The Realization of “A Compact and Efficient Government”

The Framework of The Improvement of The Public Services Efficiency Bill (Market Testing Bill)

September 27, 2005

The Council for The Promotion of Regulatory Reform

Contents

Introduction

The Council for the Promotion of Regulatory Reform (The Council) has been actively taking part in the structural reform under the basic principles, “No growth without Reform” and “Leave to the private sector what it can do”. Entering the third year since the inauguration of The Council, which is a halfway point of the reform, the reform still has much more progress to make within the remaining time before completion.

The Council has been addressing various issues this year from the perspective of regulatory reform and the opening up of public services to the private sector, including the entry of public services into the private sector by the means of full-scale introduction of “Market Testing” (competitive bidding between the public and private sectors), the formulation of regulatory criteria and the scope of the Japanese government’s involvement in fields that closely relate to government-driven markets, the lives of Japanese citizens and industrial activities. Among them the most urgent priority agenda for the Japanese Cabinet has to be the realization of “A Compact and Efficient Government” by the drastic improvement of efficiency and cost effectiveness in administrative operations. The Council has also been diligently engaged in tackling important issues so as to accelerate the process of the legislative introduction of “Market Testing”.

Subsequent to the above, with respect to the formulation of a basic institutional framework essential for the realization of “A Compact and Efficient Government” including “Market Testing”, The Council believes it to be meaningful that its opinions are publicized at an early stage and hence, they are presented in this paper. The Council sincerely hopes that what is presented in this paper will help accelerate thorough discussions and deliberations on the realization of “A Compact and Efficient Government” including the selection of public services to which “Market Testing” may be applied.

Described below are The Council’s views outlined for the improvement of the public services efficiency.

(1) Thorough implementation of the opening up of public services to the private sector by the full-scale introduction of “Market Testing” (competitive bidding between the public and private sectors)

In order to improve the quality and cost effectiveness of public services, the entire range of governmentally-operated public services requires constant review of their indispensability and efficiency. As a tool to implement such a review, “Market Testing” is already employed in many other advanced countries. Japan should also implement “Market Testing” vigorously so as to promote the thorough opening up of public services to the private sector. More precisely, preparing for the full-scale introduction of “Market Testing” in FY2006, The

Council insists that the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” must be formulated and proposed to the Diet during FY2005. The Council is also in the process of outlining a bill that involves the establishment of a “Third-party body”, which has powerful authority in a neutral state over the thorough practice of information disclosure regarding public services and the monitoring of the entire service operations. The Council also intends to institutionalize these frameworks in a timely manner.

(2) Promotion of the opening up of public services to the private sector

Since last year, the principle “What can be done by the private sector must not be done by the public sector” has been the basis of the identification of each public service that can be opened up to the private sector. This year this operation concentrates on benefit provision/premium collection services, inspection/ verification services and training/research services among administrative work and projects, which are directly operated by the government and/or by independent administrative institutions and government corporations.

(3) Regulatory review criteria

Priority constraints in formulating review criteria preferentially are based on provisions concerning notifications and transmittals other than constraints specified by ordinances. Among them “government criteria” (which stipulate about individuals’ legal status and have an indirect effect similar to the effect of legislative orders) should not include any specifics that may concern ministerial ordinances. Meanwhile, “government guideline indexes” (which do not have a legal effect on individuals’ status, rights and obligations and which provide individuals with advice, instructions and support on legal operations) should clarify that such indexes are not to restrict individuals. Based on such conditions, how to regulate such a cross-cutting review is being examined.

Issues other than those mentioned above are also to be addressed closely prior to the year-end report. The Council will make full use of its privileges and capability to function to the maximum extent, including requesting from each ministry the submission of relevant materials, comments, opinions and explanation as well as holding open discussions and meetings with involved cabinet ministers.

1. Thorough Implementation of the Opening Up of Public Services to the Private Sector by the Full-scale Introduction of "Market Testing"

(1) Significance of "Market Testing"

In changes to the socio-economic environment, a review on the systems, where the Japanese government have been playing the key role, so as to give concrete shape to the structural reform based on the "Leave to the private sector what it can do" principle and improve the quality and cost effectiveness of public services is much hoped for. The entire range of public services, which have been monopolized by the public sector, requires ongoing review in order to identify their indispensability and efficiency and "Market Testing" (competitive bidding between the public sector and the private sector) provides a tool to do this.

"Market Testing" is a mechanism that implements competitive bidding of public services between the public and private sectors under transparent, neutral and fair conditions so that the good value and quality of services are ensured by successful bidders, i.e. service providers. The very first attempt to introduce the principle of market mechanism to the public sector by "Market Testing" is also intended for changing the concept of public services (dominated by the public sector) and operating procedures.

"Market Testing" is already vigorously implemented by many other advanced countries (e.g. US, UK and Australia) which have also been eagerly carrying out financial reform. Japan should also introduce this system on a full scale, prior to which institutional design is in progress, as explained in (2), plus the experimental operation of "Model Projects", eight in total in three different fields, have been implemented in FY2005.

Cross-institutional operations involving different systems, such as the PFI System, the Designated Operators System and the Structural Reform Special District Law though partially, have been implemented, though only partly, in relation to the opening up of government-driven markets, but each system faces a limited capacity for various reasons. The identification of such imperfection of the existing systems and the outcomes of the "Model Projects" should contribute to the concrete implementation of "Market Testing" as a cross-cutting and exhaustive tool for the opening up of public services to the private sector.

(Reference)

① **PFI System**

PFI (Private Finance Initiative) is a means of improving social infrastructure. It is a model of how the private sector can finance investments in and apply its expertise 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 Law Regarding the Promotion of the Construction of Public Facilities, their Management and/or the Provision of Related Services Using Private Capital and Other Resources Provided by the Private Sector (PFI Law) (Law No. 117 of 1999) and since that time 210 public projects, of which 28 are by the central government and the rest by local authorities, have been implemented and so far a good result has been achieved (at the end of August 2005) while demonstrating the effectiveness of PFI.

However, there has been some criticism made regarding the application of PFI:

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

The criteria for selecting PFI operators and the selection procedures by the central government and local authorities do not necessarily provide a ground upon which private operators can generate and implement their ingenuity to the full extent.

② **Designated Operators of Public Facilities System**

In line with the review of Local Autonomy Law (Law No.67 of 1947) in June 2003, the Designated Operators of Public Facilities System has been exercised since September of the same year. The administration and operation of public facilities belonging to local authorities were customarily passed over to the their sector when certain criteria were met. The passing over of the administration and operation of public facilities 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.

There are however some critical views of the system:

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

(b) There is no coordination established between the system and Public Properties Administrative Law, which hinders the smooth administration and operation of all local public facilities.

③ Structural Reform Special District System

The Structural Reform Special District System provides regionally-tailored preferential regulatory measures to promote local structural reform and revitalization. Structural Reform Special Districts Law was established in 2002 (Law No.189 of 2002) and there are currently 548 special district projects approved by the government (August 2005). The system receives positive feedback, as private sector-oriented regulatory reform can be realized within a short period of time. There are also adverse points made about the system, which are:

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

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

(2) Progress made by the Japanese government on the full-scale introduction of “Market Testing”

Described below is the course of discussions and deliberations held and decisions made by the Japanese government on the full-scale introduction of “Market Testing”.

① Cabinet decisions on the “Basic Policies for Economic and Fiscal Management and Structural Reform 2005”

Date	Details Announced
Jun. 21, 2005	“Basic Policies for Economic and Fiscal Management and Structural Reform 2005” (Cabinet Decision) **An institutional ground must be prepared for the full-scale introduction of “Market Testing” to enable efficiency enhancement in public services.** **In view of the revised “Three Year Plan for the Promotion of Regulatory Reform”, issues including the significance of the establishment of a third-party body and its role must be discussed thoroughly and the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” must be proposed to the Diet during FY2005, ready in time to contribute to the quality improvement and cost effectiveness of public services, with the following points in mind.** **① In order to provide uniform and consistent competitive conditions, the information disclosure and operations monitoring of public services, which are subject to market testing, must be carried out to the full extent by a third-party body that is established on neutral ground.** **② In order to facilitate the promotion of market testing within local authorities, necessary measures should be taken, such as the revision of ordinances that can hinder the introduction of market testing.** **③ For services operated by independent administrative corporations, the introduction of marketing should be promoted accordingly in respect of the assessment of the services, which is carried out at the end of the medium-term target period.**

Date	Details Announced
Mar. 25, 2005	"Three Year Plan for the Promotion of Regulatory Reform (revised)" (Cabinet Decision) **In order to define the pillar of the structural reform, "Leave to the private sector what it can do" to a specific degree, the following "Market Testing Guidelines" under 1, should be taken into consideration when discussing institutional provision, including the formulation of a legislative framework (Market testing bill – provisional title), for the full-scale introduction of "Market testing (competitive bidding between the public and private sectors)".** **Furthermore, the experimental operation of the model projects, as described in 2 below, is to be implemented in 2005.** **In addition, during the period between October 18, 2004 and November 17, 2004, The Council invited the private sector to offer proposals and received 119 proposals from 75 major private providers. Some of them were then disregarded for the operation of the model projects to be implemented in FY2005, but they should be reconsidered this time for the full-scale introduction of the "Market Testing" system.** **1 Market Testing Guidelines** **(1) Significance of "Market Testing" (omitted)** **(2) Basic policies on the full-scale introduction of "Market Testing"** **① Advanced implementations on government projects** **② A wide range of projects based on the private sector's proposals** **③ Deliberations on institutional provision including a legislative framework** **④ Disclosure of information regarding public services** **⑤ Provision of a monitoring system to ensure uniform competitive conditions** **(3) Implementation process of "Market Testing" and points to bear in mind** **① Selection of services** **② Decision and publication of policies on the implementation of the competitive bidding between**

