing system should be reviewed and have a new title and legal system consolidation from the perspective of "the inclusion of consideration for further insurance application". The reform of the existing system should be then examined for the entire medical insurance system within the context of the reform bill, which will be proposed to the ordinary Diet session in 2006.

1. The use of medications yet to be approved in Japan
[Action to be taken during FY2004]

There needs to be a well-established system to enable the use of medications yet to be approved together with insured medical care in conjunction with the implementation of sound clinical trials.
To be more precise, measures should be taken for (1) the implementation of sound clinical trials (2) enhanced doctor-led support for clinical trials (3) the introduction of additional

clinical trials and (4) the elimination of the institutionally directed discontinuity of the application of medications yet to be approved in combination with insured medical care.
Particularly, the following measures should be prompted from the viewpoint of swift and sensitive responses to patients' desperate needs.

(1) The newly-formed review commission consisting of experts in relation to minister appointment should hold review sessions regularly, i.e. four times a year in order to understand patients' needs as well as to conduct scientific assessments. Further sessions should also be organized as necessary so as to reach a conclusion within three months at the most about the handling of medications yet to be approved, which may be requested by patients.
(2) Newly-approved medications in the US, the UK, Germany and France should automatically be subject to verification, followed by the implementation of sound clinical trials based principally on all case studies while ensuring such clinical trials meet patients' needs precisely.
(3) Measures should be taken to prevent patients from bearing excessive amounts of charges for medications during the course of clinical trials.

2. The promotion of advanced technologies

[To be realized by summer 2005 within the context of the existing system's framework, followed by a bill to be proposed to the ordinary Diet session in 2006]

Including conventional technologies, the systematisation of insurance procedures for medical technologies should be promoted together with its process acceleration and transparency.

(1) A set of criteria should be created for each medical technology to meet medical institutions' requirements so that medical institutions can facilitate the application of required technologies upon notification.
(2) More specifically,
    1) A request for criteria-setting for any new medical technologies should be notified by a medical institution to the Ministry of Health, Labor and Welfare, and within the subsequent three months at the most, the abovementioned review commission of experts should conduct a scientific assessment to reach one of the following decisions: (a) no problems found (b) to be terminated or modified and (c) reserved

(pending). The decision is then notified in writing and with reasons to the medical institution. This mechanism therefore enables the implementation of new technologies within three months at the most from the moment when a medical institution submits its request until the moment when it receives authorization.

2) Complications may occur during the assessment process prior to decision making (e.g. ethical issues related to gene therapies). It is also possible that the administrative office may be inundated with requests, causing delays in the procedures. Taking such probabilities into account, the processing time should essentially be three months but with extra time allowed when appropriate.

3) For the use of medical technologies that already meet their criteria, medical institutions only have to notify such prior to the implementation of such technologies.

(3) From the perspective of evaluations for further insurance application, medical institutions' reports on the implementation of medical technologies should be produced on a regular basis and the appropriateness of further insurance application should be examined accordingly. Issues concerning the safety and effectiveness of medical technologies, if there are any, should also be addressed so that medical institutions are provided with instructions such as the termination of the medical technologies in question.

3. Excessively repeated medical practice [Action to be taken by summer, 2005]

(1) The implementation of medical practice combined with insured medical services may be repeated excessively when such practice is considered to be appropriate under certain rules. Any medical practice with sound medical grounds should be considered for further insurance application.

(2) Services that are not directly relevant to healthcare benefits should not be confused with the combined use of insured medical services and non-insured medical services, and such confusion should be prevented by system clarification.

4. The combined use of insured and non-insured medical services
[The bill to be proposed to the ordinary Diet session in 2006]

From the viewpoint of "the necessity of evaluation for further insurance application", the existing system needs to undergo a drastic review. The "Specified Medical Care Coverage System" should be abolished and the existing system should be restructured

based on the concepts of “medical care services considered for insurance application” (tentative name, medical services to be evaluated for insurance application) and “medical care services by patient agreement” (tentative name, medical care services not subject to insurance application) as a new framework.

5. Consideration for the use of special districts for structural reform
[In progress.　Conclusion to be reached during FY2005]

The lifting of the ban on so-called “mixed medical care services” has basically been resolved by the “fundamental agreement” to respond principally to all specific requirements prior to the actualization of such reform.　The Council continues to discuss carefully the feasibility of the implementation of such reform including necessary measures together with consideration for the use of special districts for structural reform.

"Patients' Testimonials"

Attachment

[Patients' testimonials collected at the 10th meeting of "the opening of government-driven markets for entry into the private sector" held on November 15, 2004 by the Council for the Promotion of Regulatory Reform]

○ **Cancer patient A** (Had colon cancer originally, which later spread to the liver and lungs. Has been treated with Oxaliplatin, which is currently an unapproved drug in Japan.)

- Oxaliplatin is a very common cancer medication that is widely used in the US. In Japan, the application of Oxaliplatin combined with insured-medical services, such as an X-ray examination and a blood test, disqualifies a patient for insurance cover. The total medical cost which I have to pay every month is one million yen (of which 300,000 yen is for the medication and 600,000 yen is for the treatment. If mixed medical care services were approved, I would have to bear only 30% of the entire medical cost, as the usual rule applies). After I have thought long and hard about it, I have decided to take the Oxaliplatin treatment.
- My family tell me that they would use up all their savings and would even sell the house in order for me to continue with the treatment, but I don't wish them to have any trouble after I have died. This situation is making the family fall apart.
- I hope that insurance will eventually cover mixed medical care services in the future but I urge for temporary approval now. I believe that the lifting of the ban on mixed medical care services will increase people's trust in the universal healthcare system.
- In Japan, one in two suffers cancer. Cancer treatments in Japan are twenty years behind compared to the US and Europe. I believe that mixed medical care services will open the way for the advancement of cancer treatments in Japan.

○ **Cancer patient B** (Is in the terminal stage of pancreas cancer with three months to live. Has been treated with Gemzar, which is currently an unapproved drug in Japan)

- After Gemzar becomes no longer effective for my condition, I won't be able to afford any other drugs that are currently unapproved. I have no choice but to go to a hospice. I can afford about 200,000 yen towards medication but paying all costs including hospital fees is just too much for me. I know someone who died as a result of putting his family's welfare before the treatment with some unapproved drug, which he could have had if it weren't so expensive.
- It's all very well for the government to consider the lifting of the ban on mixed medical care services by the end of this year, but cancer patients have bits of their lives taken away every week if not everyday. They need treatments today.

- I got married at the right age. I have two children and am on average income. In Japan, any Mr. Average will have to suffer the same consequences if he becomes ill like me.
- I think that the lifting of the ban on mixed medical care services will increase people's faith in the universal healthcare system.

○ **Cancer patient C** (Was diagnosed with breast cancer two years ago. Has had the entire breast removed. Has recently had a surgical reconstruction.)

- I wanted to have my breast reconstructed immediately after the removal but it couldn't be done because of the ban on mixed medical care services. Consequently, I had to suffer post-surgical pain, which affected my work and everyday life.
- Apparently, fees can be adjusted by using a different disease name on the receipt computer or by treating them as part of private room charges. Such adjustments are sometimes possible and sometimes not. Where is the consistency?
- The lengthy process of approving new drugs causes delays in authorizing combined applications with other medicines. Japan's medical care services are far, far behind compared to some other countries.
- Mixed medical care services should be approved now even for temporary measures, while a direction towards further insurance application should be discussed and clarified including the public finance capacity for medical insurance.

2 Allowing joint-stock corporations to participate in the management of medical institutions through medical corporations

[Issue recognition]

Under current circumstances, private medical institutions are largely under family-controlled management with a closed corporate culture. Meanwhile, joint-stock corporations exercise diverse fund-raising methods including direct financing other than bank loans. They also apply their modern management know-how to maintain the corporate transparency. Therefore, the participation of joint-stock corporations in the management of medical institutions will encourage healthy competition among the institutions, and such competition will promote wider choice for patients as well as patient-oriented medical care services at higher standards.
The above perspective was an important issue on the government-driven market reform agenda of the Council for Regulatory Reform, the predecessor of the Council for the Promotion of Regulatory Reform. The Council for Regulatory Reform had been urging for the lifting of the ban on corporate involvement in medical institution management. Such corporate participation was accepted in special districts for structural reform under conditions of the provision of "free medical treatments" (non-insured) and "highly advanced medical care services" only. The Revised Structural Reform Law for Special Districts to reflect new measures such as the above was enforced and a ministerial ordinance related to the Medical Service Law (Law No. 205 of 1948) was announced on October 1, 2004. Subsequently, the 6th approval application process for special districts for structural reform was organized but no applications were submitted.

When direct involvement by joint-stock corporations could restore medical institution management, investments in medical corporations by higher-rank medical corporations and joint-stock corporations could also improve the current state of medical institution management. In other words, healthy competition will be created among medical institutions, through which the quality of medical care services will improve while offering wider choice for patients.
Furthermore, corporate participation will help progress the expansion of medical institutions and communication networks, which will enhance economical capacity and efficiency for staff recruitment and training as well as the joint purchase of medical materials. It will also facilitate education for medical staff on a more comprehensive scale to raise their

awareness about safety issues including accident prevention. Consequently, the total modernization of medical institutions will be achieved.
In addition, the renovation and extension of hospital facilities, the upgrading of medical equipment and investments in IT facilities for data management are all indispensable in order for medical institutions to provide patients with a diverse range of high quality medical care services. Hence, the facilitation of fund raising is a significant issue. Fund-raising methods such as medical institutions' issuing bonds and the securitization of medical payment claims have been explored further, but indirect financing including bank loans is still predominant under the present circumstances.
Despite the abovementioned financial needs, the current circumstances do not allow a joint-stock corporation to become a member of a medical corporation, although they allow the joint-stock corporation to invest in the medical corporation. The Ministry of Health, Labor and Welfare supports this condition by referring to (1) the nonprofit-making principle of medical care stipulated by the Medical Service Law Article 7, 5 where the government be not able to permit a joint-stock corporation to open a medical business, and to (2) the statement made by the Manager of the Guidance Division, Health Policy Bureau of the Ministry of Welfare (Direction No. 1 of January 17, 1991 Response to the President of the Tokyo Bar Association) that "joint-stock corporations may invest in medical corporations, but they are not entitled to have voting rights in the general meeting of members or to participate in the management of medical corporations as directors or officers". However, it is wrong to interpret the phrase "to be not able to" as "must not", as if it were prohibition and, if it were to imply the prohibition of opening medical businesses by joint-stock corporations, this contradicts the fact that there are already 62 hospitals, which are run legally by joint-stock corporations in Japan.
Moreover, voting rights in the general meeting of medical corporate members are restricted to one vote per member regardless of the scale of investment. This is clarified by the Ministry of Health, Labor and Welfare in its statement that "the members each have one resolution vote and one election vote at the general meetings of members" ("On Revision of the Medical Corporation System and Prefectural Council on Medical Service Facilities" Notice of the Director General, Health Policy Bureau of the Ministry of Welfare, June 26, 1986). However, it was originally permitted to differentiate voting rights in accordance with the articles of incorporation for medical corporations based on Paragraph 3 of Article 65 of the Civil Code (Law No. 89 of 1896). Since this authorization is applied mutatis mutandis to the Medical Service Law Article 68, there is no reason why this should not be exercised.
The above explanation suggests that the granting of medical corporate memberships to

joint-stock corporations together with stake-based voting rights will increase incentives for investments in medical corporations.

