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

Creating a smaller, more efficient government

— Public and private sector competition and more choice for consumers and users —

December 21, 2005

Council for the Promotion of Regulatory Reform

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I. Finalization and Publication of the Second Report

The Council for the Promotion of Regulatory Reform ("the Council") has continued to play a part in structural reform based on the fundamental principles that there can be no growth without reform and that anything that can be done by the private sector should be left to the private sector. Having passed the halfway point in our three year period of operations, we need to continue to make every effort to enable the seeds of reform to grow and develop during the time we have left.

The common issue to all areas of regulatory reforms and the opening-up of government-driven markets to the private sector is the switch from services distributed by the public sector to a system of free competition and choice courtesy of the private sector. A world in which goods and services pre-approved by the government are only provided by the government itself or government-appointed providers is no different to the socialist distribution system, an approach that ignores the function of markets and that has proved unsuccessful throughout the ages in countries the world over. It is no exaggeration to say that the majority of public services in Japan are provided via government-driven markets, which are controlled through distribution systems such as these. The government needs to take responsibility for taking these distribution systems, which advocate vested interests and inefficiency, and turning them into fair markets based on free competition in the private sector and greater choice for consumers and users in order to enable socioeconomic development and to bring greater benefits to the public, focusing on consumers rather than the special interests of producers and government bodies and officials. The fact is that the conventional notion that the government is the only party capable of embodying public interests has become obsolete.

It with this in mind that we have placed priority over the course of the current fiscal year on tackling regulatory reform and the opening-up of government-driven markets to the private sector in order to achieve "substantial improvements in administrative efficiency and cost reductions" and to help "reduce the public burden and generate private sector demand", focusing on areas that have a major impact on the Japanese economy and the country's finances and areas in which there are high levels of public interest, as stated in the 2005 Council for the Promotion of Regulatory Reform Operation Policy.

Specifically, we identified the following priority areas for discussion during the current fiscal year and have continued to actively discuss the relevant issues.

I. Crossover institutional development, including (1) the early legislation of market testing, (2) the opening-up of public services to the private sector and (3) establishing regulatory review standards

II. Reforms from a crossover perspective between government agencies and covering different fields, relating to issues that are closely linked to people's lives, including (1) responding to the falling birthrate, (2) promoting competition in basic and business infrastructure and (3) immigration and the residential status of foreign citizens

III. Reforms to major government-driven markets, including (1) medical care, (2) education and (3) agriculture

Sensing the need for the Council to publicly release its views on the basic framework for key systems to enable the creation of a smaller, more efficient government, including market testing, as soon as possible, we put together the results of our discussions up to September 2005 and released them under the title Creating a Smaller, More Efficient Government - Outline Draft of the Public Service Efficiency Law (Market Testing Law).
Of the aforementioned priority areas for discussion, we put together the following list of urgent top priority issues for discussion ahead of the finalization of this report. The Committee for the Promotion of Reform on Major Issues was set up in October, headed by the Chairman of the Council and consisting of all Council members and expert planning board members, to hold meetings involving likes of open debates with the relevant ministries and government agencies in order tackle these areas.

<Top priority issues for discussion ahead of the release of this report>

① Suitable services for market testing (designated statistical research, independent administrative organization related activities (Employment and Human Resources Development Organization of Japan, national art galleries and museums), local authority information services)
② Creating an environment in which childcare service users can choose freely according to their needs (introducing direct contracts, direct assistance, etc.)
③ Reforms to NHK based on the future of public broadcasting and promoting competition in terrestrial broadcasting
④ Reviewing the role of the Central Social Insurance Medical Council, stepping up computerization in the field of medical care and making the release of information regarding medical institutions compulsory
⑤ Reforming teaching certification, recruitment and evaluation systems in order to improve the quality of teaching staff, ensuring a free choice of schools in order to help improve the quality of schools and publicly releasing information
⑥ Deregulating land use and ownership and introducing effective conversion regulations in order to promote more efficient use of agricultural land and promoting competition in agricultural distribution through reforms to agricultural cooperatives, etc.