Date	Details Announced
	the public and private sectors etc. **③ Implementation of the competitive bidding between the public and private sectors and decision on assessment results and selection of successful bidders** **④ Establishment of contracts, initiation of projects etc.** **⑤ Ongoing monitoring** **⑥ Treatment of civil servants etc.** **(4) "Market Testing" model projects (experimental introduction in FY2005)** **(omitted)** **2 Model projects to be introduced in FY2005 on a experimental basis in the following areas** **(1) Hello Work (public employment security offices) (4 projects)** **(2) Social Insurance Agency (3 projects)** **(3) Prisons (1 project)**
Dec. 24, 2004	"First Report Regarding on the Promotion of Regulatory Reform－Achieving "a Private Sector-led Economic Society" through the Opening Up of Government-driven Markets to Entry into the Private Sector" (The Council for the Promotion of Regulatory Reform) **(Omitted)…As a cross-sectoral method to enable the acceleration of services transfer from the public sector to the private sector, "Market Testing" must be introduced appropriately and implemented in earnest from FY2006.** (Cabinet decisions made on the "Market Testing Guidelines" and the "Model Projects" to be implemented in FY2005 in the abovementioned "Three Year Plan for the Promotion of Regulatory Reform (revised)".
Oct. 18, 2004 to Nov. 17, 2004	"Private Providers' Proposals Regarding Market Testing (Competitive Bidding between the Public and Private Sectors)" (The Council for the Promotion of Regulatory Reform) Private providers were invited to offer their proposals regarding services to be included in the "Model Projects", which are to be operated in FY2005. (119 proposals were received from 75 major private providers.)

Date	Details Announced
Aug. 3, 2004	"Interim Summary - Achieving "a Private Sector-led Economic Society" through the Opening Up of Government-driven Markets to Entry into the Private Sector" (The Council for the Promotion of Regulatory Reform) Proposals on basic policies on the introduction of "Market Testing", its implementation process, a discussion schedule etc. (fructified as the abovementioned "Three Year Plan for the Promotion of Regulatory Reform (revised)")
Jun. 4, 2004	"Basic Policies for Economic and Fiscal Management and Structural Reform 2004" (Cabinet Decision) **Systems for the opening up of public services to the private sector, such as "Market Testing" for clarifying the scope of services, which must be indispensably executed by the public sector, and the setting up of numeric targets, must be introduced as quickly as possible, for which institutional design must be carried out during FY2004 and discussed prior to its experimental introduction in FY2005.**
Mar. 19, 2004	"Three Year Plan for the Promotion of Regulatory Reform" (Cabinet decision) **"Market Testing" is a mechanism that prepares the ground upon which both public sector and private sector can compete on an equal footing, providing that there are services which are provided by the public sector and which may also be appropriately provided by the private sector, under fair competitive conditions by a means of placing bids for such services so as to ensure the provision of quality services with good value for money. This system is already exercised in other advanced countries including the United Kingdom, Australia, the Netherlands, Denmark and Sweden. In Japan also, with the intention of securing fair competitive conditions between the public and private sectors, "Market Testing" (competitive bidding between the public and private sectors) should be studied and considered for its possible introduction to Japan with reference to other countries' examples and in view of the scope of government responsibilities over the assurance of the national life security.**

Date	Details Announced
Dec. 22, 2003	"Third Report Regarding Promotion of Regulatory Reform" (The Council for Regulatory Reform) **"Market Testing" is a mechanism that prepares a ground upon which both public sector and private sector can compete on an equal footing, providing that there are services which are provided by the public sector and which may also be appropriately provided by private providers, under fair competitive conditions by a means of placing bids for such services so as to ensure the provision of quality services with good value for money. This system is already exercised in other advanced countries including the United Kingdom, Australia, the Netherlands, Denmark and Sweden. In Japan also, with the intention of secure fair competitive conditions between the public and private sectors, "Market Testing" (competitive bidding between the public and private sectors) should be studied and considered for its possible introduction to the country with reference to other countries' examples and in view of the scope of government responsibilities over the assurance of the national life security.**

② **Evaluation of the "Model Projects"**

As described in 1 (1), since FY2005, the "Model Projects", eight in total in three different fields, have been introduced, which involve government-run services (including those operated by independent administrative institutions), to contribute to institutional design to prepare for the full-scale introduction of "Market Testing" (see the Table below). These "Model Projects" have been operated based on 119 proposals offered by private providers during the period between October and November of 2004. In the light of reflecting the private sector's needs in such projects, it is desired to operate such projects preferentially to their specifics while taking into account the policy purposes of each project.

Field	Project	Location	Commencing from
①Hello Work (public employment security offices)	"Publicly and privately operated" Career Exchange Plaza	5 of 15 locations	Jun. 2005
	"Publicly and privately operated" Career Exchange Plaza for Young People	1 of 1 location	Jun. 2005
	The opening up of job opening services to the private sector	3 of 77 regions	Jun. 2005
	The opening up of job training operated by the Ability Garden to the private sector	1 of 1 location	Jun. 2005
②Social Insurance Agency	The increase of offices available for Employees' pension insurance and government health insurance	5 (in 2 districts) of 312 locations	Jun. 2005
	The receiving of national pension premiums	5 of 312 locations	Oct. 2005 (to be confirmed)
	Pension Telephone Support Center	2 of 23 locations	Oct. 2005 (to be confirmed)
③Prisons	Support services related to the premises security and inmate environment	2 of 59 locations	Aug. 2005

In view of the purport of "Market Testing", ideally both public and private sectors should take part in competitive bidding. However, the "Model Projects" are an experiment preliminary to the full-scale introduction of the "Market Testing" mechanism, and since institutional preparation is still premature for providing a firm ground where the public and private sectors can compete on a equal footing, competitive bidding is currently

exercised only among private providers while the public sector is “losing by default”.
With regard to the services subject to the ”model projects”, 119 proposals were offered by 75 major private providers (during the period between Oct. 18 and Nov. 17, 2004).
The “Model Projects” (eight in total in three fields) attracted a total of 127 enterprises to place bids (recorded in August 2005), indicating high interest in “Market Testing”.

The competitive bidding base for the “Model Projects” has been reported to be below the traditional operating costs by 30%, showing a positive prospect for better public services efficiency by operation by private providers. In addition, not only such cost effectiveness but also the quality enhancement of public services as a result of utilizing private providers’ expertise is expected to be achieved.
Moreover, the implementation of the “Model Projects” has enabled the clarification of the following issues with respect to the full-scale introduction of the “Market Testing” system.

A. Thorough disclosure of information regarding governmental costs

While providing uniform and consistent competitive conditions, private providers should be able to offer bidding proposals by making full use of their expertise, and for that purpose, it is important to understand and further disclose basic and specific data of the public sector’s total costs (full costs) including expenditure incurred indirectly by public services. Hence, the full-scale introduction of the “Market Testing” system must enable the firm acquisition of such basic and specific data as well as the disclosure of the data institutionally in a neutral, fair and precise manner, which should be executed through the function of the later-described “third-party body”.

B. Clear definition of “Key Performance Indicators” (required levels) to enable private bidders to objectively and quantitatively indicate the standard of public service

A required level to assure the quality of each public service should, ideally, be specified clearly according to a certain “Key Performance Indicator” (KPI) as quantitatively and objectively as possible. Through the implementation of the “Model Projects” the ambiguity of such a required level became apparent in some cases and consequently the idea of so called “performance specification contracts”, by which specific details of public services are left to the capability of the private sector, did not work as expected. Hence, prior to the full-scale introduction of the “Market Testing” system, a set performance level to be satisfied by each public service should be clarified according to a specified KPI, which should provide as quantitative and objective guidance as possible, in line with the setting up of medium-to-long term targets.

C. Appropriate evaluation of cost and quality

The “Model Projects” essentially employ the comprehensive evaluation bidding system, by which service quality is evaluated together with service value. Service quality must be ensured consistently with a predetermined KPI after the bidding of a service has been completed. Therefore, once the “Market Testing” system has been introduced fully, it is important to institutionalize a certain bidding method, which enables the enhancement of service quality and cost effectiveness in a transparent, neutral and fair manner through the function of the later-described “third-party body”, as well as to exercise a monitoring system by the appropriate use of a KPI for each service.

D. Realization of a diverse range of services operated and based on proposals and suggestions made by private service providers

In principle, the “Model Projects” are not subject to special measures (regulatory reform) concerning the currently effective ordinances that hinder the private sector’s participation in public services operations. In other words, only public services, which do not concern any legal amendments, may be opened up to the private sector, though only partially, and therefore they are of a rather limited range to respond to the private sector’s proposals. In order to maximize the expertise and ingenuity of private providers, public services to which “Market Testing” may be applied should ideally be of an entire and comprehensive range, for which it is necessary to have a clear institutionalized procedure to select public services suitable for “Market Testing” from a transparent, neutral and fair point of view through the function of the later-described “third-party body”.