Medical institutions are mainly medical corporations. They are organized as "incorporated associations" with provisions for shares and have a juridical character. That is to say, investors' entitlements to reimbursements and security distributions are protected in the event of withdrawal and dissolution, although surplus distributions are prohibited. Unlike nonprofit-making corporations including social welfare corporations that rely on charities, medical corporations are operated practically in the same way as private enterprises where investors' property rights are protected. Furthermore, medical corporations are in fact treated in the same way as business corporations in terms of taxation. The individual interests in medical corporations are personal properties and therefore, they are subject to inheritance tax. There have been legal cases for the return of investments in medical institutions due to investors' old age and deaths. In order to address such problems that can threaten the stability of medical corporation management, there are two feasible solutions, which are either to change the management structure from profit-making to nonprofit-making, or to treat individual ownerships as liquid securities in the capital market so as to prevent return claims.

As part of medical service reform to be implemented in 2006, the Ministry of Health, Labor and Welfare intends to basically reform the medical institution system towards thoroughness of the nonprofit aspect and the transparency of medical institution management. More specifically, the establishment of medical corporations under a completely new, nonprofit-style management will be promoted, management transparency including disclosure of information will be assured, at least to the same extent as that of any joint-stock corporation, and the intended use of surplus will be clarified. Furthermore, assuming that these things are going to be realized, preferential tax treatment should be provided while investments in other medical corporations are allowed. Such a transition will contribute to the rationalization of medical corporate management, the structure of which is very similar to existing private enterprises, and the realization of more efficient hospital management through networking. This movement will also function as a bridge from the public ownership to the privatization of hospitals, allowing time for evaluation. On the other hand, medical corporations under new-style management need to acquire good assessment results as providers of high-standard medical services. For this purpose, not only mere organizational transformation but also system improvement is necessary so that they are capable of responding to patients' needs appropriately and this includes the

disclosure of medical records.

Under the current circumstances, there are indeed medical institutions, including specified medical corporations and special medical corporations, which are managed on the premises of the waiver of investors' property rights, yet such a choice in management is restricted to only a handful of medical corporations. This fact implies that even after the establishment of new medical corporate management with no shareholding, a number of medical corporations under business-like style management will probably remain for a long time. Such medical corporations with shareholdings should therefore be introduced to diverse fund-raising methods so that healthy competition among them will be encouraged, which will lead to the provision of wider choice for consumers. This will be a significant step forward in the medical care services of Japan.

[Specific measures]

The promotion of healthy competition among medical institutions and the provision of high-quality medical care services can be achieved by joint-stock corporations' participation in medical institution management and the promotion of the diversification of medical institution management. Meanwhile modification in management style, from a family-business-like style with closed culture to another with democratic procedures and transparency, the realization of group management covering multiple medical corporations, and cost control to enhance economical capacity should enable modernization in medical institution management. In order to realize such reform with the current circumstances in mind, the following measures should be implemented.

(1) The diversification of medical institution management by joint-stock corporations' participation in medical institution management

1) The relaxation of participation criteria for joint-stock corporations in special districts for structural reform [Action to be taken during FY2005]

At the time of October 2004, one of the reasons why no applications were submitted by any joint-stock corporations for participating in medical care services is attributable to the fact that the criteria were emphasized stringently on the provision of free medical treatments and highly-advanced medical services. The structural reform special district system directs the implementation of assessment for the feasibility of nationwide deployment and participation criteria on the basis of participation status in

special districts for structural reform. It is necessary to review such criteria in order to be satisfied by joint-stock corporations prior to their participation in medical services, including the examination of assessment results.

2) The approval of investments made from one medical corporation into another [Action to be taken during FY2005]

At present, a medical corporation is not permitted to invest in another medical corporation, but as part of medical corporation system reform, this should be allowed. Meanwhile, the investor corporation should be given a membership of the invested corporation. This arrangement will facilitate and establish group management and networking, leading to the construction of a highly efficient medical service system.

(2) The establishment of new medical corporations with no shareholdings [Action to be taken as part of the reform of the medical service system in 2006]

Apart from the existing medical corporations, the establishment of new medical corporations with no shareholdings under the true name of non-profit-making management needs to be realized in line with the promotion of management modernization through highly-transparent management by democratic procedures, group management operating multiple medical corporations, cost control to enhance economical capacity, the accumulation of management know-how including accident prevention, and the diversification and facilitation of fund raising. For the realization of such modernization, newly-established medical corporations must demonstrate consistently the disclosure of management information, at least to the same extent as any joint-stock corporation would do, financial transparency, accounting audit, the clarification of the intended use of surplus, the disclosure of criteria for director's salaries and remuneration as well as the disclosure of medical care-related materials such as medical reports. They must also encourage local communities' involvement in management matters and retain their status as an open, democratic and nonprofit corporate, supported by local communities and industries financially as well as managerially.

Newly-established medical corporations should also be able to invest in other medical corporations so as to facilitate group management and networking. Furthermore, there should be a system where medical care services are provided efficiently on a

regional scale by allowing the positive handover of financially-impaired public hospitals, including municipal hospitals.
Healthy management is not restricted to medical care management. Regardless of the type of business, healthy management is realized by disclosure of information with consistency and integrity. Especially, medical care services are an indispensable shared property of a local community and a medical corporation must look after such property carefully and correctly. In terms of trust and accountability it is vital for a medical corporation to disclose management information including accounting status to the local community. It cannot be emphasized enough how important it is to promote disclosure of information in medical care management.

3 Parameters of the role of the Central Social Insurance Medical Council (CSIMC) (Review of the pricing mechanism in the medical field)

[Issue recognition]

Medical treatment fees, pharmaceutical prices and medical material prices are determined by the Central Social Insurance Medical Council (CSIMC). In the First Report on the Promotion of Regulatory Reform (December 11, 2001), the Council for Regulatory Reform, the predecessor of the Council for the Promotion of Regulatory Reform, proposed an improvement plan relating to the grounds for the pricing of pharmaceuticals and medical materials as well as the pricing process. The Council also suggested a review of how pricing procedures should be implemented with an emphasis on the use of a transparent, neutral and fair approach to pricing and the insurance application process.

Subsequently, the pharmaceutical pricing rules were revised and other countries' pricing systems for medical material prices were referred to, but there has been no fundamental review to clarify the method of pricing to satisfy the proposal and suggestion made in the abovementioned report. For instance, the three-party pricing agreement where the representative of a bearer of an insurance premium burden (payers' representative) and the representative of a medical care provider (medical care representative) conclude an insurance agreement in the presence of a public welfare representative, has always been adhered to strictly. Moreover, the rather complicated medical treatment fee system, together with insufficient backup data for determining the number of NHI points, has been allowing certain representatives, including former officials of the Ministry of Health, Labor and Welfare, who are familiar with the system and regulations, to have considerable influence over CSIMC's deliberations. Such practice has generated criticism against CSIMC for lacking a transparent, neutral and fair stance. Representatives' maximum serving period of 10 years has also been contributing to the allowing of such illegitimate practice. A bribery case surrounding CSIMC was only waiting to be exposed.

The corruption scandal triggered discussions about the parameters of the role of CSIMC and a "Review of the Parameters of the Role of the Central Social Insurance Medical Council" was compiled (October 27, 2004). The review proposes the shortening of the serving period of payers' and medical representatives, also the forming of a new committee to verify the results of the revision of medical service fees. However, the review still supports the firm application of the three-party pricing agreement method (it is right to say that this method was the source of the abovementioned corruption scandal) and hardly

made any changes to the way representatives are nominated. Admittedly, CSIMC, the organization that, after all, provided a stage for the scandal, is incapable of conducting its own reform and its incapability will do nothing but increase the nation's suspicions and doubts about CSIMC. What is needed now is the verification and reform of medical care services from the viewpoint of the nation, i.e. users.

The Ministry of Health, Labor and Welfare stresses that the aforesaid review compiled in October 2004 only proposes temporary measures and that long-term, structural reform issues are to be addressed further. The determination of medical treatment fees has tremendous influence over the distributions of national healthcare expenditure, which can exceed 30 trillion yen and therefore, such determination should be made systematically while reflecting an absolutely transparent, neutral and fair approach. The parameters of the role of CSIMC should not be reviewed by itself, especially when CSIMC no longer has the nation's trust. Instead, it should be examined by a party that retains its position by being truly neutral and fair to reach the final deliberation.

According to the above view, a fundamental agreement was reached on December 17, 2004 between the Minister of Health, Labor and Welfare and the Minister of Regulatory Reform under the Chief Cabinet Secretary, regarding the "Review of the Parameters of the role of CSIMC". The following specific measures each reflect the agreement.

[Specific measures]

The "Intelligence Council for the Parameters of the role of CSIMC" (tentative name, "Intelligence Council" hereafter) formed in early FY2004 is expected to reach a decision between the summer and fall of 2005 and action should be taken accordingly and at the earliest possible time.

(1) Discussion sessions to review the parameters of the role of CSIMC [Action to be taken in early FY2004]

1) Taking into account the deliberations of the "Panel to Discuss the Significance of Social Security" led by the Chief Cabinet Secretary, the Minister of Health, Labor and Welfare holds discussions regarding the aforesaid "Intelligence Council" which is a third party review body.

2) The Intelligence Council should consist of experts, who are not involved with medical corporations or in labor-management relationships. Members of the Intelligence Council are appointed by the Minister of Health, Labor and Welfare by agreement with the Chief Cabinet Secretary.

   (Note) Intelligence Council meetings should be held publicly for the nation's awareness and they should always be attended by the Minister of Health, Labor and Welfare.

3) In addition, the Minister of Health, Labor and Welfare should inform the progress of the Intelligence Council meetings to the Panel to Discuss the Significance of Social Security, the Council on Economic and Fiscal Policy and the Council for the Promotion of Regulatory Reform prior to reaching the final conclusion.

(2) Discussions regarding a review of the parameters of the role of CSIMC [Conclusion to be reached by summer and fall 2005 and action to be taken accordingly as soon as possible]

The aforesaid Intelligence Council should discuss a review of the parameters of the role of CSIMC by taking the following into account and should reach a conclusion between the summer and fall of 2005. Action should then be taken accordingly and at the earliest possible time.

1) The function and role of CSIMC in relation to the policy planning for the revision of medical services fees
2) The enhancement of CSIMC's public welfare function
3) A better organizational structure to reflect the views of those involved in medical care services including hospitals
4) The serving period of council members
5) The transparency of the procedures for the pricing of medical service fees and for post evaluation
6) A better mechanism to reflect the views and needs of the nation including both medical care staff on site and patients

4 Review of the medical care program (the number control of hospital beds)

(1) Review of "the number control of hospital beds"

[Issue recognition]

The medical care program controls the supply of hospital beds required in each region (the number control of hospital beds). This restriction was enforced in 1985 with the prime intention of promoting the more efficient use of medical resources by adjusting their quantities. The intention has gradually diminished over the years, yet the restriction has remained, hindering the expansion of high-standard medical care services and the initiation of well-motivated new medical institutions while allowing poor-performing medical institutions to infringe on their vested rights to retain and acquire beds. This phenomenon has been inhibiting healthy competition among medical institutions and the improvement of medical care quality.

Some other countries are gradually changing their views on regulations stipulated by their medical care programs from sheer quantity restriction to careful quality restriction as well as from ex-ante regulations to after-the-fact-regulations. Such a change in direction makes a medical care program more flexible, allowing the relaxation or even the removal of the number control of hospital beds, if appropriate. In Japan, the climate surrounding inpatient care has changed since twenty years ago when the number control of hospital beds was introduced. The importance of regionally-coordinated consistent care, rather than hospital-based care, has been considered and the reduction of patient days has been exercised by the adoption of DRG/PPS (Diagnosis Related Group/Prospective Payment System) by DPC (Diagnosis Procedure Combination), a comprehensive medical insurance system. Hence, it is high time that the number control of hospital beds underwent a fundamental review to correspond to the present climate of medical care.