A range of measures were approved in relation to regulatory reform in the field of education in order to promote the recruitment of human resources from a range of professional and other backgrounds to work as teaching staff, based on discussion between the Minister of Education, Culture, Sports, Science and Technology, the Minister of State for Regulatory Reform and representatives of the Council for the Promotion of Regulatory Reform, made possible by the Bureau for the Promotion of Regulatory Reform.

This report is based on the above discussion process and includes the sections outlined in the following overview. Matters that have been approved by the government agencies concerned during the course of discussions with the Council are listed in each section as "specific measures".

<Report Overview>

1. Crossover Institutional Development

(1) Quick, full-scale introduction of market testing

Reviewing past systems in which the government has played a major role in order to create a smaller, more efficient government is becoming an urgent issue that needs to be addressed by the national government and local authorities throughout the country. What we need are specific structural reforms designed ensure that anything that can be done by the private sector is left to the private sector and steps to maintain and improve the quality of public services using the limited funds available. The necessity and efficiency of public services in general, which have previously been monopolized by the public sector, need to be reassessed on a continual basis. In order to achieve this, it is vital to carry out full-scale market testing (public-private competitive tendering).

Market testing is important as a means of drawing conclusions based on objective criteria, particularly with regard to the opening-up of public services to the private sector, an area in which implementing reforms tends to be difficult.

Specifically, all public services need to be discussed without exception and a draft Public Service Efficiency Law (Market Testing Law), incorporating the establishment of an independent third-party organization with the power to extensively monitor the market testing implementation process as a whole (including the full disclosure of information on public services), needs to be submitted as soon as possible during the next ordinary Diet session. This needs to be accompanied by the necessary measures to enable the full-scale introduction of market testing.

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

Based on the principle of leaving anything that can be done by the private sector to the private sector, efforts to open up individual public services to the private sector began in earnest last year. In addition to operations and activities directly implemented by the government, such efforts also include independent administrative organizations, private corporations set up under special laws (special public corporations, authorized corporations), charitable organizations (designated organizations, etc.) and operations and activities implemented by local authorities. As a result of comprehensive investigations into the need for the relevant services and whether or not they should be provided by the relevant organizations and specific examination of the suitability of individual services for market testing, the conclusion was reached that there are a total of 41 areas in which

services should be opened up to the private sector.

(3) Establishing regulatory review standards, etc.

In order to discuss and make decisions regarding the necessity and suitability of regulations quickly and objectively, review standards covering every possible area in relation to regulations need to be drawn up and used to promote extensive reviews of regulations. Review standards based on regulations other than notification laws in particular need to be drawn up on a priority basis. Specifically, this refers to review standards relating to screening and disposition standards stipulated under the Administrative Procedure Law, other standards apart from screening and disposition standards and notifications with no external effects on individuals. In order to fully promote such reviews, individual government agencies need to start classifying notifications, to be completed before the end of 2006.

2. Reforms in Crossover Areas for Priority Discussion

(1) Responding to the falling birthrate

Bearing in mind that the issue of delays to structural reform in relation to working patterns and childcare services is one of the factors behind Japan's dwindling birthrate, we propose the promotion of diverse working patterns to enable people to strike a balance between work and childcare and regulatory reform in order to create an environment in which childcare service users can choose freely according to their needs. Specifically, we propose the discussion of measures such as expanding systems for exemption eligibility from work hour regulations, reviewing regulations in relation to temporary work (including lifting the ban on advance interviews for temporary workers other than those due to be given employment), introducing direct contracts with authorized child care facilities and introducing direct assistance for users of childcare services, including the establishment of Childcare Insurance (tentative name), which would be funded by a combination of existing childcare support budgets and insurance premiums.

(2) Promotion of competition in basic and business infrastructure

With the integration of businesses and the emergence of new business models as a result of technological innovation in the field of basic, economic and industrial infrastructure, it is becoming essential to reassess existing vertically-structured, overlapping regulations and to establish rules on crossover competition.

In the field of finance for example, we propose the establishment of basic legislation to cover all areas of capital markets (crossover legislation on financial (investment) services). In the field of information and communications, we propose the creation of a competitive environment in response to the integration of communications and broadcasting (particularly reforms in the field of broadcasting, which has been slower to adapt to change than the field of communications). With regard to the environment, we propose a review of the

classification of waste (as general or industrial waste) in order to promote recycling. In terms of safety, inspections need to be streamlined to reduce opportunity costs stemming from overlap between different regulations.