E. Establishment of a “third-party body” to secure powerful authority with a neutral status

Besides the experimental implementation of the “Model Projects”, “Market Testing” is to be introduced on a full scale on the assumption that the public sector and the private sector take equal part in competitive bidding. Hence, the necessity to secure a transparent, neutral and fair ground for providing “Policies Regarding Competitive Bidding between the Public and Private Sectors” (see below) and selecting successful bidders is an increasingly high priority to be considered. From this perspective, it is necessary to establish a “third-party body” within the institutional context, prior to the complete introduction of the “Market Testing” system, which has powerful authority and a neutral position to exercise the complete disclosure of public services information and the monitoring of all services operations.

Further preparation for the fully-fledged introduction of “Market Testing” must be

completed by addressing the abovementioned issues appropriately, for which it is necessary to enact legislation over public services at the earliest possible time, as stated below, which regulates the complete disclosure of public services information including costs, the appropriate evaluation of service quality and cost, a specific procedure to select public services suitable for “Market Testing”, which enables the provision of a wide range of services based on the private sector’s proposals, and special measures on regulations that prevent the private sector from participating in public services operations.

(3) Further actions prior to the full-scale introduction of “Market Testing”

In preparation for the complete introduction of “Market Testing” in FY2006, institutional provision is required urgently.
Therefore, in view of the “Three Year Plan for the Promotion of Regulatory Reform (revised)” (Cabinet Decision on March 25, 2005) and the “Basic Policies for Economic and Fiscal Management and Structural Reform 2005” (Cabinet Decision on June 21, 2005), the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” must be formulated and proposed to the Diet during FY2005 so as to contribute to the quality enhancement and cost effectiveness of public services.

In view of the above, a basic institutional framework to achieve the full-scale introduction of “Market Testing” should be developed according to the following principles.

① A law to promote “Market Testing” (“Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)”) should be enacted with the main emphasis on the following.

A. Basic framework and purport

The “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” should be a legislative means to provide the ground upon which the public sector and the private sector engage in competitive bidding on an equal footing for those public services to which the private sector’s proposals are applied, by following a certain bidding procedure that is specified by the government.
The “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” should also have a cross-sectoral aspect, similar to Structural Reform Special Districts Law, to enable the government to have comprehensive uniform control over the achievement of relevant regulatory reform and the formulation of measures to set up consistent competitive conditions between the public and private sectors.
Hence, including relevant regulatory reform and measures to set up consistent competitive conditions between the public and private sectors, a framework for the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” should also include the sequence of the procedures specified in the “Market Testing Guidelines” under the “Three Year Plan for the Promotion of Regulatory Reform (revised)” (Cabinet Decision) in order for the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” to be a legal system where these procedures are exercised under the Prime Minister’s strong

leadership.

In view of the above, the purport of the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” is to realize the continuous reform of public services as well as the enhancement of their quality and cost effectiveness by the means of “market testing (competitive bidding between the public and private sectors)”, relevant regulatory reform and the implementation of measures to provide uniform competitive conditions between the public and private sectors.

Services, to which the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” is applied, are basically all public services that would be operated by ministerial departments, extra-ministerial bureaus, local government agencies as well as independent administrative institutions.

The “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” should also upon institution clarify the following points.

(a) Assigning of the maximum value to proposals offered by the private sector
(b) Monitoring and other regulation by the “third-party body” with powerful authority and a neutral position
(c) Thorough practice of information disclosure regarding public services
(d) Environmental provision to enable actions spontaneously taken by forward-thinking local authorities

B. “Basic policies”

Each year the Prime Minister appreciates proposals by private service providers in a diverse range of areas, which should be publicized to the appropriate extent. The Prime Minister then formulates and proposes “basic policies” with the main focus on the following, subsequent to the consultation by the “third-party body”, which should be decided and announced by the Cabinet swiftly.

(a) Public services suitable for competitive bidding between the public and private sectors and the necessary measures (relevant regulatory reform etc.)
(b) Abolition of unnecessary public services
(c) Other measures to ensure the implementation of ongoing public services innovation

C. Implementation of competitive bidding between the public and private sectors

(a) Taking the “Basic Policies” into account, “Policies on the Implementation of

Competitive Bidding between the Public and Private Sectors" should be formulated and publicized in regard to each public service which is subject to competitive bidding between the public and private sectors, with the main emphasis on the points listed below.

When formulating such policies, ministries involved with public services which are subject to the bidding should appreciate with the utmost respect the diverse range of the public sector's proposals, which should be publicized to an adequate degree from the perspective of maintaining transparency, neutrality and fairness. The policies must then be confirmed and publicized subsequent to verification by the "third-party body".

a. Matters related to public services which are subject to the bidding (the scope, required performance level and contract period of each public service)
b. Details of measures on related regulatory reform and the provision of uniform competitive conditions
c. Matters related to the selection of successful bidders (specific details of assessment criteria, specific requirements for bidders, selection schedules etc., with the aim of achieving the enhancement of the quality and cost effectiveness of public services)
d. Matters related to services operations (specific terms and conditions of contracts etc.)
e. Matters related to monitoring (supervision, inspection etc.) (time, frequency, monitoring details etc.)
f. Matters related to the provision of sound public services
g. Detailed information to be disclosed to private providers
h. Matters related to measures that prevent unfair competitive manipulation such as information exchange within the public sector.

(b) Upon the implementation of competitive bidding between the public and private sectors and the selection of successful bidders, it is a principle that a comprehensive set of assessment criteria with the focus on the quality and value of public services must be applied.

In addition, from the perspective of maintaining transparency, neutrality and fairness, ministries concerned with public services which are subject to the bidding must comply with the "Policies on the Implementation of Competitive Bidding between the Public and Private Sectors" and obtain confirmation from the "third-party body" when selecting and announcing successful bidders.

(c) Measures should be provided to operate ongoing monitoring (supervision,

inspection etc.) in order to ensure that the successful selected bidders will provide the services they secured appropriately and according to the requirements, to which the successful selected bidders agreed at the time of acceptance of their bids, and the terms and conditions of the contracts which they concluded.

Also, from the viewpoint of ensuring transparency, neutrality and fairness, such measures should enable the "third-party body" to implement ongoing monitoring (supervision, inspection etc.).

(d) Rebidding must be performed to align with the end of each public service operation contract.

It should be noted that taking into account the result of the monitoring (supervision, inspection etc.), as specified in (c), if any public service is assessed to be inappropriate for further implementation, rebidding for the service must not take place, and a decision on the disposition of the service, such as its abolition, should be made according to the "Basic Policies".

(e) After the selection of public services, to which competitive bidding between the public and private sectors is applied, those which were disregarded (i.e. those exemplified by the "Model Projects" as those for which the public sector do not take part in competition by "losing by default") should be reconsidered, if necessary, to be subordinate services to those subject to competitive bidding between the public and private sectors. Further, such subordinate public services should also be subject to the application of special regulatory measures, monitoring by the "third-party body" and other necessary measures, which are compliant with the abovementioned principles as well as the procedures as stated below.

D. Special regulatory measures

(a) Subsequent to competitive bidding between the public and private sectors, private providers (including local authorities), who have been selected as successful bidders, must keep in mind the conditions to which they agreed on the acceptance of their bids with the "Policies on the Implementation of Competitive Bidding between the Public and Private Sectors" when creating "Plans on the Application of Special Regulatory Measures". "Plans on the Application of Special Regulatory Measures" must state in detail how to operate the services which are to be provided by the successful bidders and the special regulatory measures necessary for the provision of the services and they may be submitted to seek the Prime minister's approval.

(b) The Prime Minister approves “Plans on the Application of Special Regulatory Measures” when he regards the plans to be contributable to the continuous innovation of public services.

The Prime Minister also seeks the approval of the directors of involved administrative bodies on the specifics of the special regulatory measures that are stated in the Plans.

The directors of the concerned administrative bodies approve the specifics of the special regulatory measures that are stated in the Plans when the specifics of the special regulatory measures conform to the particulars of ministerial ordinances compliant with the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” or the “Basic policies”.

(c) Upon the approval of the Prime Minister based on the agreement of the directors of concerned administrative bodies, the special regulatory measures specified by the “Plans on the Application of Special Regulatory Measures” are applied to the provision of the public services which are to be operated by the private providers who have been selected as successful bidders.

(d) The specifics of the special regulatory measures must comply with the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)” when they are related to laws, or with the “Basic Policies” when they are related to ministerial ordinances.

(e) The Prime Minister may rescind his approval on the “Plans on the Application of Special Regulatory Measures” if the Plans no longer satisfy the approval criteria.

(f) The special regulatory measures specified by the “Plans on the Application of Special Regulatory Measures”, which are approved by the Prime Minister, are evaluated after a certain period of time and necessary measures are taken according to the evaluation result.

(g) For special regulatory measures that are required when any forward- thinking local authority adopts and implements “Market Testing” spontaneously, necessary measures should also be taken accordingly.

E. “Third-party body”

The Cabinet establishes a “third-party body” within itself, which has powerful authority and a neutral position to exercise the thorough disclosure of public

services information and the monitoring of all public services operations.

Specifics of the capacity and power of the “third-party body” (detailed tasks) should include authority to conduct fact-finding surveys on the formulation of the abovementioned “Policies on the implementation of Competitive Bidding between the public and private Sector” by the “third-party body” itself, as part of the entire service process monitoring, so as to support the thorough practice of disclosing public services information.