[Specific measures]

1) The number control of hospital beds is generating a circumstance where vested rights of existing medical institutions to retain and acquire beds are protected. This condition inhibits the participation of new medical institutions in medical care services, thus hindering healthy competition among medical institutions in general. It can also cause disadvantages to patients. Therefore, taking into account the role of each

prefectural government within the context of the medical care program, there should be effective means to handle medical institutions, which are poor-performing and disobey administrative orders to improve the quality of their medical care services, such as the withdrawal of their medical care practice by terminating their licenses. Such measures should be considered so as to prevent medical care institutions such as the above from discouraging new medical institutions to participate and provide high-quality medical care services that are certainly desired by each local community. The feasibility of the abolishment of the number control of hospital beds should also be explored along with discussions about subsequent condition ordering. **[Action to be taken as part of the reform of the medical service system in 2006]**

2) The number control of hospital beds is currently closely connected with acute care management. However, such restriction should be able to provide the appropriate number of beds, if it is determined according to a fair calculation procedure that includes consideration of regional circumstances and needs. There should be a circumstance realized where the original purpose of providing general hospital beds is served. Moreover, nursing care beds also need to have their role reviewed within the relationship between medical institutions and nursing and welfare facilities, especially after the recent improvement of nursing and welfare facilities, and measures should be drawn up accordingly. **[Action to be taken in early FY2005]**

(2) The promotion of the centralization of medical resources and regionally-collaborative medical care services

[Issue recognition]

The population of practitioners in Japan is not particularly smaller than that in some other countries. However, the number of hospital beds and medical institutions in Japan is rather overwhelming compared to other countries and therefore, medical resources including practitioners are dispersed widely across the country.

[Specific measures]

1) In order to use limited medical resources optimally and effectively, appropriate

measures should put in place when planning an effective prefecture-oriented medical care program. Furthermore, such measures should include the promotion of regional collaboration by the joint usage of regional facilities and equipment together with the functional differentiation of medical institutions and human resources.
[Conclusion to be reached during 2005, action to be taken as part of the reform of the medical service system in 2006]

2) An appropriate environment should be provided where medical facilities are coordinated based on the process of prevention, diagnosis, medical treatment, medical care, home care, and palliative care, also where high-standard medical care is provided with consistency. Taking the above into account, each rule and regulation of the Medical Service Law as well as those of other related laws should be revised so as to draw up a more effective prefecture-oriented medical care program.
[Conclusion to be reached during 2005, action to be taken as part of the reform of the medical service system in 2006]

3) The homogenization of regional medical resources and the solving of problems in remote rural areas are essential but the reality which includes medical services with financial deficits hinders a smooth problem-solving process by calling for voluntary cooperation by medical institutions. The planning of a practical and effective prefecture-oriented medical service program is necessary, including the functional specialization of public medical institutions to facilitate medical policy making as well the provision of public support for private medical institutions, together with the implementation of measures to accelerate the solving of problems experienced by prefectural governments.
[Conclusion to be reached during 2005, action to be taken as part of the reform of the medical service system in 2006]

4) The establishment of a medical service program should involve the planning of measures to facilitate medical policy making based on a review of prefectural financial support for the enhancement of facilities of both public and private medical institutions that are designated by each prefectural government.
[Action to be taken as part of the reform of the medical service system in 2006]

5 Availability of pharmaceuticals from general retailers

[Issue recognition]

The "Basic Policy for Economic and Fiscal Management and Structural Reform 2003" (Decision by the Cabinet on June 27, 2003, "Basic Policy 2003" hereafter) stipulates that "the sales of pharmaceuticals by general retailers should be discussed thoroughly during 2003 in the light of securing convenience and safety for consumers, and that only pharmaceuticals proven to be safe may be available from general retailers as well as from chemist's shops."

Meanwhile, the "Three-Year Plan for Promotion of Regulatory Reform" (Decision by the Cabinet Council, March 19, 2004), proposed that "according to the examination results provided by the Investigative Commission for Safety-Assured Pharmaceuticals (set up within the Ministry of Health, Labor and Welfare), approximately 350 pharmaceuticals were suitable for sale by general retailers, without changing their medical properties, and that appropriate measures would be taken as soon as possible to authorize the sales of such pharmaceuticals." The proposal was actualized in July 2004 subsequent to the transfer of 371 pharmaceuticals (15 product categories) into the category of "quasi-drugs" by the Ministry of Health, Labor and Welfare.

The decision by the Basic Policy 2003 emphasized "the authorization of the sales of such pharmaceuticals by general retailers without changing the medical properties", and to the knowledge of the Council for the Promotion of Regulatory Reform, such authorization for the transfer of such pharmaceuticals to the category of quasi-drug was a temporary measure, which needed to be implemented urgently within the permissible scope of legal limitations without necessitating any revisions to laws. Consequently, the pharmaceuticals authorized to be available from general retailers do not include medicines for colds, flu's, fevers and aches, although the regular availability of these medicines from local stores is much desired by consumers. The implementation of such a temporary measure is far from meeting consumers' needs. As the Basic Policy 2003 promotes the pursuit of "convenience for consumers" together with the securing of the safe availability of pharmaceuticals, the sales of highly-demanded pharmaceuticals, such as "medicines for fevers and pains", "gastrointestinal drugs", "cold remedies" and "anti-flatulent and anti-diarrhea medications", at ordinary retail shops, including much-frequented convenience stores, is believed to increase consumers benefit to a considerable degree. Hence, following the intention stated by the Basic Policy 2003, it seems legitimate for the

Ministry of Health, Labor and Welfare to discuss further the availability of pharmaceuticals, other than those that have been authorized, at general retail stores.

In fact, it is often the case that a pharmacist does not provide a customer with instructions on dosage and administration over the counter. Also, a medication is often given to a customer in the pharmacist's absence. Nonetheless, there have been no accidents reported regarding overdose or side effects caused by the above mentioned cases. Also, special sales and route sales do not involve pharmacists, thus they do not provide instructions on dosage and administration for customers. Again, no problems attributed directly to such sales formats have ever been reported.

Therefore, knowing that conditions such as the above exist in reality, even if it is thought that some measures are necessary regarding the provision of instructions on dosage and administration, it would be wrong to enforce the allocation of pharmacists to general retail shops. It would be much more appropriate and sufficient to provide consumers with pharmaceutical information and support, e.g. available from a support center by telephone, covering a wide range of subjects, in order to reduce pressure on and obligations to consumers and retailers.

Moreover, the recent transfer of certain pharmaceuticals into the category of quasi-drugs has made the classification between pharmaceuticals and quasi-drugs ambiguous. In other words, the category of quasi-drugs includes (1) quasi-drugs that have been available since before 1999, (2) pharmaceuticals that have been reclassified as quasi-drugs by the measures taken in 1999 without changing their properties, plus pharmaceuticals that have been reclassified as quasi-drugs subsequent to the modification of their properties to satisfy the newly-established authorization criteria, and (3) pharmaceuticals that have been reclassified as quasi-drugs without any modification by the measures taken in 2004.

Incidentally, the Ministry of Health, Labor and Welfare continues to review the whole picture of pharmaceutical sales and distributions by means of the study group formed within the Council of Health and Sciences in April 2004 in order to ensure the practicality and effectiveness of the provision of pharmaceutical information and support, which must be correct and assured by specialists' involvement and risk assessment. The Ministry intends to make proposals necessary for reform of the Pharmaceutical Law (Law No.145 of 1960) to the ordinary Diet session in 2006.

[Specific measures]

(1) The availability of pharmaceuticals from general retailers

Pharmaceuticals authorized to be available through special sales and route sales are believed to have only mild effects on the human body and are of relatively low risk, yet there are currently approximately 13,000 general pharmaceutical products that are available from chemist's shops only and from where pharmacists are required to be in full-time attendance.

Regarding the general-purpose pharmaceutical sales system, risk assessment should be carried out on each pharmaceutical product, and the significance of pharmacist allocation and the use of information and telecommunication technology in providing expert pharmaceutical information support should be examined in the light of convenience and safety assurance for consumers. Measures should also be set up according to the outcomes.

[The bill to be proposed to the ordinary Diet session in 2006]

(2) Redefinition of "quasi-drugs"

The recent transfer of certain pharmaceuticals into the category of quasi-drugs has caused ambiguity to the classification between pharmaceuticals and quasi-drugs. Hence, the redefinition of quasi-drugs should be discussed beside the definition of pharmaceuticals, and necessary measures should be taken according to the deliberations. **[The bill to be proposed to the ordinary Diet session in 2006]**

(3) The use of highly-knowledgeable and highly-skilled pharmacists

The Pharmacists Law (Law No.146 of 1960) stipulates pharmacist referral to minimize the inaccuracy of pharmacists' services as opposed to doctors' prescriptions. However, considering the fact that a six-year pharmacopedia program has been introduced to enhance the quality of pharmaceutical practice, mutual improvement between pharmacists and doctors should be encouraged through friendly competition so as to provide consumers with appropriate treatments and medications in the best interest of those consumers. Furthermore, in order to ensure the practicality and effectiveness of the separation of dispensing and prescribing functions, certain measures should be taken where pharmacist referral and pharmacist-to-doctor advice and recommendation take place in a positive manner. **[To be discussed in FY2005, action to be taken during FY2006]**

6 Unification of institutional nursing care services and home nursing care services

[Issue recognition]

The enforcement of the nursing care insurance program in April 2000 led to an institutional makeover. It used to be an administrative decision as to which elderly people were entitled to receive nursing care, but now the elderly themselves are allowed to select what kind of care services they wish to receive and to conclude contracts with the care providers of their choice as mutually equal parties. Subsequent to the implementation of this "user-oriented" program, the number of those entitled to nursing care increased drastically from 2.18 million to 3.84 million, so did the benefit expense from 3.2 trillion yen to 5.5 trillion yen (comparison between FY2000 and FY2004). In line with the advancement of an aging society, the need for nursing care services is anticipated to increase and diversify further. Under such circumstances, it is therefore important to continue to improve the environment where users are able to choose care services appropriately and according to their exact requirements.

At present, rents, utility bills and meals (i.e. accommodation fees) provided under special institutional nursing care services, such as special elderly nursing homes (special homes), are covered by the nursing care insurance. Hence, the actual cost for using such special homes is approximately 40,000 yen per month, i.e. just over 1,000 yen per night for accommodation including three meals and 24-hour care, which is very little financial pressure on users. Meanwhile, group homes and specific facilities (i.e. private elderly nursing homes), which provide more or less the same services, charge users full accommodation fees, similarly for home nursing care services. The present circumstances therefore not only hinders fair competition among providers of nursing care services but also divert the users' preference from the home nursing care service to special homes, which has been created long waiting lists. The prime function of the nursing care insurance is supposed to cover the risk for someone who has unavoidably to go into nursing care. Therefore, accommodation fees as such should not be covered by the nursing care insurance and should be treated separately from the ultimate necessity for nursing care so that users can make their choice more fairly and equally from a diverse range of nursing care services.