(3) Immigration and residential status of foreign citizens

As the number of foreign citizens residing in Japan and the length of their stay increases, we need to develop a clear understanding of the living, working and studying conditions of foreign residents and to develop a comprehensive policy based on social integration policies designed to help foreign residents adapt to Japanese society and intake policies centered around the government's immigration control policies. Therefore, we propose specific policies in relation to matters such as reinforcing the checking system for foreign residents after entry into Japan and reviewing requirements and limitations imposed on foreign workers in specialist and technical fields.

3. Reforms in Individual Areas for Priority Discussion (primarily major government-driven markets)

Of the major government-driven markets, that is areas in which service providers are restricted to specific bodies or there is particularly strong public sector involvement, we propose specific reform policies in areas such as medical care, education and agriculture.

Specifically, in the field of medical care, we propose the compulsory release of information on medical institutions and the disclosure of medical records to help patients choose, enhancing and improving the position of insured persons (e.g. relaxing requirements relating to the direct payment of medical bills), stepping up the computerization of medical care (including online e-billing) and reviewing the role of Central Social Insurance Medical Council. In the field of education, we propose reforms to teacher certification and recruitment systems in order to improve the quality of teaching staff, the establishment of a teacher evaluation system reflecting the views of pupils and their guardians and ensuring total freedom of choice of schools in order to encourage better quality schools. In the field of agriculture, we propose training and securing enthusiastic, skilled workers in order to make effective use of agricultural land and reforms to agricultural cooperatives in order to streamline and increase the efficiency of agricultural distribution.

<Looking Ahead to the Future>

In addition to strongly urging the government to implement the reform measures outlined in this report quickly and reliably, the Council also intends to make every effort to continue to step up research and discussion into areas in which no progress has been made so far. In doing so, the Council intends to continue to exercise its authority to the fullest possible extent and will continue to work on all areas without exception, in close cooperation with the Bureau for the Promotion of Regulatory Reform and the Council on Economic and Fiscal Policy.

II. Crossover Institutional Development

1. Quick, full-scale introduction of market testing

[Issue recognition]

(1) Description and significance of market testing

As the economic environment changes, the issue of reviewing past systems in which the government has played a major role in order to create a smaller, more efficient government is becoming an increasingly urgent one that needs to be addressed by the national government and local authorities throughout the country. What we need are specific structural reforms designed ensure that anything that can be done by the private sector is left to the private sector and steps to maintain and improve the quality of public services using the limited funds available. One method of reviewing the necessity and efficiency of public services in general, which have previously been monopolized by the public sector, is market testing (public-private competitive tendering).

Market testing is a system whereby the public and private sectors bid competitively on an equal footing under transparent, neutral, fair conditions for the right to provide public services. The bidder offering the best price and quality is then selected to provide the relevant services. It therefore represents an attempt to introduce an element of competition to the public sector for the first time and to reform the flow of operations within the public sector and approaches to the provision of public services (i.e. the public sector monopoly).

The Council has continued to engage in discussion regarding the necessary legislative and institutional development for the full-scale introduction of market testing as an important means of achieving a smaller, more efficient government.

The proposals published by the Council on September 27, entitled Creating a Smaller, More Efficient Government, set out an outline draft of the Public Service Efficiency Law (Market Testing Law) (tentative name) and called for the government to accelerate the process of passing the relevant bill.

Prime Minister Koizumi responded to this in a session of the Council on Economic and Fiscal Policy on the same day by calling for the bill to be put together as quickly as possible to be submitted during the ordinary Diet session next year. Building on from this, the government needs to work together to submit the relevant bill as early as possible during the next ordinary Diet session and to commence full-scale market testing from fiscal 2006 onwards.

Market testing systems are already in place in the majority of advanced countries that have actively implemented financial reform (USA, UK, Australia, etc.). In order to enable such a system to be introduced on a full scale in Japan as well, eight model projects were initiated in three different fields on a trial basis in fiscal 2005.

Although there have been partial crossover initiatives in relation to the opening-up of government-driven markets to the private sector in the past, including the PFI system, the designated operator system and the structural reform special district system, these systems have each been subject to a number of limitations. Based on the limitations of such existing systems and experiences gained from model projects, it is clear that market testing should be used as a powerful tool to implement ongoing reforms to public services.