In addition, the “third-party body” must maintain the ability to fulfill its capacity and power, as described above, by employing the appropriate number of highly-trained personnel in specialized fields mainly in the private sector, while ensuring transparency, neutrality and fairness, as explained earlier, so as to achieve the objectives of the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)”, i.e. the continuous innovation of public services and the enhancement of the quality and cost effectiveness of public services.

Incidentally, the idea of “neutrality” within the “Market Testing” context implies the basic standpoint of those involved including the “third-party body” where “what can be done within the market must be done within the market” and “the stringent verification of cost effectiveness of public services in comparison with the efficiency of the private sector” are achieved under conditions which are set up as stated above. Such a neutral stance enables such achievement in conjunction with the actual legislative operations while avoiding any biased effect which may be created by influential ministries and private providers.

F. Others

The smooth implementation of competitive bidding between the public and private sectors should be encouraged by coordination with the existing cross-sectoral legislation including the public service personnel system, the public finance law and the national property law. Necessary action plans should also be formulated accordingly.

② Subsequent to the enforcement of the “Improvement of the Public Services Efficiency Bill (Market Testing Bill) (provisional title)”, private providers should be invited annually to offer their views and suggestions in a wide range of subjects and the constant enhancement of “basic policies” and necessary legislative improvements should be made.

(4) Future schedule

Time	Detail
October	
November	
December	The Second Report by The Council for the Promotion of Regulatory Reform (to be confirmed)
January 2006	
February	Decision by the Headquarters for the Promotion of Regulatory Reform (to be confirmed) Decision on the bill by the Cabinet (to be confirmed)

(5) Outline of the proposals offered by the public sector

Subsequent to the invitation by The Council for the Promotion of Regulatory Reform to the private sector to offer their proposals in FY2004, 119 proposals were forwarded by 75 major private providers.

Furthermore, as part of the “Special Districts, Regional Revitalization and Promotion of Regulatory Reform Month” between June 1 and June 30, FY2005, the private sector was invited to nominate public services for entry into the private sector including “Market Testing”, and a total of 245 public services for “entry into the private sector including market testing” were requested by 45 private providers, of which 141 were nominated by 26 private providers specifically for “Market Testing”.

The Council for the promotion of Regulatory Reform intends to discuss these requested services with each of the ministries concerned to decide which of them would be suitable for “Market Testing”.

Main Suggested Area	Service Related
Hello Work	● Publicly and privately operated Hello Work offices ● Job-search and training combined
Social Insurance	● Commissioning of all services (facility-based) currently operated by social insurance offices (application, collection, provision of health insurance, national pension, employees' pension etc. and advice/support services) ● Collection of national pension premiums by servicers ● Collection of employment insurance premiums by servicers
Prisons	● Services related to the management of prison facilities
Statistical Research	● Cabinet Office license statistics ● MIC designated/license statistics ● METI designated/license statistics ● Other
Maintenance/ Management of State-owned Facilities	● Management of rivers, canals, erosion-control works, dams, etc. ● Maintenance/management of roads ● Management of parks • Expo Park managed by the Commemorative Organization for the Japan World Exposition '70 • State-owned parks managed by incorporated foundations etc. ● Maintenance/management of national museums etc. • National theatres, national museums, Tsukuba Space Center, Lake Biwa Exhibition Hall and other facilities run by independent administrative institutions ● Employee pension hospitals and social insurance hospitals operated by incorporated companies
Independent Administrative Institutions	● Trade insurance services by Nippon Export and Investment Insurance ● Editing and printing of publications of National Printing Bureau ● Vocational education training facilities managed by the Employment and Human Resource Development Organization of Japan ● Management of the Independent Administrative Institution National Museum of Art and the Independent Administrative Institution National Museum ● Human resource development support promoted by small/medium enterprise management development universities operated by the Organization for Small & Medium Enterprises and Regional Innovation, JAPAN

Main Suggested Area	Service Related
Back Offices	● Operation of PIO-NET (the National Consumer Information Network System) by the National Consumer Affairs Center of Japan ● Internal administrative office work of public employment security offices including payroll accounting and bookkeeping ● Management and storage of official documents and files of the National Archives of Japan ● Verification of applicants, visitors, tax payers by their given information with reference to databases of tax offices ● Employees' attendance management, payroll accounting, insurance/tax processing etc. currently handled by the administrative staff of the Social Insurance Agency ● Opening, operation and management of e-marketplaces (for METI) enabling government procurement (excluding public projects)
Local Authorities	● Collection and collection-support services of local tax, national health insurance/care insurance premiums ● Collection of public subscriptions such as license fees ● Water-sewerage services ● Subways, railroads, bus services ● Passport-issuing service etc.
Other	● Commissioned services by voluntary agreement between government ministries and public-interest corporations ● Administrative office work related to the collection of traffic citations and fines ● Debt recoveries from national universities ● Notional qualification/certification examinations ● Driving licenses ● Other

2. Promotion of the Opening Up of Public Services to the Private Sector

[Issue recognition]

(1) Basic concept

Based on the principle “the public sector must not do what can be done by the private sector”, The Council defines the agenda for the promotion of the opening up of public services to the private sector to be of a high-priority agenda and has been taking actions on the matter with consideration for the different individual public services.

Public services for entry into the private sector are administrative office work and operations that are executed directly by the Japanese government, independent administrative institutions and government agencies (those established under special legislation, those executing special administrative office work and operations under the government’s instructions and those holding funds). These public services are examined individually and exhaustively to verify their indispensability as well as the appropriateness of operating them by the abovementioned institutions and agencies, by which the opening up of such public services to the private sector is promoted.

“The opening up of public services to the private sector” means (a) the privatization of public services and/or the transfer of public services to the private sector, and (b) the comprehensive commissioning of public services to the private sector. Furthermore, “privatization” denotes the whole of a public organization, which operates certain public services, transforming to a private organization, whereas “transfer” indicates the handing over of public services to the private sector. The comprehensive commissioning of public services to the private sector is established by agreement between the public sector and the private sector upon certain conditions set by the public sector, i.e. the assigner, regarding the scope, details, achievement, performance level of public services for which the public sector wishes to commission the private sector. Upon such an arrangement, the private sector is expected to make full use of its expertise and ingenuity in performing the commissioned services efficiently leading to a win-win outcome, and for that purpose the public sector will keep its intervention in the private sector to the minimum in order for “one whole range of services” to be taken care of by the private sector.

The most ideal approach in the principle of the opening up of public services to the private sector would be the transfer of public services to the private sector and for services to which such an assignment arrangement cannot be applied at present, the application of comprehensive commissioning should be considered. Meanwhile, the partial consignment of public services (the separate subcontracting of printing services and delivery services) has already been practiced, and should obviously be encouraged further.

The traditional idea that the operation of these public services, i.e. publicly operated

administrative office work and operations, must be contained within the public sector must be abandoned for the principle “the public sector must not do what can be done by the private sector” so as to vigorously promote the opening up of public services to the private sector.

Moreover, for the vigorous promotion of the opening up of public services to the private sector, the details and cost structure of publicly operated administrative office work and operations should be disclosed to invite any providers to make the right decision on performing such services.

(2) Actions taken during FY2004

During FY2004, The Council has taken the following actions based on the abovementioned basic concept of the promotion of the opening up of public services to the private sector.

① Comprehensive screening of public services suitable for entry into the private sector

In FY2004, The Council conducted a survey among the government ministries regarding names and brief descriptions of administrative office work and operations executed by each ministry, grounds-providing laws, operating bodies, account classification, the feasibility of entry to the private sector, the necessity to have corporate requirements and reasons for unsuitability for entry into the private sector from the perspective of promoting a diverse range of public services, excluding policy-planning work, for entry into the private sector with the intention of identifying public services, which can be considered for opening up to the private sector. Subsequently, a total of 812 responses were collected.

It should be noted that the survey was aimed at administrative office work and operations, which are operated by each government ministry under the national legislation. Among services which are (a) operated by the government, local authorities, independent administrative institutions or national universities and which are (b) either operated predominantly by special institutions or specially authorized agencies, or operated by designated corporations under government’s instructions, administrative office work and operations, which fall into the following categories, may be considered to be opened up to the private sector.

a. Authorization assessments that require personnel specifically for the execution thereof (when one or more than one assessment operation monopolizes more than half of the personnel’s workload)
b. Inspection, verification, evaluation etc.
c. Administrative office work and operations related to examinations, lectures, recommendations and the issuance of qualifications

d. Registration and delivery that require personnel specifically for the execution thereof (as in “a”)
e. Administrative office work and operations related to monitoring
f. Benefits packages, collections
g. Research work
h. Administrative office work and operations related to education and training
i. Statistical research
j. Measuring and surveying
k. Production, preparation
l. Coordination, management and operation of information and telecommunication systems
m. Direct property services operations
n. Other services operations

② Public services proposed to be opened up to the private sector

Further to the outcome of the comprehensive screening of public services suitable for entry into the private sector, as explained above, 81 kinds of administrative office work and operations were selected in FY2004 and further evaluation was carried out on the suitability of those services for entry into the private sector. Consequently, 36 services in four categories of ① benefits packages and collection, ② coordination, management and operation of public facilities, ③ statistical research, production etc., ④ inspection/registration, qualification examinations etc., were proposed to be opened up to the private sector.