The "Basic Policy for Economic and Fiscal Management and Structural Reform 2004" (Decision by the Cabinet on June 4, 2004) urges "a review of users' financial burden for 'accommodation fees' and meal charges in order to correct the disequilibrium of the benefit

range for home nursing care and institutional nursing care and to adjust nursing care benefits to avoid overlapping with pension benefits".
In line with the implementation of the above review, the Ministry of Health, Labor and Welfare announced a policy to provide "subsidies for regional nursing care and welfare improvement" in FY2005 as part of grants reform for regional regeneration. The subsidization replaces the existing facility improvement grants for special homes, and supports the improvement projects of small-scale and multifunction bases, also nursing care prevention bases, which are developed by local authorities in response to regional backgrounds.

[Specific measures]

(1) Users' financial burden for accommodation fees of three types of currently-insured facilities [Action to be taken during 2005]

The dual service system of "institutional care and home nursing care services", which is a remnant of the old system, should be reformed. Basically, users should bear the accommodation costs of the three types of currently-insured nursing care facilities and in this way, these facilities are regarded as "nursing care houses for rent" as only care services are subject to the application of the nursing care insurance.
The above reform will enable the provision of insurance benefits equally to providers of nursing care services of equal standards, regardless of where the services are provided. It will also equilibrate the users' financial burden, thus qualifying the user for renting nursing care houses when their requirement for such facilities and services is genuine.
In relation to the above, it is necessary to ensure that the standard of living conditions and meals correspond to the accommodation charges paid by users. Living conditions should include the provision of private rooms and this should be considered to be an essential condition in the future.
Furthermore, according to the conventional system, the establishment of new nursing care facilities is restricted by facility improvement grants, which are available exclusively to social welfare corporations. In contrast, when accommodations are provided at the users' expense, it will promote fairer competitive conditions among providers of various kinds of nursing care service facilities (i.e. houses with nursing care) and, such competition will subsequently encourage new entry of private enterprises into the nursing care market, improving nursing care services in both quality and quantity.
In addition, it is only reasonable to provide meals at the users' expense when

accommodation charges of the abovementioned nursing care facilities are also borne by users.

It is expected that the reform of the dual system of institutional and home nursing care services will bring about a wider choice of nursing care services of various kinds together with the freedom to combine them. This will also provide users with flexibility to receive necessary services continuously even when they move house due to changes in family circumstances or due to their physical/mental conditions, or even when they are away from their own home.

(2) The development of fair competition between social welfare corporations and private enterprises [Action to be taken during 2005]

The establishment of a condition, where users pay the accommodation fees of nursing care facilities, is considered to promote fairer competitive conditions for social welfare corporations, the main providers of special homes, and other kinds of operating organizations. However, such a measure is still inadequate as long as the conventional system directs the central government and local authorities to provide facility improvement grants (three quarters of a total cost) exclusively for social welfare corporations. The current facility improvement grants system therefore needs to be revised by allocating accommodation payments made by users towards depreciation so as to encourage fair competition among providers of various kinds of nursing care facilities. Healthier and fairer competition will create a wider choice in nursing care services as well as improving their standards. It is planned, as mentioned previously, that the existing facility improvement grants will be replaced with “subsidies for regional nursing care and welfare improvement” in FY2005 and the new subsidization should be applicable to private enterprises, such as NPOs and joint-stock corporations, equal to social welfare corporations, reflecting the perspective of establishing fair competition among them. Simultaneously, in the same respect, the provision of nursing care insurance benefits towards the redemption of facility construction costs (equivalent of depreciation), including the construction of a welfare institution for the elderly and the provision of care beds, should also be revised.

(3) Disclosure of information concerning the details of nursing care services [The bill to be proposed to the ordinary Diet session in 2005, followed by the implementation in FY2006]

In order to enable users to make the right choices of nursing care services, service

providers should be consistent in the information available to users, regarding the differentiation of insured services from non-insured services, the details of houses with nursing care, plus fees and charges. Furthermore, there needs to be a third party, which retains a fair and neutral position, to verify the contents of the information that is disclosed by service providers. Also, information to be disclosed should be "verified" (not "evaluated") by such a third party, keeping the confirmation strictly factual, in order to assist the users' assessment prior to making their choices.
Moreover, the following measures should be implemented regarding specific facilities such as private elderly nursing homes.

1) The clear classification of fees and charges for rooms, insured and non-insured nursing care services, meal services and other services, which are required on a daily basis.

2) A clear explanation of a contract to a user (including terms and conditions for the use of a private room and for a lump-sum admission refund once the user has become qualified to receive nursing care services) in order to protect the user from any severe disadvantage caused by the termination of the contract.

7 Unification of kindergartens and nursery schools

[Issue recognition]

Along with the diversification of parents' working lifestyles in today's society, childcare and child education institutions need to meet a wider range of needs and requirements. Hence, there needs to be an environment where a wide choice of childcare and child education services is available in order to fulfill those needs and requirements. Under the current circumstances, however, such choice is limited. For example, kindergartens are basically operated for only four hours during the day and although the number of kindergartens, which also provide nursery services in response to local needs, has increased considerably over the recent years, they still struggle to respond sufficiently to requests for childcare for new born to two year old babies and toddlers. Nursery schools, meanwhile, concentrate on the provision of long periods of care services but they are not always able to provide child education at the kindergarten standards. With these conditions having been noted, special measures have been implemented in special districts for structural reform, based on proposals forwarded by private organizations and local authorities, where joint care services between kindergartens and nursery schools and the acceptance of the under-threes by kindergartens have been promoted vigorously.

In addition, with a change of social structure, complementary childcare capacity in local communities has diminished, and in urban areas the increasing number of children separated from their parents is particularly alarming. Moreover, households with both parents working, not to mention single-parent families, and even those dedicated to full-time housekeeping and parenting want to be provided with one-off childcare arrangements and/or specific childcare services. Therefore, urgent action needs to be taken in order to fulfill such requests.

In response to local circumstances, measures appropriate for meeting diverse needs as well as for shortening the long lists of children who are waiting to receive childcare and child education services are required, and it is vital to unify administration and regulations for existing kindergartens and nursery schools. Also, administrative involvement in satisfying the above needs must relate to the perspective that childcare and child education are to be provided as "services" at appropriate prices.

Under such a climate, the "Three-Year Plan for Promotion of Regulatory Reform" (Decision by the Cabinet Council, March 19, 2004) has directed that "comprehensive child development must be promoted on a regional scale and a system should be established to

support such a new approach in the best interest of children, that such a perspective should prompt the establishment of "comprehensive centers" to unify childcare and pre-school education while meeting local needs, and that the realization of such a scheme should be carefully assessed according to basic deliberations made during FY2004 followed by the necessary preparation including the implementation of test projects during FY2005 prior to fully-fledged implementation in FY2006". In order to advance the above scheme carefully, the Central Council for Education and the Social Security Council have formed a joint review committee. Discussions to determine the parameters of the role of "comprehensive centers" are in progress.

It would be inadequate to automatically apply the current facility-related regulations for kindergartens and nursery schools to "comprehensive centers", as it would not satisfy the diverse needs described previously. Particularly, the application of regulations exclusive to either kindergartens or nursery schools, or the application of superior regulations (though they may apply to both kindergartens and nursery schools) would only cause tremendous and unnecessary pressure on the operators of "comprehensive centers" and hinder smooth coordination during the transitional phase from the kindergartens/nursery school status to the "comprehensive center" status.

Therefore, instead of adhering to the existing facility regulations for kindergartens and nursery schools, there should be the flexibility to adjust them to be more appropriate for the operation of "comprehensive centers" (i.e. moderating the standards to a less stringent level) so as to meet the diverse needs and demand for childcare and child education with more adaptability while reflecting local circumstances.

[Specific measures]

The full-scale operation of "comprehensive centers" will commence in 2006 and the facilities and equipment for the centers should be coordinated as below. Also, the organizational mechanism of both existing and new kindergartens and nursery schools, not to mention those that are involved in the linking and unification program in the special districts for structural reform, should be prepared for a smooth transfer to the "comprehensive center" status with due consideration for local needs.

[Action to be taken by the full-scale operation in FY2006]

1) The targeted audience and service usage

"Comprehensive centers" are basically intended for all children of preschool age from

birth, and their parents and guardians. The centers should also be able to respond to regional circumstances and needs flexibly. A system should be introduced where a user is basically able to apply to a center of his/her choice directly and a “direct contract” may be concluded between the users and the center upon the center’s assessment and admission, and where users may be qualified for a school expense allowance according to income capacity criteria. There also needs to be consideration given to establishing a mechanism by which information of “comprehensive centers” and evaluation by third parties are disclosed to enable users to make the right choices, as well as a mechanism to prioritize applicants according to the degree of need.

2) Operating hours

Operating hours are determined based on those of existing nursery schools, providing that such operating hours are arranged flexibly in response to local circumstances.

3) Facilities and equipment

a. Kitchen

Compulsory food supply at “comprehensive centers” will incur tremendous costs for refurbishing kitchens when transforming kindergartens to “comprehensive centers”. The reality is that a kindergarten often has to share one kitchen between the main building and a subordinate building or that a kindergarten has to share the kitchen of a nearby social welfare center or school. While such reality has to be accepted reluctantly, it is not practical for “comprehensive centers” to have their own kitchens to provide food for all the children they accommodate. For instance, babies and toddlers between newborn and two years old are naturally the most demanding and require careful attention constantly, and appropriate food, such as baby food, can be provided by an external catering company, providing that the company has a kitchen, which only has to be the size of a domestic kitchen, and satisfies hygiene regulations. Hence, there needs to be consideration given to creating a mechanism where “comprehensive centers” are capable of providing food for children flexibly as well as efficiently while taking into account the age range of the children and responding to regional circumstances.

b. Playgrounds and staffrooms

The kindergarten regulations stipulate that a play ground is essentially to be constructed either within or next to the premises of a kindergarten and that it is compulsory to have a staffroom. It may be the case that these regulations are not met when existing nursery schools are transformed to "comprehensive centers". The construction of a new playground costs the operator of a "comprehensive center" an enormous amount of money, thus discouraging the provision of new education services. In respect of the function of playgrounds, "comprehensive centers" should be allowed to take initiatives such as securing nearby public parks as their playgrounds, providing there are no complications. In addition, a staffroom can also be provided by making an existing room a multi-function room.

4) The allocation of staff members

The long-period of operation of nursery schools for babies and toddlers between birth and two years old concerns nursery school regulations, which stipulate one teacher per three newborn babies and one teacher per six one to two-year olds. However, providing that the quality of childcare services remains high, some measures should be considered to introduce more flexibility and efficiency in order to meet local requirements.

5) Teacher qualifications and certificates

With a focus on the details of childcare and child education services that are provided by "comprehensive centers", any teacher, who has either a kindergarten teacher qualification or a nursery teacher certificate, but not both, should not have his/her application disregarded or should not be removed from duties.

6) Operating providers

Upon the transfer of existing nursery schools to "comprehensive centers", if authorization to operate "comprehensive centers" is granted exclusively to school juridical organizations, it will prevent nursery schools operated by joint-stock corporations from becoming "comprehensive centers". In order to utilize resources more effectively, entry of NPOs (Non-Profit Organizations) and joint-stock corporations to the operation of "comprehensive centers" should be permitted.

7) The authorization and supervision by local authorities

There needs to be a system to enable administrative unification according to the conditions and circumstances surrounding each local authority as well as the simplification and efficiency of administrative procedures when promoting "comprehensive centers".