As part of the process of implementing the full-scale introduction of market testing quickly and on a broad scale based on the Public Service Efficiency Law (Market Testing Law) (tentative name), the government needs to work together to actively formulate action plans clearly stating targets and processes for each individual government department as quickly as possible and to evaluate the subsequent results, all under the strong leadership of the Prime Minister.

(Reference)

① PFI system

In 1999, the government enacted the PFI Law (Law No. 117, 1999), bringing in Private Finance Initiatives (PFI) as a means of providing social infrastructure. They represent models of how private sector funding and expertise can be used in 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. Since then 217 projects have been implemented, 28 by the government and the rest by local authorities, all of which have been consistently effective (as of the end of November 2005).

However, there have been criticisms leveled at PFI:

(a) Roads, rivers and canals, airports, ports and harbors, city parks, and sewage systems are protected by the Public Properties Administrative Law and are managed by the government and local authorities who act as "operators". This restricts the extent of operations that can be carried out by private operators selected under the PFI Law in areas such as public facility management.

(b) The criteria for selecting PFI operators and the selection procedures adopted by government and local authorities do not necessarily enable private operators to demonstrate their resourcefulness, which is the essential purpose of PFI.

② Designated operators of public facilities system

The designated operators of public facilities system came into effect in September 2003 as a result of revisions to the Local Autonomy Law (Law No. 67, 1947) in June earlier that year. Whereas the management and operation of public facilities belonging to local authorities had previously only been passed over to the third sector on the condition that certain requirements were met, the designated operator system allows public facility management and operation to be passed over to regular private operators, as proposed in a report published by the

Council for Regulatory Reform in fiscal 2002.

However, there have been criticisms leveled at this system:

(a) The system is only applicable to local authority facilities, rather than facilities managed by the government.

(b) The lack of any legal coordination between the system and the Public Properties Law prevents some local authorities from managing and operating public facilities effectively.

③ Structural reform special districts system

The structural reform special districts system provides regionally-tailored preferential regulatory measures to promote structural reform and local revitalization. The Structural Reform Special Districts Law was established in 2002 (Law No. 189, 2002), since which time 709 special district projects have been implemented (as of November 2005) (the total number of approved special district projects currently underway in line with the nationwide implementation of preferential special district measures is 498). Although this system has received positive feedback due to the fact that it enables regulatory reform to be implemented within a short period of time based on private sector proposals, it has also been subject to criticism:

(a) The system is likely to remain limited to preferential measures that are only effective on a local level.

(b) Although private providers can make proposals regarding the drafting of special district projects, only local authorities are entitled to apply directly for official proposal approval.

(2) Government initiatives for the full-scale introduction of market testing

The following is a list of items discussed by the Council and approved by the cabinet to date in an effort to bring about the full-scale introduction of market testing.

Date	Details
09/27/2005	**Creating a Smaller, More Efficient Government** **– Outline Draft of the Public Service Efficiency Law (Market Testing Law) –** (Council for the Promotion of Regulatory Reform) "The government needs to work on institutional development in order to enable the full-scale introduction of market testing as quickly as possible, starting in FY2006. In order to help maintain and improve the quality of public services and to cut costs, the Public Service Efficiency Law (Market Testing Law) (tentative name) should therefore be drawn up before the end of FY2005 in order to be submitted to the Diet, based on the revised Three-year Plan for the Promotion of Regulatory Reform and the Opening-up of Public Services to the Private Sector (approved by the cabinet March 25, 2005) and the Basic Policy for Economic and Fiscal Management and Structural Reform 2005 (approved June 21, 2005). Based on the above, the basic institutional framework required for the full-scale introduction of market testing should be established in accordance with the following policies. ① A single law should be enacted to promote market testing, to include the following items:

	(i) Basic structure and purpose (ii) Basic policies (iii) Implementation of public-private competitive tendering (iv) Preferential regulatory measures (v) Independent third-party bodies (vi) Any other relevant matters ② A extensive range of proposals should be accepted from private sector operators and revisions made to basic policies on an annual basis after the enactment of the Public Service Efficiency Law (Market Testing Law) (tentative name), with revisions also made to the law if necessary."
06/21/2005	**Basic Policy for Economic and Fiscal Management and Structural Reform 2005** (cabinet approved) "Work needs to be carried out on institutional development to enable the full-scale introduction of market testing on order to increase the efficiency of public services. In order to achieve this, it is important that issues such as the role of independent third-party bodies are discussed sufficiently and the necessary preparations are made to submit the Public Service Efficiency Law (Market Testing Law) (tentative name) to the Diet before the end of FY2005 to help maintain and improve the quality of public services and to cut costs, based on the revised Three-year Plan for the Promotion of Regulatory Reform and the Opening-up of Public Services to the Private Sector. When doing so, the following points need to be noted. ① Matters such as the extensive disclosure of information on relevant public services and the market testing implementation process should be monitored by a neutral independent third-party body in order to ensure an equal competitive footing between the public and private sectors. ② Any necessary measures (revising laws, etc.) should be carried out in order to remove any obstacles preventing the smooth introduction of market testing by local authorities. ③ Market testing should be introduced in an appropriate manner, including in conjunction with evaluations of operations carried out by independent administrative organizations at the end of medium-term target periods."
03/25/2005	**Three-year Plan for the Promotion of Regulatory Reform and the Opening-up of Public Services to the Private Sector (revised)** (cabinet approved) "In order to put the notion that anything that can be done by the private sector should be left to the private sector, which is central to structural reform, into practice, institutional development needs to be discussed, including the necessary legal framework (Market Testing Law (tentative name)) for the full-scale introduction of market testing (public-private competitive tendering), based on the market testing guidelines outlined in point 1 below. The model projects outlined in point 2 below should also be implemented on a trial basis in FY2005. As a result of an appeal for private sector proposals from October 18 to November 17 2005, the Council received a total of 119 proposals from 75 different organizations. Of the proposals submitted, those that were not adopted as model projects for implementation in FY2005 shall be discussed as possible market testing projects ahead of the full-scale introduction of market testing in the future. 1. Market testing guidelines (1) Description and significance of market testing [omitted] (2) Basic policies for the full-scale introduction of market testing ① Priority implementation of government projects

	② Extensive range of projects based on private sector proposals ③ Discussion of institutions and systems, including legal framework ④ Disclosure of information on public services ⑤ Developing monitoring capabilities to ensure an equal competitive footing between the public and private sectors (3) Market testing implementation processes and other important points ① Selection of suitable services ② Determining and announcing a policy for public-private competitive tendering ③ Public-private competitive tendering, evaluation of the results and selection of a successful bidder ④ Concluding contracts, commencing service, etc. ⑤ Ongoing monitoring ⑥ Appropriate allocation of government employees (4) Model projects subject to market testing (trial introduction in FY2005) [omitted] 2. Model projects to be introduced on a trial basis in FY2005 (1) Hello Work (public employment security offices) (four projects) (2) Social Insurance Agency (three projects) (3) Prison facilities (one project)"
12/24/2004	**First Report on the Promotion of Regulatory Reform and the Opening-Up of Government-driven Markets for Entry into the Private Sector** **– Achieving a Private Sector-led Economic Society through the Opening-Up of Government-driven Markets for Entry into the Private Sector –** (Council for the Promotion of Regulatory Reform) Proposal: "Market testing must therefore be implemented on a full scale in FY2006, as a means of accelerating the process of transferring authority and administration from the public to the private sector […]" (Items such as market testing guidelines and model projects to be implemented in FY2005 approved by the cabinet as part of the aforementioned revised Three-Year Plan)