(3) Actions to be taken during FY2005

① Actions related to the opening up of public services to the private sector during FY2005

The Independent Administrative Institution Law stipulates that each independent administrative institution must set medium-term targets in achieving the expected level of service performance within a period of three to five years. Furthermore, the necessity to continue each independent administrative institution’s services, the role of the institution and the overall aspect of the institution and its services are reassessed at the end of the medium-term target period. There are 53 independent administrative institutions in total, the medium-term target periods of which are due to end in FY2005, and 29 of them have already received the verdict during FY2004.

Government agencies and the like, especially those established under special legislation (37 agencies in total recoded on April 1, 2005) are to be reviewed by the end of FY2005 in accordance with the “Supervision Criteria for Private Corporations Established under Special Legislation” (Cabinet Decision on April 26, 2002).

② **Ideas behind the actions to be taken during FY2005**

The abovementioned actions relate to the following three categories of public service, A – C, which are subject to entry into the private sector for FY2005.

A. Administrative office work and operations that are directly executed by the government

812 services, which were identified by the survey carried out in FY2004, are examined further so as to extract administrative office work and operations, which are operated directly by the government, to be evaluated individually on suitability for entry into the private sector.

B. Independent administrative institutions

Administrative office work and operations which are executed by independent administrative institutions are subject to review by the state ministers in charge and an assessment committee of the Ministry of Internal Affairs and Communications by the end of the medium-term target periods determined by the institutions. The Council also intends to contribute its views on administrative office work and operations by independent administrative institutions as necessary by the end of the medium-term target periods at the latest.

C. Government agencies and their equivalent

Government agencies and other similar organizations include the abovementioned private corporations established under special legislation, corporations established under other special legislation and corporations designated by the government (designated agencies), which execute specified administrative office work and operations. The review of services operated by these agencies for FY2005 concentrates on private corporations established under special legislation to evaluate the suitability of their services for entry into the private sector.

The services selected from the above three categories are sorted further into the following four areas, and each area is then examined for entry into the private sector.

a Benefits packages and collection
b Facilities management
c Inspection and verification
d Training and research

1. Actions taken on each area for entry into the private sector

(1) Benefits packages and collection

[Orientation of discussion]

① Progress of the promotion of the opening up of benefits packages/collection services to the private sector

Model projects of “Market Testing (competitive bidding between the public and private sectors)” on services related to the Social Insurance Agency are in operation in FY2005. In addition, it has been clarified both legally and practically that private insurance companies may freely engage in the provision of trade insurance services. Moreover, the outsourcing of the payment practice of pensions and retired allowances to private financial bodies and the Japan Post is already practiced, and the payment process of government-managed health insurance is also commissioned to the Social Insurance Medical Fee Payment Fund. The Radio Law (Law No. 131 of 1950) also allows the outsourcing of benefit payments to the Registered Frequency Termination Support Agency.

With regards to the collection of taxes, premiums and other fees, when payers make payments spontaneously, bank transfer services are most commonly outsourced to financial organizations in terms of convenience. The collection and receiving of local taxes, fees towards services operated by local public enterprises and national pension premiums are also processed using private facilities such as convenience stores. Private health insurance associations are authorized to carry out compulsory collection that equates with the procedure for the collection of national tax delinquency, plus the collection of fees towards services operated by local public enterprises may be subcontracted to private providers.

② Perspectives in favor of the opening up of benefits packages/collection services to the private sector

Benefits packages and collection are basically the administrative processing of the delivery and collection of each benefit and premium in accordance with set criteria. Such administrative processing does not normally involve any political judgment or discretion, thus, it is regarded to be appropriate for entry into the private sector.

There is a view that the establishment of a system, which allows services related to benefits packages to be operated by providers who do not bear fiscal responsibilities, may raise issues in the light of preventing overpayments. However, it is believed that by providing specific criteria and appropriate supervision, there will be no room for discretion to create any effect, thus preventing overpayments. Consequently, there should be no problems caused by opening up services related to benefits packages to

the private sector.

With regard to collection services, there are opinions that (a) compulsory collection should be executed by government officers by the “exercise of public authority”, (b) the fair and neutral aspect of collection services could be lost if operated by private providers, and (c) collection services involve the handling of personal information and therefore it is most appropriate that these services are executed by government officers who work under stringent confidentiality.

With regard to point (a), it is a rather legislative issue as to what kind of organization may be approved to exercise public authority in executing collection services and they do not necessarily have to be executed by government officers. Hence, the opening up of collection services to the private sector is feasible providing that an appropriate system is established.

As for point (b), a fair and neutral position of private providers in operating collection services can be secured by establishing ordinances and agreements accordingly, by which no major issues in connection with the fair and neutral aspect of collection services should emerge.

Regarding point (c), ordinances and agreements may be introduced to bind private providers with confidentiality obligations as strict as those imposed on government officers who currently execute collection services. With the provision of such a condition, the opening up of collection services to the private sector is feasible.

There are also other negative views on the opening up of benefits packages/ collection-related services to the private sector and which are hardly quantitative or arguable and give no grounds to support the infeasibility of entering benefits packages/collection-related services into the private sector. It is anticipated that the opening up of benefits packages/collection-related services to the private sector will improve service efficiency and therefore, it should be promoted vigorously.

③ Areas of benefits packages/collection services to be considered for entry into the private sector

Hello Work, social insurance, collection and storage of public money, venture capital etc.

(2) Facilities management

[Orientation of discussion]

① Progress of the promotion of the opening up of facilities management services to the private sector

Some public facilities hardly require administration by the public sector because of constraints prohibiting the construction of new public facilities and the extension of the

existing facilities so as to avoid competition with the private sector. They also often have high business potential and such public facilities have been actively promoted one by one for entry into the private sector by means of privatization, transferring them to independent administrative institutions and commissioning them to private providers.

Furthermore, the institutional basis has been prepared for the opening up of public services to the private sector through the enforcement of the PFI and the introduction of the Designated Operators System by the revised Local Autonomy Law, and subsequently actions have been taken on promotion to enter facilities management services, including the clarification of such services which can be executed by PFI-selected providers and designated operators.

In individual cases, the construction of new prisons has been encouraged by the application of the PFI method and model projects of “market testing (competitive bidding between the public and private sectors)” have been initiated in FY2005.

In addition, there are hardly any reasons why public rest homes should be run by the state and therefore the closure and sales of such facilities have been encouraged.

② Perspectives in favor of the opening up of facilities management services to the private sector

The existing public accommodation facilities run by the state and independent administrative institutions should be disposed of in a swift manner by means of closure, assignment to private providers or comprehensive commissioning to the private sector with the intention of promoting fair competition between the public and private sectors as well as that of dissolving service inefficiency. In addition, facilities of a similar kind should also be evaluated for the possibility of integration and reorganization.

Other kinds of public facilities should also be evaluated so as to encourage the application of PFI through the close verification of reasons why facilities were originally considered to be unsuitable for management by PFI-selected providers. The scope of facilities management services should be extended to the maximum, available for operation by PFI-selected providers.

Furthermore, as the application of the Designated Operators System is restricted to locally-administered public facilities, measures should be taken for the management of facilities by the state and independent administrative institutions in terms of the commissioning of public facilities management to private corporations and other similar organizations.

In addition, in many other countries state-owned assets are very often leased instead of merely being in the possession of the state. Hence, in Japan also, the management of state-owned facilities, not only those assets which fulfill short-term administrative demand but also those which contribute to long-term achievements, should be considered for entry to the private sector, including the leasing of such facilities, providing that the accurate estimation of profitability on each asset is implemented and

that a free choice of financing methods is allowed instead of being limited to ownership. Moreover, when private providers are consigned to government-operated administrative office work and operations related to the management of state-owned assets, they may manage such assets in compliance with consignment contracts based on the principle that state-owned assets are to be utilized as administrative estates. It should also be noted that state-owned assets managed by consigned private providers may be transferred swiftly from the category of administrative assets to the category of common assets to be sold or leased, if that is the case, and this was clarified in The Council's report for FY2004.

③ **Areas of facilities management services to be considered for entry into the private sector**

Prison facilities, youth centers and facilities of a similar kind, art galleries, museums, airfields, transfer and custody of abandoned and illegally parked vehicles, maintenance of traffic lights, traffic signs, parking meters etc.

(3) Inspection and verification

[Orientation of discussion]

① **Progress of the promotion of the opening up of inspection/verification services to the private sector**

Inspection/verification services have been promoted for entry into the private sector mainly by a system where these services are operated by government-designated bodies. In recent years, the promotion of the opening up of inspection/verification services to the private sector has been accelerated, shifting from the ministry-designation system to a private provider registration system, further to a self-inspection/verification system. However, the opening up of inspection/verification services to the private sector should be considered carefully; it is important to examine the nature of each inspection/verification service, i.e. whether or not it is appropriate as self-inspection/verification executed by a private provider, prior to the transfer or comprehensive commissioning of related services to private inspection/verification bodies.

In the automotive field, for instance, more private providers have been encouraged to take on processing work of vehicle parking certificates, which is consigned by the public sector, and the outsourcing of driving license-related administrative work has also been encouraged.