8 Standardizing competitive conditions for schools with different management styles

[Issue recognition]

At present in Japan, elementary and junior-high school education is mainly provided by market-share dominant state schools, plus private schools that are beginning to secure their market share. Both state and private schools observe the same regulations as laid down by the School Education Law (Law No.26 of 1947) and although school policy and ethos naturally vary from school to school, there is not much difference between state schools and private schools in terms of key educational objectives including learning-teaching conditions and content.
Meanwhile, in the light of public education grants to students (including high-school education), the amount of a grant per student varies significantly depending on whether the student attends a state school or a private school. Furthermore, such difference in the grant causes a variation in tuition fees, and parents and guardians can bear enormous expense when they choose private education for their children. Schools run by joint-stock corporations and NPOs (Non-Profit Organizations) in special districts for structural reform are not eligible for any form of subsidy arrangement, although their fundamental education policy very much echoes that of any other schools regardless of the type of management style. Such a condition of imbalance among schools conflicts with legal equality. Moreover, the implementation of such an unfounded measure cannot be acceptable.
In order to create a situation where every single individual is provided equally with the education services he/she desires, the standardization of competitive conditions is necessary by taking measures such as the introduction of a school voucher system and public funding for private schools founded by joint-stock corporations so that competitive conditions apply to all education service providers, regardless of the type of management style.

School voucher systems are already exercised by various countries as another means of providing public educational funding. The introduction of a school voucher system in Japan will correct the disparity in the amount of subsidy from school to school and simultaneously promote fairer competition among education service providers with different management styles. Subsequently, children and their parents and guardians will benefit from a wider choice of a rich variety of education services.

School voucher systems are exercised in other countries for various purposes such as to support children from low-income families and children with disabilities. The form of vouchers also varies such as in the form of coupons to users, in the form of scholarships to the eligible, and in the form of funding to a school of a certain amount per head multiplied by the number of students accommodated by the school. Also, the significance and effect of such school voucher systems are often debated on a domestic and international scale.
It is therefore necessary to discuss thoroughly the introduction of a school voucher system in Japan from various viewpoints including the range of eligible schools (state schools, private schools, kindergartens, elementary schools, junior-high schools, high schools etc.) and the entitling of children and parents, the determination of the amounts to be granted, and delivery methods (a bank transfer system, an assistance and funding system for schools based on the number of students etc.).

Regarding the application of public funding to private schools founded by joint-stock corporations and NPOs, the Council for the Promotion of Regulatory Reform understands that the demand for higher tuition fees as a result of the exclusion of corporately-managed schools from eligibility for public funding upsets the equality of opportunity to receive education, which is protected by law. Hence, the Council proposes temporary measures aiming at the standardization of competitive conditions for schools with different management styles (state, public, private, corporate etc.) so as to entitle corporately-managed schools in special districts for structural reform to public educational funding equal to that of school corporations.
The Ministry of Education, Culture, Sports, Science and Technology however insists that the delivery of public funding to corporately-managed schools, which benefit from the distribution of private corporate profits anyway, hardly meets the nation’s perception. The Ministry also argues that it is a constitutional condition under which public moneys are to be provided for education services under “public control” and therefore, it is difficult for the government to apply public funding to any private school operator such as a joint-stock corporation.
The above constitutional matter has been addressed in the reply by the Cabinet Legislation Bureau at the Committee on the Cabinet in the House of Councilors on May 20, 2004, that “although there is currently no system under the Private School Law to order a school corporation to dissolve, it is well worth exploring the possibility of setting up some procedures while taking all the present circumstances into consideration”. This indicates the possible availability of public funding to corporately-managed schools under “public

control" stipulated by Article 89 of the Constitution by the specific re-coordination of concerned regulations.

On the other hand, the Ministry of Education, Culture, Sports, Science and Technology also points out that joint-stock corporations under "public control" will be obliged to observe the same regulations as school corporations, which conflicts with the primary objective of the special program conducted in special districts for structural reform where schools operated by joint-stock corporations retain their corporate status, thus are exempted from the observation of such regulations. The Ministry therefore emphasizes that the enforcement of the regulations on those corporately-managed schools in order to enable the delivery of public educational funding will defeat the main point of the special program.

Such a viewpoint of the Ministry of Education, Culture, Sports, Science and Technology suggests nothing but the enforcement of the current regulations on school corporations in order to keep them under "public control", neither does it suggest any consideration for exploring an alternative measure. This view also differs from the opinion expressed by the Cabinet Legislation Bureau. Moreover, the Ministry of Education, Culture, Sports, Science and Technology has been unable to provide any clear, rational argument to support the political incompatibility of the adoption and implementation of measures and regulations other than the current regulations imposed on school corporations.

The implementation of the special program, applying a particular set of regulations to school providers in special districts for structural reform, only signifies a means of securing equality among them. Schools run by joint-stock corporations and NPOs should have equal footing with other schools in all matters including the eligibility for public educational funding. As a matter of fact, corporately-managed schools do request for public funding for their education services while at the same time they wish to retain their corporate status as joint-stock corporations or NPOs. There does not seem to be any rational reason why their request and intention should be ignored and why possible measures should not be explored to meet their request.

Furthermore, it is understood that the whole idea of "public control" stipulated by Article 89 of the Constitution is to clearly separate government and religion, thus prohibiting public moneys to be granted to religious education. The conditions for "public control" are made clear enough by the regulatory perspective of prohibiting public moneys to be spent on religious education, but based on the indication made in the abovementioned reply by the Cabinet Legislation Bureau, it is well worth considering a substantial review of the conditions for "public control" from the viewpoint of standardization competitive conditions for all schools, regardless of their status, in the education market. Nonetheless, the

Ministry of Education, Culture, Sports, Science and Technology continues with the total disqualification of corporately-operated schools providers, i.e. joint-stock corporations and NPOs, for public educational funding, when there are no grounds whatsoever for such insistence. Such practice is creating nothing but disappointment.

Incidentally, it was authorized in February 2003 as part of the special program applying particular measures within special districts for structural reform that joint-stock corporations and NPOs may become school operators. Subsequently, four corporately-managed schools were opened in April 2004 and the issue regarding the standardization of competitive conditions among corporately-operated schools providers and school corporations has been raised. Furthermore, the collection of proposals regarding special districts for structural reform indicates significant favor for the availability of public funding to corporately-operated school providers, and this has been echoed in 78 proposals since the first collection until the sixth collection in October and November 2004.

[Specific measures]

The implementation of a school voucher system in Japan should be studied and discussed thoroughly while examining the social climate and the education system of Japan as well as other countries' examples from various perspectives by defining the significance of such as system and analyzing the problems entailed. **[Study and discussion to be initiated in FY2005]**

9 Lifting the ban on "publicly-financed but privately-managed" schools

[Issue recognition]

Elementary, junior-high and high school education has a low market share in the private sector, thus it is unable to meet diverse consumers' needs. Particularly, when it is difficult to establish private schools in certain areas, the promotion of private schools in a wide range of styles will offer a rich variety of unique education services through healthy competition. Hence, the lifting of the ban on "publicly-financed but privately-managed schools" could be an effective measure so as to realize a distinctive school management that has the capacity to respond flexibly to consumers' needs by employing the ingenuity of private enterprises.
The collection of proposals regarding special districts for structural reform shows in favor of the lifting of the ban on "publicly-financed but privately-managed schools", including those for compulsory education, and that favor is echoed in the 73 proposals that have been received since the first collection until the sixth collection in October and November 2004.

The matter was "to be discussed at the earliest possible time by the Central Council for Education in connection with the comprehensive delegation of the management and operation of public schools to the private sector (the rest omitted)". This was proposed in the "Basic Policy for Economic and Fiscal Management and Structural Reform 2003" (Decision by the Cabinet on June 27, 2003) and a similar statement was made in the "Three-Year Plan for Promotion of Regulatory Reform" (Decision by the Cabinet Council, March 19, 2004). In addition, the Headquarters for the Promotion of Regulatory Reform drew up a special regulatory measure in September 2003, applicable to special districts for structural reform, "to discuss the comprehensive delegation of the management and operation of public schools, restricted to high schools and kindergartens only, and to take necessary action based on the deliberations reached (within 2003)". The Ministry of Education, Culture, Sports, Science and Technology correspondingly conducted studies regarding the above matter through the Central Council for Education and the outcomes were reported in March 2004, yet no further action has been taken for the realization of "publicly-financed but privately-managed schools".

The Council for the Promotion of Regulatory Reform has always supported the Ministry of Education, Culture, Sports, Science and Technology in the discussion about the realization

of “publicly-financed but privately-managed schools”, and has proposed two ways to do this in its “Interim Summary” (August 3, 2004). The two proposals are as follows:

1) When a “publicly-financed but privately-managed school” is operated under the mixed-style management of public school and private school management, the local authority is accountable for any official action taken regarding a student’s behavior including the suspension and expulsion of the student.

2) Alternatively, when a “publicly-financed but privately-managed school” is operated under a form of private school management, the suspension and expulsion of a student may have the same effect as the termination of a contract between the school and the student’s parent/guardian.

Taking into account the views and proposals of the Council for the Promotion of Regulatory Reform, the Ministry of Education, Culture, Sports, Science and Technology has been engaged in further discussions regarding the institutionalization of “publicly-financed but privately-managed schools” and has envisaged difficulties mainly in two aspects: (1) When various styles of management can be applied to the operation of “publicly-financed but privately-managed schools”, education policies need to be coordinated between public education and private education (in private education educational activities are implemented based on the “self-motivated learning spirit”), in the light of the significance of the education system of Japan. More precisely, a public school can no longer be identified as a public school merely because its facilities are physically provided by the local authority. (2) Educational activities organized by public schools are all incorporated in the comprehensive education program including curriculums, admission and expulsions, performance records and evaluations, certification of completion and graduation, and daily teaching and guidance. Hence, it is difficult to differentiate activities under public authorization from those activities under private authorization. On the other hand, the Ministry of Education, Culture, Sports, Science and Technology has also indicated a policy to institutionalize a new type of school in special districts for structural reform, which are established collaboratively by school corporations, joint-stock corporations, NPOs (Non-Profit Organizations) and local authorities (“public-private cooperative school corporations”). Such “publicly-financed but privately-managed schools” are expected to bring about a distinctive education that meets local authorities’ needs by adopting private corporations’ expertise and ingenuity.

The Council for the Promotion of Regulatory Reform sees that even a public school has to refer to legislative and political requirements when making a decision over whether the admission or expulsion of a student is an administrative action (i.e. an action subject to a revocation suit) or an action taken within the scope of a civil contract. Furthermore, the Council believes that the local authority should bear the ultimate legal responsibility for such an action, even if it is an administrative action, since it is the local authority that delegates the management of a "publicly-financed but privately-managed school" to a private corporation.

According to the proposal by the Ministry of Education, Culture, Sports, Science and Technology, basically a local authority provides a "public-private cooperative school corporation (tentative name)" with school grounds, buildings and the necessary operation funding, and the school is operated under a private provider's management by applying corporate expertise and ingenuity consistent with the framework established by the local authority. In response to a request echoed by the local authorities and NPOs in special districts for structural reform, the proposal also supports a mechanism by which the realization of a school by such a combination of public funding and private management is attempted so as to deliver distinctive education as well as to realize NPOs' education philosophy. This mechanism will promote the establishment of private schools, where it is currently difficult to do so, and will allow the full application of private corporate ingenuity to the development of distinctive school management that meets consumers' needs with flexibility. The mechanism sounds promising but it also has a drawback in that the incentives of participating private corporations are inhibited because the business aspect of school establishment is still restricted.