10/18/2004 ~ 11/17/2004	**Appeal for Private Sector Proposals for Market Testing (Public-Private Competitive Tendering)** (Council for the Promotion of Regulatory Reform) Appeal for proposals from private sector operators regarding suitable services for model projects to be implemented in FY2005 (119 proposals submitted by 75 different organizations)
08/03/2004	**Interim Summary** **– Achieving a Private Sector-led Economic Society through the Opening-Up of Government-driven Markets for Entry into the Private Sector –** (Council for the Promotion of Regulatory Reform) Proposals regarding basic policies for the introduction of market testing, implementation processes and discussion schedules (resulting in the aforementioned revised Three-Year Plan)
06/04/2004	**Basic Policy for Economic and Fiscal Management and Structural Reform 2004** (cabinet approved) "In order to accelerate the process of introducing systems, such as market testing to clarify the indispensability of public services and determine the numerical targets needed in order to promote the opening up of government-driven markets to the private sector, the design of institutional arrangements must be completed during FY2004. Further discussion will be held prior to the trial introduction of systems."
03/19/2004	**Three-year Plan for the Promotion of Regulatory Reform and the Opening-up of Public Services to the Private Sector** (cabinet approved) "Market testing is a system that entails bidding between public and private service providers of mutual specializations under fair competitive conditions so as to determine which providers are capable of offering quality services at affordable prices. Market testing has already been exercised in other countries, including the UK, Australia, Holland, Denmark, and Sweden. The Japanese government has a role in ensuring a safe and secure living for its people. Consequently, Japan should carry out its own research into the adoption of market testing in order to secure fair competitive tendering conditions for both public and private sectors. This research shall be done in parallel with an investigation into other countries' examples."
12/22/2003	**Third Report Regarding the Promotion of Regulatory Reform** (Council for Regulatory Reform) "Market testing is a system that entails bidding between public and private service providers of mutual specializations under fair competitive conditions so as to determine which providers are capable of offering quality services at affordable prices. Market testing has already been exercised in other countries, including the UK, Australia, Holland, Denmark, and Sweden. The Japanese government has a role in ensuring a safe and secure living for its people. Consequently, Japan should carry out its own research into the adoption of market testing in order to secure fair competitive tendering conditions for both public and private sectors. This research should be done in parallel with an investigation into other countries' examples."

(1) Submitting the Public Service Efficiency Law (Market Testing Law) (tentative name) to the next ordinary Diet session

[Specific measures]

The full-scale introduction of market testing is an urgent issue in order to put the principle that anything that can be done by the private sector should be left to the private sector into practice and to create a smaller, more efficient government.

The government should therefore submit the Public Service Efficiency Law (Market Testing Law) (tentative name) as early as possible during the next ordinary diet session, based on the Basic Policy for Economic and Fiscal Management and Structural Reform 2005 (approved by the cabinet June 21, 2005).

(2) Quick, full-scale introduction of market testing based on the Public Service Efficiency Law (Market Testing Law) (tentative name)

[Specific measures]

To enable the Public Service Efficiency Law (Market Testing Law) (tentative name) to be submitted to the next ordinary Diet session and full-scale market testing to be introduced quickly, the following measures need to be implemented.

In the interim period until the Public Service Efficiency Law (Market Testing Law) (tentative name) is enacted, any essential functions due to be carried out by independent third-party bodies established in accordance with the law (refer to the revised Three-year Plan for the Promotion of Regulatory Reform and the Opening-up of Public Services to the Private Sector (approved by the cabinet March 25, 2005)) shall be carried out by the Council.

Of the private sector proposals submitted, those not listed below need to be discussed as possible projects for full-scale market testing in the future, based on the fundamental principle that anything that can be done by the private sector should be left to the private sector.

① Social Insurance Agency services

[Issue recognition]

Improving the national pension collection rate is one of the major short-term issues in which private operators are increasingly playing an active role. Under the current system however, the statute of limitations on the national pension is due to expire in two year's time and the state is accumulating massive debts with each year that passes. One of the reasons for this is that the National Pension Law operates on the principle of compensation, whereby pensioners can only receive pension payments in the future if they pay their pension premiums, meaning that unlike

other taxes for which reminders have to be issued, the Social Insurance Agency's policy merely states that delinquents "may be issued reminders" to pay pension premiums.

The present situation however is clearly different to that at the time of the enactment of the National Pension Law. Criticisms of the current system include (1) inter-generational dependence as a result of the diminishing working generation having to support the increasing number of elderly people as Japan's population continues to dwindle in the future and (2) further increases in government costs as a result of those who haven't paid pension premiums being eligible to receive welfare benefits.

Measures therefore need to be taken as soon as possible to interrupt the statute on limitations to prevent the state from accumulating further debts.

We believe that it will be necessary to fundamentally restructure the approach to the national pension system in the future through specific measures such as (1) speeding up the process of issuing final demands to delinquents as part of the enforced collection procedure, (2) reviewing the situation regarding exemption from legal requirements and applications and (3) issuing reminders with the aim of interrupting the statute of limitations.