Meanwhile, with regard to services related to the four Safety Laws, inspection services for high-pressure gas have been operated based on a self-imposed basis whereas inspection services for boilers are still conducted by third-party bodies. Such

inconsistency in practicing inspection and verification caused by different administrative decisions should be corrected using a more integrated, uniform approach.

② **Perspectives in favor of the opening up of inspection/verification services to the private sector**

Inspection/verification services which concern no political judgment should be considered for entry into the private sector. There is even room for considering those which may concern political judgment, as there are thought to be many areas where the number of government-operated services can be suppressed to a minimum while manuals and guidelines can be provided for private providers in executing such services. Convenience, swift processing, efficiency and low cost are vital elements when executing inspection/verification services. Hence, it is only appropriate to apply the principle of market mechanism to inspection/verification services by entering them into the private sector.

Furthermore, the indispensability of inspection/verification services should also be evaluated and those which fail to demonstrate their indispensability must be eliminated. Moreover, ongoing assessment on the actual operation formats of these services should also be carried out in the light of excessiveness and up-to-dateness. Even if the function of these services may be indispensable from a social point of view, it does not necessarily mean that they all have to be operated by government officers. In fact some of them are better executed by private providers and, under the current circumstances where the supply of human resources is restricted within the public sector, it is not necessarily that the social function of inspection/verification services is fulfilled by the public sector. Therefore, in order to provide higher performance services at more affordable cost, it is vital to apply the principle of market mechanism to inspection/ verification services, and from this viewpoint the opening up of these services to the private sector should be promoted vigorously.

③ **Areas of inspection/verification services to be considered for entry into the private sector**

Automobile inspection, ship inspection, high-pressure gas test, electric meter inspection, outside oil tank inspection, fire equipment inspection, medical fee assessment, boiler inspection, agrichemical inspection, fertilizer/animal feed inspection etc.

(4) Training and research

[Orientation of discussion]

① Progress of the promotion of the opening up of training/research services to the private sector

With regard to training/research services, the idea of operating collaborative training/research projects between the public and private sectors under consignment contracts is supported, yet the public sector's involvement in training/research services is still predominant.

This area of services involves private providers, private research institutes and state and private universities all of which possess a certain degree of investigative and analysis capability as well as a business capacity. Hence, the principle "the public sector must not do what can be done by the private sector" should be applied to training/research services so as to vigorously promote the opening up of these services to the private sector.

In view of the above, The Council has been emphasizing since FY2004 the opening up of services related to research studies on alcoholic drinks and the nurturing of Japanese sailors to the private sector.

② Perspectives in favor of the opening up of training/research services to the private sector

Training/research services are generally suitable for operation outside the public sector and most of them fit in the concept of the opening up of public services to the private sector. Hence, when the public sector verifies any training/research services to be operated by the public sector rather than by the private sector, from the perspective of marketability and efficiency, the public sector should be responsible for that verification.

Due to the large scale and the high degree of specialization, there is speculation that private providers may not be able to perform training/research services to a satisfactory degree because of their lack of specialized knowledge and experience, and based on this speculation some training/research services have been executed largely by the public sector. Nonetheless, it goes without saying that along with technological advancement and socioeconomic changes, the role and scope of training/research services must be reviewed on a regular basis.

The government therefore must verify rigorously the necessity to operate such training/research services by the public sector, and those which are considered no to require operation by the state, because their objectives have been achieved for instance, should be removed from the public sector's control immediately by means of privatization and transfer to the private sector. For those requiring operation by the state, any which are considered to be suitable for private operation should be promoted

vigorously for entry into the private sector in the light of utilizing the private sector's resources and capability to perform the services.

③ **Areas of training/research services to be considered for entry into the private sector**

Training related to occupational skills development, training related to industrial properties, training related to safe driving, information provision and training related to industrial accident prevention, studies and training related to cultural assets

2. Future plans

Based on the abovementioned basic concept of the opening up of public services to the private sector and perspectives in favor of entering individually categorized public services into the private sector, further consideration should be given to administrative office work and operations in a widest possible scope so as to acquire the outcomes of the promotion of the opening up of public services to the private sector for the FY2005.

Moreover, further discussion on any matters which may not reach any conclusion by the end of FY2005 should continue actively in the subsequent year so as to support the opening up of public services to the private sector.

3. Regulatory Review Criteria

[Issue recognition]

With regard to the basic regulatory rules, as stated in the “Third Report Regarding Promotion of Regulatory Reform” (December 22, 2003), which was produced by The Council for Regulatory Reform, the former Council for the Promotion of Regulatory Reform, the enhancement of the transparency of administrative procedures and the quality of regulations have been addressed through the “Administrative Procedures Act” (Law No.88 of 1993), the “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, it is necessary to formulate a set of criteria to enable a cross-cutting review (review criteria) with the emphasis on the nature and constitutional format of regulations.
Regulations are formulated after thorough consideration and deliberation to reflect social needs at the time of enforcement. When they remain unreviewed with their significance and indispensability in question despite the fact that socio-economic changes are recognized, many problems and adverse effects are likely to occur, as pointed out in the abovementioned Third Report.

As clarified in the “First Report Regarding Promotion of Regulatory Reform” (December 24, 2004), The Council remains vigilant in recognizing such a problematic situation and therefore supports the idea of creating a set of criteria to enable the implementation of a fundamental cross-sectoral regulatory review in order to verify the indispensability and rationality of each regulation as objectively and as swiftly as possible. Such review criteria must have a cross-cutting effect encompassing all areas and categories, in which sense there also needs to be an institutional design which enables an across-the-board procedure for the implementation of the review, corresponding to the nature of each regulation.

The implementation of regulatory reform is urgently required for the structural reform of Japan. Hence, review criteria should be put into practical application as soon as they are formulated and approved by the government one by one without waiting for the entire set to be completed.

Also, the introduction of the RIA (Regulatory Impact Analysis) is to be promoted, as stated in the “Three-year Plan for Promotion of Regulatory Reform” (Cabinet Decision on March 19, 2004), and The Council will keep a keen eye on further discussions and deliberations on this matter to ensure the smooth introduction of the RIA.

Moreover, in the area of qualification and certification, compulsory and monopolized lawyer

qualification requires reviewing in improving the contents of legal services, fees and convenient access within people's daily lives by the invigoration of competition within this specialized field. Therefore, discussions on the increase of the number of those who have passed bar examinations, i.e. the increase of the number of lawyers, need to be followed up to reach a positive conclusion.

1. Formulation of regulatory review criteria

[Orientation of discussion]

(1) Priority review criteria

In view of the abovementioned points, those listed below are regarded to be priority review criteria to be formulated.

① Review criteria for regulations based on notifications/notices-related provisions other than statutes and ordinances

It is generally understood that notifications/notices-related provisions other than statutes and ordinances do not have any legal effect to constrain individuals. However, according to studies by The Council, its former body; The Council for Regulatory Reform and other regulatory reform bodies on regulatory reform-related matters (including proposals related to structural reform special districts and national-scale regulatory reform, which were received from private providers during the proposal application months), there are many cases where notifications/notices-related provisions have legal effects on individuals.

The Council speculates that some of the notifications/notices-related provisions have legal effects equal to those of statutes and ordinances, though only indirectly, thus are applied as legal regulations and some may be exercised with control far too excessive to the purport and specifics of relevant statues and ordinances. Furthermore, when notifications and notices are formulated and issued in various formats, it is not always clear for citizens to verify whether or not such notifications and notices carry any legal effect, which can cascade problems from the perspective of ensuring transparency.

② Review criteria for regulations based on provisions that have passed a certain period of time since the date enacted

Regulations are formulated after thorough considerations and deliberations to reflect social needs at the time of enforcement and when they remain unreviewed with their significance and indispensability in question despite that socio-economic changes are recognized, many problems and adverse effects are likely to occur. This was mentioned earlier in this paper.

The Council believes that there are regulations which have lost their effect after a certain period of time since the time of enforcement, thus needing an aggressive review, i.e. “regulatory update assessment”.

The Council intends to select some specific cases from the regulatory reform-related matters which were examined by The Council, its former body; The Council for Regulatory Reform and other regulatory reform bodies. The Council will then verify the examples with the aim of formulating appropriate criteria so as to promote regulatory review. Incidentally, the top priority agenda to address is a set of review criteria for regulations based on notifications/notices-related provisions other than statutes and ordinances.

(2) Coordination and categorization of the administrative legislation prior to the formulation of regulatory review criteria

Prior to the formulation of review criteria for regulations based on notifications/ notices-related provisions other than statutes and ordinances, The Council, while supporting the idea of coordinating and categorizing the “administrative legislation”, i.e. rules and regulations applied to the unspecified number of cases which are determined by administrative bodies, exchanged views with experts and the government ministries and agencies which were responsible for the specific cases selected from the regulatory reform-related matters that were examined. Consequently, regulatory reform-related items within the “administrative legislation” were classified by significance, objectives and effects into three groups; ① provision orders, ② administrative criteria and ③ administrative guidelines.

① “Provision orders” and “administrative rules”

Rules applied to the unspecified number of cases which are determined by administrative bodies can be theoretically divided into two main categories; “provision orders” and “administrative rules”. “Provision orders” denote general rules laid down by administrative bodies concerning individuals’ rights and obligations. This category includes government ordinances, Cabinet Office/ ministerial regulations and extra-ministerial regulations with the main emphasis on the parameters of authority. “Provision orders” also have legal constraints over individuals providing that there is a legal basis to support the constraints. In this particular context, the legal basis includes “delegated orders” by the delegation of individual specific orders by government and ministerial ordinances and “enforcement orders”; not by the delegation of individual specific laws in express terms, but they are detailed technical rules required for the enforcement of laws.