The Ministry of Education, Culture, Sports, Science and Technology sees difficulty in exercising the comprehensive delegation of the management and operation of public schools to joint-stock corporations and NPOs by contract, especially when considering the position of public schools within the current education system. The Council for the Promotion of Regulatory Reform, on the contrary, sees a positive prospect in the steady progress of the provision of wide-ranging education services through the mechanism that promotes the development of "public-private cooperative school corporations". Hence, the Council supports further discussions on this matter.

[Specific measures]

Diversification of education services through “public-private cooperative school corporations” [Action to be taken during 2005]

An introductory development of “publicly-financed but privately-managed schools” that are operated by “public-private cooperative school corporations”, as proposed by the Ministry of Education, Culture, Sports, Science and Technology, will facilitate participation by NPOs in education services from two perspectives: (a) The establishment of a “publicly-financed but privately-managed school” need not require the prefectural governor’s approval of resource requirements. Instead, a special measure could be introduced, to enable the same authorization by the director general of the special district authority. (b) The special district authority then provides the school with the basic funding necessary for school grounds and buildings (as either a grant or a loan/assignment at a moderate charge) as well as with annual subsidies. Meanwhile, concerns regarding the hampering of private corporate initiatives and ingenuity, plus the suitability of corporations using public funds for the appropriate operation of “publicly-financed but privately-managed schools”, should be addressed by ensuring the following points when such schools are introduced in special districts:

1) The significance of the establishment of “publicly-financed but privately-managed schools” by “public-private cooperative school corporations” for local authorities lies in the improvement of public school management by utilizing private corporate creativity and innovativeness so as to fulfill diverse educational needs, and in the more efficient use of public funds for the establishment and management of public schools. Therefore, “public-private cooperative school corporations” are expected to provide education services which are consistent with the aims and objectives set by local authorities. Such education services are also wide-ranging and flexible so as to fully satisfy the requirements of students and their parents/guardians. Such “public-private cooperative school corporations” must also be capable of using public funds efficiently and effectively while at the same time maintaining their fairness towards private schools.

2) Private organizations that wish to get involved with “public-private cooperative school corporations” and the continuing involvement of same should be selected and assessed carefully and fairly according to publicly announced local policies and

related conditions. Especially, the selection of private organizations must be processed carefully, while at the same time taking into account their capacity to provide high-standard education services and the level of any local public financial burden, so that selected private organizations will bring the maximum benefit for both local authorities and residents.

3) "Publicly-financed but privately-managed schools" by "public-private cooperative school corporations" should be classified as a form of private school with the intention of adopting "private corporate know-how and innovativeness". Therefore, there needs to be a system to ensure that local policies are reflected adequately in the operation of such schools while the ingenuity and initiatives of NPOs are generated freely and to the maximum extent.

4) From the perspective of ensuring the appropriate operation of "public-private cooperative school corporations", there should be a system, by which management-related information including financing, accounting, curriculum, admission, school credits and staff information is disclosed consistently, and any evaluation made by students and their parents/guardians regarding schools and teaching staff is regarded as the most invaluable advice and information.

5) From the perspective of ensuring the appropriate operation of "public-private cooperative school corporations" and the proper use of public funds, there should be a measure to prevent the possibility of any moral hazards caused by private firms, such as that by which a school corporation is liable to return a grant, loan or assignment to the providing local authority, should the school corporation fail to reflect local policies in school management or should it receive a poor evaluation of its performance from students and their parents/guardians.

6) Moreover, there needs to be procedures by which, in the case of a "public-private cooperative school corporation" being improperly operated, the local authority may call for cooperation by other schools to enable the transfer students from the unfit school.

In addition, further discussion is required so as to develop a system to implement the comprehensive delegation of the operation and management of public schools by a contract consistent with a review of the basic concept of the outsourcing of administrative work to private firms.

10 Promoting the opening of “Hello Work” services to the private sector

[Issue recognition]

“Hello Work” is the collective name for public employment security offices in Japan. They are government-run job agencies that provide free job placement services and unemployment insurance-related services. There are approximately 24,000 staff members (of which half are non-regular employees) allocated throughout the country, and approximately 15,000 of them (of which approximately 9,000 are non-regular employees) are involved in job placement services.

Over recent years, there have been more middle-aged white-collar workers and young workers without jobs, and both the type of unemployment and the age range of the unemployed have widened. As supported in discussions by the Council for Regulatory Reform and the Council on Economic and Fiscal Policy as well as in “Basic Policy for Economic and Fiscal Management and Structural Reform 2003” (Decision by the Cabinet on June 27, 2003, and “Basic Policy for Economic and Fiscal Management and Structural Reform 2004” (Decision by the Cabinet on June 4, 2004), Hello Work has been exploring efficient and effective ways to tackle such diversified unemployment problems by adopting the private sector’s strategies. Nonetheless, Hello Work still receives criticism that it is not necessarily providing adequate job placements for the unemployed efficiently and effectively. It is also a fact that Hello Work employs non-regular staff members with private sector backgrounds on short contracts, and these temporary staff members are allocated to one-to-one type consulting services and employment search services. It is becoming much more common for a government-run organization such as Hello Work to employ those with private sector backgrounds, and the quality and performance of such human resources are gradually reaching the high standards of regular civil servants. It has not been confirmed whether the system, which allows the recruitment of non-regular human resources with private sector backgrounds, has an effect on incentive enhancement, nor has it been demonstrated that there is a link between the employment of human resources with private sector backgrounds and the efficiency of service delivery processes. Also, information regarding the overall incurred costs has not been revealed to a satisfactory degree. Furthermore, job placements should be carried out in connection with vocational education and training, but in reality, unlike in the private sector, in the public sector Hello Work arranges vocational training schemes independent of the provision of job placements. Hence, these two services need to be linked closely so as to enhance the practicality and

efficiency of job placement services. Moreover, there is a system which allows job seekers to select public vocational training courses as they wish. The commission of vocational training to private firms has also been encouraged. There is some criticism, however, that such arrangements (e.g. the range of training schemes and timetables) are not adequate enough to meet job seekers' needs.

In contrast, job placement services and vocational training services have been making good progress in the private sector.

Private job agencies normally charge recruiters for finding desired human resources on their behalf, and they find suitable employers for job seekers free of charge. From the job seeker's point of view there is no difference between the public sector and the private sector, in terms of providing job placement services free of charge. In the respect of recruitment services, it is only a matter of whether the incurred costs are borne by the government or by recruiters who commission recruitment to private job agencies.

It is high time to make a decision on whether to continue to provide free, nationwide job placement services by civil servants or to take a drastic measure by opening these public services to the private sector, where private job agencies can use their skills and expertise fully in the provision of high-quality services as well as in keeping down costs.

In such circumstances, the Third Report on the Promotion of Regulatory Reform (by the Council for Regulatory Reform on December 22, 2003) stated as follows under "the promotion of the opening of job placement services to local authorities and private providers":

"Public employment security offices (collectively "Hello Work") should maintain the basic function and the service quality, and a drastic review is required and a decision should be made regarding the services and the organizational structure to provide those services, including the further expansion of the outsourcing of job placement services, the introduction of a public-private cooperative system, the establishment of independent administrative corporations, and the transfer of services to local authorities. It is pointed out that Hello Work does not always obtain a high rate of correlation between recruiters and job seekers."

[Specific measures]

(1) Further promotion of the opening of Hello Work services to the private sector

[Action to be taken during FY2005]

Taking the above facts and circumstances into account, Hello Work (public employment security offices) should learn positively from the private sector how to deliver services (job placements and vocational training) more efficiently so as to further reduce mismatches in job requirements and human resource allocation by adopting the knowledge and experience of private fee-charging job agencies and vocational training providers. The opening of Hello Work services to the private sector should be encouraged further by introducing some arrangements such as inviting employment support experts from private enterprises.

(2) The implementation of "market testing" [re-listed]

The Council on Economic and Fiscal Policy has discussed the orientation of Hello Work services from the perspective of experimentally subjecting Hello Work services to "market testing" (a system that conducts competitive tendering between the public and private sectors in FY2005). Mr. Koizumi, the Prime Minister of Japan, has also given instructions to "successfully complete the experiment in FY2005". Taking into consideration private providers' suggestions regarding "market testing", the following services are experimentally subjected to "market testing" by a careful operation as stated below. [Services for "market testing" to be ultimately determined during 2004, followed by implementation in FY2005]

a. "Publicly-established but privately-managed" Career Exchange Plaza services
"Career Exchange Plaza" is part of the Hello Work structure and has 15 bases allocated throughout Japan. "Career Exchange Plaza" provides employment support services (career consulting, seminars etc.) for job seekers (particularly in the managerial and technical fields).
With the aim of reducing service costs and to improve service quality by employing private providers' skills and expertise, five bases of "Career Exchange Plaza" are set up as mock agencies that provide wide-ranging employment support services, including job placements, subject to "market testing" (experimental services). These mock agencies are operated by adopting the "publicly-established but privately-managed" concept so as to generate the maximum use of private corporate

ingenuity in providing services.

The importance of setting up experimental services that are subject to "market testing" lies in the assessment of the effect of successful private bidders managing publicly-established job agencies on service quality enhancement and cost reduction as a result of adopting their knowledge and experience in comparison to service quality and cost effectiveness when managed completely by government-driven job agencies. Hence, there needs to be a measure that enables transparent, neutral and fair comparative verification of service operations of both the public and private service providers. There also needs to be a measure by which Hello Work is required to provide appropriate job information at the appropriate time so as to retain an equal footing for both public and private providers while facilitating the course of service operations. Job information obtained by Hello Work may be disclosed when acknowledged by recruiters and it must be made clear that job information is available to private service providers for employment services purposes only, otherwise confidentiality must be strictly observed.

b. "Publicly-established but privately-managed" Career Exchange Plaza for Young People

In addition to a., one base of "Career Exchange Plaza for Young People" is set up as a mock agency that provides wide-ranging employment support services, including job placements, subject to "market testing" (experimental services). The mock agency is operated by adopting the "publicly-established but privately-managed" concept so as to generate the maximum use of private corporate ingenuity in providing services. As in a., a measure should be taken, by which Hello Work is required to provide appropriate job information at the appropriate time so as to retain an equal footing for both public and private providers while facilitating the course of service operations.

c. The opening of employment search services to the private sector

Hello Work's employment search services based on job-seeking trends are experimentally subjected to "market testing" (experimental services) in three target regions.

d. The opening of Ability Garden's vocational training to the private sector

"Ability Garden" (Lifelong Human Resources Development Center) is a facility

organized by an independent administrative agency and operated by a skill development organization. "Ability Garden" is dedicated to the research and development of vocational training courses as well as to the provision of vocational training programs specifically for nurturing white-collar workers.

With the intention of reducing service costs and enhancing service quality by employing private providers' skills and expertise vocational training services (including employment support services such as job placements intended for those who have completed vocational training) are subjected to "market testing" (experimental services). Facilities and equipment of Ability Garden, which are currently not used in the evenings or on Saturdays and Sundays, are utilized for these training services.

A necessary measure should be taken to enable successful private bidders to reflect fully their ingenuity and innovativeness in the detailed programming of vocational training (lectures, the effective use of facilities and equipment etc.).

[Further issues]

Expressed below are the opinions of the Council for the Promotion of Regulatory Reform:

1) **The vigorous promotion of the opening of Hello Work services to the private sector**

   It is necessary to adopt private providers' skills and expertise to the maximum extent in order to reduce costs and improve the quality of Hello Work services.
   Discussions should be furthered and the conclusion must be reached swiftly so as to proceed with the opening of Hello Work services to the private sector (comprehensive commission to the public sector) to a radical degree.