[Specific measures]

The Social Insurance Agency is expected to play a vital role in the fundamental running of social insurance operations, including implementing the national pension and welfare pension insurance schemes (taking out policies, reducing and exempting people from premiums, etc.), collecting premiums, pension consultations, benefits and information management.

Due to the lack of sufficient incentives in areas such as increasing the efficiency of insurance premium collection and administrative operations however, the rate of payment of national pension premiums has slumped in recent years, down to just 63.6% in fiscal 2004. The current number of entities not yet registered for welfare pension insurance is also unclear. This has given rise to a wide range of issues, such as an inability to reallocate personnel efficiently as part of operations, the poor handling of inquiries, the careless use of pension premiums and numerous cases of misconduct.

With the Japan's population expected to continue to age in the future whilst the birthrate falls, the outlook for country's financial situation is also getting worse. Public unease regarding the sustainability of the social insurance system is growing, compounded by mounting mistrust in the governing Social Insurance Agency.

It is therefore becoming increasingly urgent to improve the collection rate over the short term, particularly in relation to national pension premiums, and to clear up the public's sense of unfairness with regard to the social insurance system, whilst also providing appropriate, cost-effective services.

Speedy reform is also required in order to address the many serious issues concerning social insurance services, such as those outlined above, and to establish an appropriate system of service delivery via the public sector that is both transparent and efficient. The role of the Social Insurance Agency and its operations also needs to be

fundamentally reviewed.

With the government also pushing ahead with sweeping reforms to both the operations and the organization of the Social Insurance Agency, the rate of payment of national pension premiums has increased slightly, up 1.0% on the previous year as of October 2005. One of the operational reform targets listed under the Operational Reform Program put together in September this year by the Advisory Committee on the Establishment of a New Social Insurance Mechanism, headed by the Minister of Health, Labor and Welfare, was to promote initiatives designed to increase the rate of payment of national pension insurance premiums to 80% as part of the establishment of a new social insurance mechanism.

In order to promote such initiatives, full-scale market testing should be introduced as quickly as possible as part of reforms to the Social Insurance Agency.

The following measures should therefore be implemented as a matter of urgency.

In order to ensure the sufficient disclosure of information to enable private sector operators to participate in the tendering process as part of the full-scale introduction of market testing, due diligence (disclosure of quantitative and qualitative data and onsite information, responding to questions, etc.) should be made possible in all areas and every effort made to ensure the thorough disclosure of information accordingly, including with respect to the individual projects outlined in the following sections I and II.

I. Full-scale introduction of market testing for the collection of national pension premiums

(i) Full-scale introduction of market testing for the collection of national pension premiums

In order to improve the collection rate for national pension premiums and to increase efficiency by harnessing the resourcefulness of the private sector as part of reforms to the Social Insurance Agency, full-scale market testing should be introduced in relation to the collection of national pension premiums.

Once the Public Service Efficiency Law (Market Testing Law) (tentative name) has been enacted during the next ordinary Diet session, market testing should then be carried out accordingly and measures taken to enable the successful bidder to commence the collection of national pension premiums as soon as possible in FY2007.

Such market testing should, in principle, be based on contracts spanning a number of years (three or more) in order to enable investment in the development of facilities and skills with the aim of increasing efficiency. Furthermore, in order to enable the private operator commissioned based on market testing to execute the collection of premiums smoothly and efficiently and increase the rate of collection, the head of the Social Insurance Agency should, if requested to do so by the private operator in relation to an insured party refusing to pay the necessary premiums, take immediate steps to implement enforced collection proceedings based on objective, reasonable requirements that take into consideration the cost-effectiveness of collection (only after a final demand has been issued).

Bearing in mind that market testing represents an opportunity to review operational processes directly controlled by the public sector, the status of projects based on the aforementioned market testing should be monitored on an ongoing basis and the collection of national pension premiums by social insurance offices throughout the country should be subjected to full-scale market testing or opened up to the private sector in the future. As part of such measures, every effort should be made to identify those exempt from payment and to carry out enforced collection quickly and stringently, including the interruption of the statute on limitations through the issue of reminders. In order to harness the resourcefulness of the private sector in an attempt to increase the collection rate for national pension premiums and to increase efficiency, further discussions should also be held regarding ways to enhance national pension premium collection services subject to market testing based on their current status.