In contrast to “provision orders” are “administrative rules”, which do not control individuals’ rights and obligations directly. Notifications/notices-related provisions other than statutes and ordinances are regarded as being included in the “administrative rules” category. It is considered that “administrative rules” do not have legal constraints and that they do not require any legal basis to be exercised (it should be noted however that rules, which are referred to by the central government as administrative work executed by local authorities, require a legal basis; law, ordinance etc. to be applied). However, among the regulatory reform-related matters which were examined by The Council, its former body; The Council for Regulatory Reform and other regulatory reform bodies, approximately 170 requests received in FY2003 and FY2004 and related to the nationwide regulatory reform concerned notifications/notices-related provisions other than statutes and ordinances. These were also identified to have legal effects similar to those of statutes and ordinances, directly or indirectly, and some of them are appropriate to be classified as “administrative criteria”. Incidentally, “administrative rules” are formulated and issued in various formats and with different titles including instructions, notices, guidelines etc.

② “Administrative criteria”

“Administrative rules” are classified as rules which do not have legal restriction over individuals, but some of them are exercised with authority in compliance with set criteria, such approval and licensing criteria, interpretive criteria, discretion criteria and benefits criteria (“administrative criteria” as a collective term), and there are some actions taken by administrative bodies in accordance with such criteria (probably indirectly), which also function with legal effects similar to those of “provision orders”.

Generally, “administrative criteria” do not have direct effects in constraining courts or individuals. However, it is interpreted that when discretionary powers are granted to government agencies which conduct administrative disposition and punishment, relevant “administrative criteria” control courts in the verification of the appropriateness of such disposition and punishment, to a certain extent, and that even when discretionary powers are not granted to government agencies, individuals may expect administrative bodies to obey “administrative criteria” through the equality principle and the fair and equitable principle (trust protection and the doctrine of estoppel).

As above, assuming that “administrative criteria” have legal effects indirectly on individuals, it is necessary to define the parameters of the role of such criteria efficiently associated with “provision orders” as well as appropriate procedures to exercise them.

A. Assessment criteria, disposition criteria and other administrative criteria in association with the Administrative Procedure Act

Articles 5 and 12 of the Administrative Procedure Act describe assessment criteria and disposition criteria. They define assessment criteria and disposition criteria as

well as imposing the duty of formulating and publicizing such criteria. The establishment of such criteria is considered to clearly specify the judgment process by administrative bodies exercising their authority, improve the prediction of administrative bodies' decisions, control arbitrariness and secure rationality. In reality, however, there are cases where administrative verdicts and decisions are made and delivered as part of administrative practice in the form of notifications and/or notices. The Council extracted typical cases from the abovementioned regulatory reform-related matters assessed by The Council, its former body; The Council for Regulatory Reform and other regulatory reform bodies and interviewed the government ministries and agencies responsible for these typical cases. The formulation and delivery of "administrative criteria", as classified in this paper, in the form of notifications and/or notices is exemplified by these cases, including the "Health Insurance Act Article 76 Clause 3 Approval Criteria (Order No. 0520001, May 20, 2003)" and the "Administrative Procedures for Medical Fee Assessment and Payments by Health Insurance Associations (Order No. 1225001, December 25, 2002)" by the Ministry of Health, Labour and Welfare. The administrative guidelines provided by the Financial Services Agency also include some provisions which are equivalent to assessment criteria.

Meanwhile, the Administrative Procedure Act controls the disposition of applications and penalties and criteria for matters irrelevant to the above are not stipulated by the Administrative Procedure Act. Such unstipulated criteria include criteria for the requirement of approval and licenses and interpretive criteria for individuals' obligations which are factors to be considered for the disposition of penalties and decisions on administrative punishment, and these criteria are often specified in the form of notifications and/or notices. Furthermore, typical examples which The Council found as a result of interviewing certain government ministries and agencies, which highlight the abovementioned practice, are the "Guidelines for Exporters in Judging 'the Obviously Appropriate Time' (the International Trade Administration Bureau, Order No. 2, April 1, 2003)" by the Ministry of Economy, Trade and Industry and the administrative guidelines provided by the Financial Services Agency , which contain some provisions equivalent to criteria concerning disposition other than the assessment criteria and the disposition criteria stipulated by the Administrative Procedure Act.

Moreover, it is often the case that a set of criteria is established by a superior administrative body to enable a unified decision to be made by its disposition agencies. A typical case would be when a government ministry lays down a set of standards for local government agencies to follow. For instance, the Ministry of Land, Infrastructure and Transport stipulates the "Restrictions on Vehicle Traffic

(traffic order No. 96, December 1, 1978), which contain such standards. The setting up of such standards characterizes the nature of notices, which are regarded as orders and commands of superior administrative bodies to their subordinate administrative agencies such as disposition agencies, and because such standards constrain disposition agencies in proceeding with dispositions against individuals, it is justifiable to say that such standards do have legal effects over individuals, although indirectly, thus indicating a characteristic of "administrative criteria". To support this opinion, although Article 7 Clauses 5 and 6, plus Article 58 Clauses 6 and 7 of the Cabinet Office Establishment Law (Law No. 89 of 1999) and Article 14 of the National Administrative Organization Law (Law No. 120 of 1948) define and stipulate "notifications" issued for publicizing matters regarding administrative operations and "official instructions and official notices" issued for directing agencies and staff engaged in administrative operations, such definition and stipulation hardly endorse the clarification of their aim or function within the legislative context.

B. Disposition criteria, technical advice and recommendations by the Local Autonomy Law

In addition, Article 245, 9 of the Local Autonomy Law stipulates disposition criteria for statutory acceptance processes. In other words, the government ministers may set up criteria for statutory acceptance processes to be observed by prefectural authorities which execute the processes. Also, in particular cases, disposition criteria may be provided for municipal governments but these must be minimum requirements for achieving set objectives. Local authorities therefore have a legal obligation to proceed with statutory acceptance processes in accordance with disposition criteria, if any are provided for them. Furthermore, disposition criteria concerning administrative disposition by local authorities have legal effects on concerned individuals, although indirectly, indicating a characteristic of "administrative criteria".

In contrast, autonomous processes are not bound by any disposition criteria by the Local autonomy Law. Hence, it is understood that no government minister has the liberty to set up criteria for local authorities to obey unless there is a law or any ordinances based on the law to define the criteria. On the other hand, Article 245, 4 of the Local autonomy Law states that government ministers may offer technical advice and recommendations when considered to be appropriate, on the operation of administrative work executed by ordinary local governments and relevant matters. Through such technical advice and recommendations, government ministers can encourage local authorities to proceed with actions and measures, when judged objectively to be appropriate, as well as indicating items necessary for

implementing the actions and measures. The provision of such technical advice and recommendations do not restrict local authorities from executing disposition processes, not creating any legal effect on individuals concerned with dispositions, and therefore such advice and recommendations are not regarded as "administrative criteria". Nonetheless, it is believed that disposition-related technical advice and recommendations offered by the government ministers, as in "Methods Used to Calculate Floor Areas (the Ministry of construction, Order No.115, April 30, 1986)" by the Ministry of Land, Infrastructure and Transport, carry elements so that they ought to be treated equally to "administrative criteria" by sharing the role with "provision orders" accordingly.

③ "Administrative rules" ("administrative guidelines") other than "administrative criteria"

Article 2, 6 of the Administrative Procedure Act stipulates that administrative instructions are given by administrative bodies within the scope of administrative operations to be executed in order to achieve set administrative objectives. The provision of administrative instructions given is defined as the act of offering guidance, recommendations and advice to certain organizations to control their act or failure to act and therefore it is not the act of disposition. Furthermore, Article 32 of the Act notes that such administrative instructions are to be met only by voluntary cooperation of those who are given the instructions. In addition, Article 36 of the Act stipulates that when administrative instructions, which satisfy fixed requirements so as to achieve the shared administrative objectives, are given by an administrative body to more than one organization, the administrative body must predetermine the specifics of such a case to correspond to the administrative instructions as well as publicizing them providing that there are no administrative complications to do so. Such case specifics which correspond to administrative instructions can be considered to be "administrative guidelines".

"Administrative guidelines" are formulated and issued in various formats, i.e. announcements, orders, notices, notifications, guidelines, guidance, technical advice, recommendations, procedures, outlines etc. Typical cases, which The Council identified through the interviews with the government ministries and agencies, include the "Comprehensive Measures for Preventing Health Problems Caused by Excessive Workload (Order No. 0212001, February 12, 2002)" by the Ministry of Health, Labour and Welfare.

(3) Orientation of discussion on the formulation of review criteria

① Categorization of notifications and notices by outline

The outline of each of "administrative rules", as defined in this paper, or

notifications/notices-related provisions other than statutes and ordinances, does not always correspond to its significance and purpose that can affect individuals. This fact is thought to be causing a misunderstanding that notifications and notices have constraints over individuals. From this perspective, it is necessary to identify the type of each notification/notice by studying the characteristics of its contents, by which the "regulatory scope" to be reformed will become clearer while the rationality and transparency of regulatory systems laid down by administrative bodies will also be secured. Notifications and notices can be categorized by the types of contents as listed below.