2) **The furthering of discussions regarding the full-scale introduction of "market testing"**

   The quality of Hello Work services should be improved and cost reduction should be achieved by the opening of the services to the private sector through the abovementioned experimental subjecting of Hello Work to "market testing". The experiment also enables evaluation regarding the efficiency of service delivery processes in comparison with those by government-operated service providers.
   From these viewpoints, the implementation of such an experiment is believed to be

meaningful to a certain degree.

Meanwhile, private providers' proposals, which were collected by the Council for the Promotion of Regulatory Reform between October 18, 2004 and November 17, 2004, largely focus on Hello Work services, indicating a significant interest by private enterprises in delivering the services.

Incidentally, the aforesaid experimental services are opened to the private sector without making specific functional changes and therefore, the experiment is not expected to advance to the subjecting of the entire free job placement services, which are currently managed by public employment security offices individually, to "market testing".

Hence, with a focus on the following, discussions should be furthered and the conclusion must be reached swiftly regarding the full-scale introduction of "market testing".

○ "Publicly-established but privately-managed" Hello Work

Providing confidentiality is strictly observed, basically all the services of a specified category may be opened to the private sector (the comprehensive delegation of the services) where private providers can apply their knowledge and experience to service delivery processes. (The services should be subject to "market testing", i.e. bidding between the public and private sectors, so as to verify publicly for the nation's awareness which sector is more capable of enhancing service quality and suppressing costs. Verification results should subsequently be used for determining the main operating body of job placement services.)

11 Promoting the opening of social insurance to the private sector

[Specific measures]

The Social Insurance Agency is expected to play a vital role in the operation of social insurance, including national pensions, welfare pension insurance, government-run health insurance and seamen's insurance (taking out, reduction and abolishment), collection, pension consultation, provision, and information management.

However, there are hardly any incentives for improving the efficiency of collection of payments and administrative and service operations, and the enhancement of service quality has been neglected for a long time. Consequently, there is an increasing delinquency ratio of national pension premium payments (payments received in FY2003: 63.4%) and the number of the insured to be dealt with per staff member of the Social Insurance Agency has also increased by 3.4 times. Such conditions have been causing inefficiency to the entire operation and have been generating numerous problems such as poor enquiry handling, the careless use of premiums and misconducts.

Meanwhile, the further advancement of the aging population with the falling birth rate is forecasted and the outlook for financial conditions is worse. With such social and financial backgrounds the nation's distrust of the Social Insurance System, not to mention of the Social Insurance Agency, is increasing rapidly.

It is therefore an urgent requirement to improve the collection rate quickly with the main focus on national pension premiums, and resolve the nation's doubts toward the impression of being mystified by the government, while assuring the provision of appropriate, cost-effective services.

Speedy reform is necessary to address many serious issues concerning social insurance services as well as to establish appropriate, transparent and efficient service delivery processes. The parameters of the role of the Social Insurance Agency and its administrative and service operations also require a fundamental review.

In view of the above, the following measures should be taken as soon as possible.

○ **The implementation of "market testing" as a means of opening social insurance services to the private sector [Services for "market testing" to be ultimately determined during 2004, followed by implementation in FY2005]**

As a means of promoting the opening of the Social Insurance Agency's administrative and service operations to the private sector, "market testing" (a system that conducts

competitive tendering between the public and private sectors) should be applied. Private providers' proposals regarding "market testing" were collected by the Council for the Promotion of Regulatory Reform and 23 private providers and 27 proposals concentrated on social insurance and the promotion of "publicly-established but privately-managed" social insurance offices.

Prior to the experimental introduction of "market testing" in 2005, services subject to "market testing" (specified below) are to be operated by five social insurance offices and two pension teleconsulting centers. Further discussions are required regarding the subjecting of types of services to "market testing" from the comprehensive perspective including services that are not subjected to "market testing" on this occasion.

Special districts for structural reform may be used when appropriate.

(1) The receiving of national pension insurance premiums

Since the payment rate of national pension insurance premiums has dropped significantly, services concerning the receiving of national pension premiums (the entire process from reminding payers to deposition for failure to pay, although the Social Insurance Agency should still operate services specifically for the exempted due to low income backgrounds, and determine and implement property seizure as a deposition for failure to pay) should be subjected to "market testing" in a comprehensive approach. When these services are subjected to "market testing", the Social Insurance Agency must swiftly provide commissioned service providers with information regarding those in arrears, providing that confidentiality is strictly observed by the commissioned service providers.

(2) The promotion of welfare pension insurance and government-run health insurance to uninsured businesses

In principle, any corporations and business owners employing five or more employees are obliged to take out both welfare pension insurance and government-run health insurance. However, it has been pointed out that there have been an increasing number of cases where illegal withdrawals are committed and that the obligation is neglected by new business owners. Hence, the actual picture of the uninsured should be identified and they should be instructed to fulfill their obligation urgently.

In this view, services to promote the application of welfare insurance and government-run health insurance should be subjected to "market testing". Upon the subjecting of the services to "market testing", the Social Insurance Agency must swiftly

provide commissioned service providers with information regarding the uninsured, providing that confidentiality is strictly observed by the commissioned service providers.

(3) Pension teleconsulting services

The Social Insurance Agency currently provides enquiry and consulting services both over the office counter and over the telephone (according to the data on July 1, 2004, approximately 2,100 staff members including the non-regular are allocated to pension consulting services, of which approximately 300 work at pension teleconsulting centers). Despite this, the Social Insurance Agency still receives criticism that these services are unsatisfactory from the nation's point of view. As baby boomers will soon become pensioners, the number of pension-related enquiries is anticipated to increase in the near future and, in order to digest inundating enquiries efficiently, pension teleconsulting services should be subjected to "market testing" in a comprehensive approach.

[Further issues]

(1) A radical review of social insurance services and the overall organizational structure

The Social Insurance Agency is criticized for the slow progress of reform conducted by itself. The current system, which operates the process from application to provision, is inadequate for achieving the quality enhancement of social insurance services. In contrast, there are social insurance-related operations, including administrative operation and service operation, in many categories, such as the recovery of small loans, where private providers' skills and knowledge can be adopted.

Hence, the idea that "the public sector's role be administrative-specific by handling only tasks which are beyond the private sector's capacity" should be exercised and all operations by the Social Insurance Agency, including administrative operation and service operation, should be opened to the private sector (comprehensive delegation) in order to improve the collection rate, enhance operation efficiency and deliver the nation-oriented services.

Furthermore, in line with the promotion of the opening of social insurance services to the private sector, the enhancement of operation efficiency and the Social Insurance Agency's organizational downsizing, a radical review is required of the general aspect

of organizational structure and the parameters of the role of the Social Insurance Agency while exploring possibilities of privatization, integration with other administrative bodies and the adoption of "publicly-established but privately-operated" management methods.

(2) Services to be subjected to "market testing" in the future

Services subjected to "market testing" implemented as an experimental measure in FY2005, are limited to three categories including the receiving of national pension insurance premiums. The full-scale introduction of "market testing" should reflect private providers' proposals and suggestions to a considerable degree, and "market testing" should be initiated at the earliest possible time on at least the following services.

1) The opening of office-oriented social insurance services to the private sector in a comprehensive approach (under "publicly-established but privately-operated" management)

The processes of the application, collection and provision of national pensions, welfare pension insurance and government-run health insurance, plus consulting services related to the above should be operated office-oriented, but the services, which social insurance offices provide, should be subjected to "market testing" in a comprehensive approach.

2) The opening of the collection of national pension insurance premiums, including deposition for failure to pay, to the private sector in a comprehensive approach

In order to improve the collection rate of national pension insurance premiums quickly and efficiently, there needs to be close collaborative work of reminding payers and the enforcement of deposition for failure to pay. The subjecting of services to "market testing" implemented to an experimental measure in FY2005 has left out decision-making over property seizure as deposition for failure to pay. This is conducted by the Social Insurance Agency, but including this procedure, the receiving of national pension insurance premiums should be subjected to "market testing" in a comprehensive approach.

12 Facilitating the cross-border transfer of human resources

[Specific measures]

The 21st century has begun and with the advancement of economic globalization the cross-border transfer of not only products, money, services and information but also "human resources" has also been accelerated. Subsequently, there is increasing competition on a global scale to secure highly-knowledgeable and skilled human resources from overseas particularly in the areas of management, research and engineering. The promotion of the recruitment of highly-knowledgeable and skilled human resources from overseas is a strategy vital for the revitalization and continuous growth of Japan's economy. The adoption of overseas services is also beneficial for the Japanese nation.

Japan supports the policy to "actively engage with the promotion of overseas human resources in the professional and technical fields" and has been working on the legislative relaxation of resident eligibility for IT engineers from abroad. However, in reality, there are many areas where the acceptance of overseas human resources is not encouraged, despite the fact that these areas actually involve professional and technical subjects, and it seems that the system is inadequate to authorize permanent residency so as to secure stable status for foreign skilled workers. Moreover, the points made in the Third Report on the Promotion of Regulatory Reform (by the Council for Regulatory Reform on December 22, 2003) have hardly been responded and the provision of accepting conditions for overseas human resources is incomplete.

Therefore, the following measures should be taken quickly together with measures to encourage the securing of highly-knowledgeable and skilled human resources from overseas in diverse fields.

(1) The smooth acceptance of doctors and nurses from overseas

The acceptance of foreign doctors and nurses by the Japanese government is currently very much limited with the exception of acceptance due to reasons such as international medical collaboration and a request by another country by FTA (Free Trade Agreement). The acceptance of doctors and nurses is the key to a future success, thus should be promoted positively in the light of the further advancement of medial technology and the enhancement of the quality of medical care services in the best interest of the people of Japan. It should also be encouraged in the aspect of the further expansion of the medical industry market with many employment opportunities.

From the above perspective, immigration rules require a review so as to facilitate and realize the acceptance of doctors and nurses from overseas.
The following measures should be implemented as soon as possible:

1) **The removal of the employment restraint on foreign doctors and nurses who obtain Japanese national qualifications**

The policy to "actively engage with the promotion of overseas human resources in the professional and technical fields" has not been exercised satisfactorily in the Japanese medical field.

At present, foreign doctors and nurses, who obtain Japanese national qualifications, are restricted with their stay in Japan; for doctors, it is up to six years for either training purposes or allocation to remote regions, and for nurses, it is up to four years for training purposes.

Foreign doctors, who obtain Japanese national qualifications, should be allowed to reside in Japan not only for the completion of training and assigned tasks but also for proper employment by work permits as for any other occupations. The authorization of such employer's status for foreign doctors should reflect consideration for its effect on the rationalization of the domestic labor market and the medical care system as well as the importance of taking a necessary measure such as preparing a framework for the vigorously-promoted acceptance of foreign doctors. Upon these preparations, foreign doctors should play their role equally to Japanese doctors and consequently, employment restraint such as mentioned above should be removed.

[Action to be taken during FY2005]

As for foreign nurses, who obtain Japanese national qualifications, the authorization of employer's status for them should reflect consideration for its effect on the rationalization of the domestic labor market and the medical care system as well as the importance of taking a necessary measure such as preparing a framework for the acceleration of the acceptance of foreign nurses. Upon these preparations, measures should be set up, such as the removal of employment restraint such as mentioned above and/or the extension of the permissible period of stay for foreign nurses so as to enable foreign them to play their role equally to Japanese nurses. The implementation of such measures should be discussed and the conclusion should be reached at the earliest possible time.