Characteristics of regulatory systems specified by administrative bodies (regulatory related)

- ○ "Provision orders" (ordinances, Cabinet Office regulations, ministerial decrees, extra-ministerial regulations etc.)
- ○ "Administrative rules"
  - ○ "Administrative criteria" (functionally similarly effective to "provision orders", although indirect)
  - ○ "Administrative guidelines" (determine shared contents when administrative instructions are met by voluntary cooperation of those who are given the instructions)

Regulatory systems over the operation of administrative processes, which are stipulated by the government to local authorities, should clarify the legal aspect of each administrative rule concerning individuals as well as organizations which process "disposition criteria" and "technical advice and recommendations", as listed above.
The establishment of comprehensive rules to synchronize the outlines of regulatory systems by administrative bodies, including the central government as well as local authorities, is therefore required.

② Perspectives behind review by category

Ideally, notifications and notices should be categorized by their outlines prior to the formulation of review criteria, but considering the fact that the promotion of regulatory reform is already underway, the formulation of review criteria must precede the classification of notifications and notices, as long as the circumstances allow. Hence, notifications/notices-related provisions other than statutes and ordinances (i.e. "administrative rules") are classified into two main categories; ① "administrative criteria" (those with legal effects indirectly on individuals) and ② "administrative guidelines" (those without legal effects on individuals), and review criteria are then formulated as below for each category of administrative rules.

A. "Administrative criteria" (those with legal effects indirectly on individuals)

Notifications/notices-related provisions other than statutes and ordinances in this category are considered to have legal effects indirectly on individuals and it is considered necessary to examine the significance of "administrative criteria" in close detail. Currently included in the category are interpretive criteria, discretion criteria and benefits criteria, and typical examples identified by The Council through the interviews with the government ministries and agencies are the "Health Insurance Act Article 76 Clause 3 Approval Criteria (Order No.0520001, May 20, 2003)" by the Ministry of Health, Labour and Welfare and some provisions included in the administrative guidelines provided by the Financial Services Agency, as explained above.

(a) Significance of "administrative criteria"

"Administrative criteria" must provide standards to assist administrative bodies to make appropriate decisions within the purport of each legislative decree, thus ① they must not allow regulations to be established, which do not correspond to the provisions stipulated by and its purport of the decree or ② they must not allow new regulations to be established outside the significance and purport of the decree, yet carrying an effect practically equal to that of the decree. Moreover, "administrative criteria" must be properly recognized as "criteria" which are consistent with a legal basis but do not actually contain any specifics which are to be stipulated according to ministerial ordinances.

For specifics of "administrative criteria", they should be restricted to ① clearly defined factors to be considered for a disposition process, ② standards (from which deviation may be allowed or requested according to the individual case), ③ specifics that convey rationality in response to certain types of cases to which legal requirements are applied.

There is an argument that notifications and notices, which are issued to offer technical advice to local authorities, contribute little to the effect of regulatory reform, since they do not convey any constraints over local authorities and therefore how they are dealt with is dependent on individual local authorities. From the perspective of casting aside inconvenience for the nation, regulatory advice issued to be nationally consistent may need to convey legal constraints over local authorities in accordance with "provision orders" under a law or ordinances based on the law, in which case the difference between the role of "provision orders" and the role of "technical advice" should be categorically clarified.

(b) Transparency of the "administrative criteria" formulation process

"Administrative criteria" are classified to have legal effects indirectly on

individuals and for that reason the formulation of “administrative criteria” must be implemented through the appropriate procedures by administrative bodies. Those who have decision-making authority must appoint at their discretion an advisory body or a study group or employ a public comment procedure to verify the specifics of “administrative criteria” prior to formulation so as to secure the rationality as well as the transparency of “administrative criteria”. Moreover, laws require the diet’s decisions and “provision orders” require the Cabinet decisions, if they are ordinances, and ministerial decrees require decisions of the ministries responsible, i.e. procedures to formulate legislative rules are clearly identified. In contrast, the procedure to formulate “administrative criteria” is often ambiguous. Hence, the procedure to formulate “administrative criteria and legislative grounds for the formulation of “administrative criteria” must be clearly specified.

(c) Clear contents to convey “administrative criteria”

“Notices” are a means of communication by sending certain specifics from superior administrative bodies to their subordinate administrative organizations. The contents of such notices widely vary and some of them convey “administrative criteria” and others simply inform administrative procedures and instructions. Therefore, even when notices are publicized, their characteristics are not always clear, thus, causing misinterpretation. Considering this fact, each set of “administrative criteria” must have a consistent title that indicates the purport of the set of criteria clearly to those outside administrative organizations.

B. “Administrative guidelines” (those without legal effects on individuals)

“Administrative guidelines” are considered to be rules that do not generally have any legal effects externally to restrict individuals, yet in reality they are recognized as constraints on individuals. One of the reasons would be that “administrative guidelines” are formulated taking various formats and it is not clear in citizens’ eyes whether “administrative guidelines” are merely guidelines or legislative regulations. Therefore, each “administrative guideline” must be accompanied by a consistent title to indicate that they do not carry restriction clearly to those outside administrative bodies.

(4) Orientation of further discussion

To summarize what has been described regarding review criteria:

A. "Administrative criteria" (those which have legal effects indirectly on individuals)

- Must have legislative grounds to be formulated on but must not include any specifics referred to ministerial decisions. Specifics must be appropriate to be included in "administrative criteria".
- Must be formulated through appropriate formulation procedures with high transparency.
- Contents must indicate the significance and role of "administrative criteria" clearly to those outside administrative organizations.

B. "Administrative guidelines" (those which do not have legal effects on individuals)

- Must indicate the significance and role of "administrative guidelines" clearly to those outside administrative organizations.

These regulatory review criteria are criteria that enable a cross-cutting, consistent regulatory review. Moreover, these regulatory review criteria are not for giving unconditional approval to any regulatory systems which have been reviewed; they are also guidelines for considerations for the abolition or relaxation of regulatory systems in strong support of the promotion of regulatory reform. The Council intends to continue to implement reviews according to these regulatory review criteria while clarifying further the classification of notification and notices, as explained above, plus the identification of regulatory systems to be reviewed using the regulatory review criteria by employing methods such as the extraction and studying of typical cases.

In addition, a future issue to be addressed would be how to regulate regulatory review criteria within a legislative framework so as to implement sound and consistent regulatory reviews, and for this purpose it is necessary to specify the most appropriate legislative framework in line with the clear classification of notifications and notices. Moreover, prior to the promotion of regulatory review, it is important to establish a system which enables the clear categorization of notifications and notices, both existent and newly formulated and issues, according to their characteristics. Also, it is essential to examine specific cases closely in order to formulate detailed criteria to enable regulatory review on regulations based on provisions which have passed a certain period of time since the time of enforcement. Further considerations and suggestions will certainly be made on these matters.

2. Actions to impose the implementation of the RIA (Regulatory Impact Analysis)

[Orientation of discussion]

As described in the "Three-year Plan for Promotion of Regulatory Reform" (Cabinet Decision on March 19, 2004), the introduction of the RIA (Regulatory Impact Analysis) is strongly supported. In response to the Three-year Plan, The Council has also been promoting the implementation of the RIA in collaboration with Ministry of Internal Affairs and Communications. In August 2004, the "Procedures for the Experimental Implementation of the Regulatory Impact Analysis (RIA)" was produced to engage each of the government ministries in supporting the promotion of the RIA.

Each of the government ministries has been implementing the RIA on an experimental basis since October 2004, and to The Council's knowledge RIA analyses have been implemented on a total of 79 regulatory systems by June 10, 2005, corresponding to the time of a government ordinance formulation and abolition. Also, the formulation of RIA guidelines has been in progress by the Price Stabilization Policy Council in the area of public utility charges.

The Ministry of Internal Affairs and Communications meanwhile has been carrying out research studies on the RIA to promote the development of policy evaluation methods. The Ministry has also been studying and analyzing the current performance of the RIA experimentally implemented by each government ministry. Knowledge and information acquired from the studies and analyses are shared among the ministries and further research studies have been carried out as actively as ever. More specifically, the "Study Group on Policy Evaluation Methods for Regulatory Systems" has been held six times since September 2003 and the outcomes have been compiled into the "Research Studies on Policy Evaluation Methods for Regulatory Systems", which was publicized on July 22, 2004. In addition, the "Research Studies on Methods of Quantitative Comprehension of Policy Effects in Different countries" have been implemented since November 2004, and the outcomes have just been publicized in March 2005.

The Council firmly believes in the importance of the application of the RIA for the promotion of cross-sectoral regulatory reform in the light of the enhancement of impartiality and transparency in regulatory enforcement processes. Hence, The Council will keep a close eye on the performance of the RIA implemented by each government ministry. Furthermore, the Ministry of Internal Affairs and Communications should seek the other ministries' cooperation in actualizing the compulsory implementation of initial regulatory assessment at the earliest possible within the framework of the "Law Regarding the Policy Evaluation by an Administrative Body" (Law No. 86 of 2001). The Ministry must also continue with extensive analyses on the "Performance of the

Experimentally Implemented Regulatory Impact Analysis (RIA)" (publicized in June 2005) and the verification of the progress of evaluation methods development while furthering discussion on the specific details of a framework to define the scope and timing of the compulsory initial assessment.