[Conclusion to be reached during FY2005]

2) Legislative relaxation over the acceptance of foreign doctors by agreement [Action to be taken during FY2004]

In response to last year's decisions made by the Headquarters for the Promotion of Regulatory Reform and the Japan Investment Council, and the Three-Year Plan for Promotion of Regulatory Reform, the Japanese government issued a ruling that Japan is to accept doctors from another country even when the country does not accept any doctors from Japan. There is however a condition by which the acceptance of a doctor from another country must be acknowledged by certain bodies such as municipal medical associations based on their deliberations. Such a condition certainly hinders the acceptance of foreign doctors.

Hence, legislative relaxation over the acceptance of foreign doctors should be considered to facilitate the acceptance of foreign doctors directly at municipal governors' requests without interference by medial and pharmaceutical associations.

(2) A review of the permanent residence system for the stabilization of employer's status

In order for Japan to succeed in the international human resources market, Japan needs to provide an environment where highly-knowledgeable and skilled workers from abroad can concentrate on their jobs contentedly without worries about their employment status. The Third Report on the Promotion of Regulatory Reform (by the Council for Regulatory Reform in 2003) suggested (a) the early publication of case examples of permanent residence authorization and (b) the provision of a guideline for the criteria of permanent residence authorization. At present, it is not evident that the Japanese government has been engaged in securing long-term residences in Japan for foreign workers so as to encourage full work commitment. Administrative arbitrariness and discretion should be eliminated and criteria to accept "overseas human resources that are contributable to Japanese in diplomatic, social, economic and cultural aspects" need be clarified.

Therefore, the following measures should be implemented as soon as possible:

1) **The publication of case examples of permanent residence authorization [to be implemented sequentially]**

In response to the report by the Council for Regulatory Reform, the Ministry of Justice of Japan publicizes case examples of permanent residence authorization for foreign residents on its website, including applications that have been accepted subsequent to more than five years of residence records and applications that have been rejected, and the website is updated with new cases from time to time. Unfortunately, the website contains only few cases.

More case examples should be displayed on the Ministry's website (e.g. existing case examples continue to be displayed until the total number in each category, i.e. applications accepted and applications rejected, reaches 100) so as to indicate more clearly the level of probability of permanent residence permission to foreign residents.

2) **A guideline for permanent residence criteria [Action to be taken during FY2004]**

The introduction of case examples of permanent residence authorization hardly assures foreign residents of the transparency of the authorization procedures by itself. The last year's report by the Council for Regulatory Reform pointed out the necessity of developing a guideline for permanent residence criteria during this year, followed by its publication. Administrative discretion over the development and publication of such a guideline should be kept to a minimum with consideration for the following:

a. The development of a guideline for permanent residence criteria to accept "overseas human resources that are contributable to Japanese in diplomatic, social, economic and cultural aspects" should reflect diverse views and opinions of concerned specialists and experts as well as people from overseas.

b. Such a guideline for permanent residence criteria should be publicized on the Internet in various languages including English while ensuring Japan's strong intention to accept highly-knowledgeable and skilled human resources from overseas.

13 A radical overhaul of the motor vehicle inspection system

[Issue recognition]

A review of the motor vehicle inspection system has been persistently suggested from the perspective of the further reduction of the nation's obligation to observe the system. The Third Report by the Council for Regulatory Reform made a proposal regarding this matter as one of the top agendas following the awareness of the following problems:

The number of motor vehicles owned privately is increasing yearly; 1.10 motor vehicles per household and 0.43 motor vehicles per person (data: March 2003), so is the number of driving license holders in the last few years; 77.46 million (data: 2003) at the rate of approximately one million per year. Considering these trends, the system that imposes motor vehicle inspections and regular vehicle checkups is a concern closed to people's everyday life and therefore, it requires a fundamental review regularly not only in the light of safety and environmental issues but also in respect of the further reduction of the nation's obligations to observe the system.

At present, the system stipulates that the first inspection of private motor vehicles is due in the third year after the start of the ownership and every two years subsequently. It has been 51 years since the system was established (1952) and the above condition was introduced in July 1983 to relax the provision concerning the first inspection on private vehicles by shifting the validity time from the second year to the third year after the start of the ownership. The provision concerning the inspection of private vehicles that are ten years old and beyond was also relaxed in 1995 but merely by shifting the validity time from the first year to the second year after the start of the ownership.

It is also clarified legislatively by the revision of the Road Trucking Vehicle Law (Law No.185 of 1951) in 1995 that motor vehicle owners are responsible for their vehicle maintenance (checkups and upgrading) including the handling of malfunctions.

Furthermore, in comparison with Japan, other countries, such as those in Europe, allow longer validity periods for motor vehicle inspections under their motor vehicle inspection systems, e.g. in the fourth year after the start of the ownership, (the longest period approved by the EU.

In addition, this matter was raised in the Third Report by the Council for Regulatory Reform that "bearing in mind the true objective of motor vehicle inspections, checkups and upgrading, which is to realize safe motoring synchronized with our living environment, necessary data should be gathered, investigations should be carried out, and the outcomes

should be summarized by the end of FY2004 so as to determine the appropriate validity periods for motor vehicle inspections in terms of safety, environmental conservation and technological advancement. The conclusion should be reached, upon which necessary measures should be taken swiftly". Subsequently, the proposal was approved by the Cabinet and was incorporated in the "Three-Year Plan for Promotion of Regulatory Reform" in March 2004.

It is understood that taking the course of the above development into account, the Ministry of Land, Infrastructure and Transport has been furthering discussions regarding the ideal role of the system of motor vehicle inspections, checkups and upgrading. The Council for the Promotion of Regulatory Reform believes in the immediate implementation of a radical overhaul of the motor vehicle inspection system.

[Specific measures]

A constant review is considered to be vital regarding the validity periods of motor vehicle inspections from the viewpoint of the further reduction of the nation's obligation to observe the motor vehicle inspection system. Investigations should be conducted and the outcomes should be summarized by the end of FY2004 so as to determine the appropriate validity periods for motor vehicle inspections. Subsequent measures should be implemented speedily as required.

[Deliberation during FY2004, followed by the swift implementation of necessary measures]

14 Criteria for regulatory reviews

[Issue recognition]

As stated in the Third Report on the Promotion of Regulatory Reform (by the Council for Regulatory Reform on December 22, 2003), in order to improve the transparency of administrative procedures and the quality of regulations, guidelines for formulating regulations and systems have been revisited by the "Administrative Procedures Act" (Law No.88 of 1993), "Public Comment Procedure for Formulating, Amending and Repealing a Regulation" (Cabinet decision on March 23, 1999) and the "Prior Confirmation Procedures on the Application of Laws and Regulations by Government Agencies" (Cabinet decision on March 27, 2001).

In addition to the usual way of implementing "regulatory reform" with the main focus on individual categories and provisions, the furthering of "regulatory reform" requires a review of itself based on review criteria from the cross-sectional perspective.

A regulation is delivered after thorough consideration, reflecting social needs at the time of introduction. When the regulation remains as it is without a review, despite the fact that it has lost a great degree of its significance and effect alongside socio-economic changes, it would trigger many problems and damage in various aspects. This was pointed out in the abovementioned Third Report.

Under the above awareness, the Council for the Promotion of Regulatory Reform therefore supports the development of cross-sectional criteria to conduct radical reviews of regulations in all areas in order to encourage discussions and deliberations swiftly and objectively about the necessity and rationality of regulations.

[Specific measures]

(1) The development of criteria for regulatory reviews [Action to be taken during FY2005 and implemented sequentially]

The Council for the Promotion of Regulatory Reform will encourage cooperation by concerned government ministries and involved local authorities to establish criteria for regulatory reviews ("review criteria" hereafter) and promote regulatory reviews vigorously according to the following perspectives:

1) The ethos of review criteria

Review criteria must be established from the aspects of participation, withdrawal, service details, and competitive conditions. The review criteria must also encompass all areas to support a cross-sectional approach to review regulations. Moreover, the review criteria are not to define minimum requirements but to define the standard level and any regulations, which exceed the standard level, should be examined closely to verify their necessity and legitimacy.

2) Fundamental views on the establishment of review criteria

The establishment of review criteria should be processed from the perspectives below:

- Amendments of regulations with the main emphasis on activities based on the private sector's free will
- The abolishment of regulations related to economic activities based on the assumption that such economic activities may be controlled by the market mechanism, plus the minimum requirements stipulated by other regulations, which are correctly referred to the objectives of the regulations
- Consistency with international law and standards
- The simplification of procedures and the ensuring of efficiency improvement in implementation and operation by adopting the private sector's abilities.
- The clarification of administrative responsibilities to the nation by elucidating and publicizing review criteria
- Positive engagement with the reviewing of regulations regarding administrative operations in the public service categories from the standpoint of the privatization of public services and the transfer and the outsourcing of public services to the private sector.

In addition to the above, the views expressed in the "Three-Year Plan for Promotion of Regulatory Reform (revised)" (Cabinet decision on March 28, 2003) must also be reflected in the establishment of review criteria.

3) The procedures of the establishment of review criteria

For Japan, regulatory reform is an urgent matter and must be implemented as soon as possible so as to realize structural reform. Hence, the swift progress of establishing review criteria is very important, and review criteria may be set up and

applied to certain regulations that require a regulatory review more urgently than others. Review criteria established according to priorities must still be approved by the government quickly prior to the swift implementation of a review.

4) Specific measures

In the view of prioritization according to the level of urgency as described above, top priorities would be (a) review criteria for regulations under provisions other than regarding the issuance of notifications and ultimatums (criteria for abolition and legislation) and (b) review criteria for regulations under provisions that have exceeded a certain period of time since the date enforced (criteria for abolition). Such regulations are considered to be high priorities for a regulatory review and they need to be identified specifically prior to the establishment of review criteria and the implementation of a review, based on the deliberations made by various regulatory reform promotion bodies, including the Council for the Promotion of Regulatory Reform and its former organization, the Council for Regulatory Reform, as well as taking into account private providers' proposals, which were collected during the application period, regarding special districts for structural reform and nationwide regulatory reform. It is needless to say that review criteria for other less high priority regulations also require careful consideration and implementation.

(2) The promotion of mandatory RIA (Regulatory Impact Analysis)

[To be implemented in FY2004 and continued sequentially]

The application of RIA (Regulatory Impact Analysis) is considered to be important upon the establishment of review criteria and the implementation of regulatory reviews based on the criteria. RIA is currently conducted experimentally by involved government ministries.

The Council for the Promotion of Regulatory Reform promotes the exercise of RIA in collaboration with the Ministry of Internal Affairs and Communications; the "Procedure for the Experimental Implementation of Regulatory Impact Analysis (RIA)" has been produced to encourage government ministries to engage with the promotion of RIA. Moreover, the Price Stabilization Policy Council has been engaged in the establishment of RIA guidelines in relation to public fees and charges.

All Japanese government ministries must engage themselves actively, in collaboration with the Council for the Promotion of Regulatory Reform and the Ministry of Internal Affairs and Communications, with the experimental implementation of RIA and research

studies to promote the mandatory prior assessment of regulations.

In addition, the Ministry of Internal Affairs and Communications has been conducting research studies to promote the development of an evaluation method in the light of policy evaluation. In FY2005, in collaboration with the Council for the Promotion of Regulatory Reform, the Ministry will swiftly identify and analyze the progress of the implementation of RIA, which has been conducted by different government ministries since FY2004. The outcomes will be summarized and contributed to the ministerial database and to further research studies. Upon the completion of the development of an evaluation method, the promotion of the mandatory prior assessment of regulations should be furthered under the framework of “Law regarding Policy Evaluation by an Administrative Body” (Law No.86 of 2001) so as to realize the enforcement as soon as possible.