(ii) Establishing special regulations under the Public Service Efficiency Law (Market Testing Law) (tentative name)

In order to ensure an equal footing in terms of competition between the public and private sectors as part of market testing for the collection of national insurance premiums, any necessary special regulations in relation to legislation such as the National Pension Law (Law No. 141, 1959) should be established under the Public Service Efficiency Law (Market Testing Law) (tentative name).

II. Expanding market testing next year

(i) Increasing the number of locations of national pension premium collection services

The number of social insurance offices implementing market testing for the collection of national pension premiums should be increased next year from five to 35 locations.

(ii) Increasing the number of locations for the promotion of the welfare pension insurance system amongst unregistered entities

The number of social insurance offices promoting the welfare pension system amongst unregistered entities should be increased from five to 104 locations.

In order to capitalize on the results of such efforts and to harness the resourcefulness of the private sector in an attempt to achieve improved results and to further increase efficiency, market testing should be carried out on a stage-by-stage basis at social insurance offices throughout the country and services opened up to the private sector.

(iii) Telephone pension counseling centers

Services provided by the two telephone pension counseling centers should continue to be provided

next year.

Comprehensive call centers to help the public and insured parties should be set up in the future and subjected to market testing and opening-up to the private sector in order to harness the resourcefulness of the private sector in an attempt to achieve improved results and to further increase efficiency.

② Hello Work (public employment security offices)

[Issue recognition]

"Hello Work" is the collective name for public employment security offices in Japan. They are government-run job agencies that provide free job placement services and unemployment insurance-related services. There are approximately 23,000 members of Hello Work staff throughout the country (of which half are non-regular employees), with approximately 14,000 of those involved in job placement services (of which approximately 8,000 are non-regular employees).

In recent years, there have been more middle-aged white-collar workers and young workers without jobs, resulting in an increasingly diverse range of unemployed people. Based on both discussions by the Council and the Council on Economic and Fiscal Policy and the Basic Policy for Economic and Fiscal Management and Structural Reform 2004 (approved by the cabinet June 4, 2004), Hello Work has been exploring efficient and effective ways to improve its response to such diversified unemployment issues by adopting private sector strategies. Nonetheless, Hello Work is still criticized for failing to provide adequate job placements for unemployed people in some cases.

The majority of those employed by Hello Work are short-term non-regular staff members with private sector backgrounds who are allocated to the likes of one-on-one consulting services or job search services. The numbers of such human resources have already reached the same level as regular civil servants. However, the disclosure of information regarding the connection between the current system of recruiting non-regular personnel and the level of efficiency of job placement services has been insufficient to date and there is no clear overall picture of the relevant costs

Furthermore, whereas it is effective to provide job placement services in conjunction with vocational education and training, as is common practice in the private sector, vocational training schemes in the public sector are carried out independently from Hello Work. These two areas need to be closely linked in order to make job placement services more effective.

A total of 74 private operators participated in the tendering process as part of model market testing projects carried out this year in relation to Hello Work. It would be fair to say that the results were quite effective. With regard to Career Exchange Plaza services for example, there were bids from private operators capable of cutting costs by 30% or more compared to the costs required to run services directly via the private sector (direct costs only (based on figures published by the Ministry of Health, Labor and Welfare)), based on the condition of being able to

guarantee a level of service superior to the 55% rate of employment (on average) under existing government-run Career Exchange Plazas.

The majority of fee-charging job placement agencies provide placement services based on a system of charging companies rather than job seekers. In other words, both types of service, whether provided by the public or private sector, provide job seekers with job placement services free of charge. The only real difference between the two is the fact that the government covers the costs for one and private companies cover the costs for the other.

There are issues regarding market testing and the opening-up of Hello Work services to the private sector in relation to ILO Convention No. 88, with the Ministry of Health, Labor and Welfare claiming that "the private sector management of Hello Work public facilities would be in violation of ILO Convention No. 88, which obliges governments to establish, control and supervise a nationwide employment security network staffed by civil servants".

As indicated previously in the First (Follow Up) Report on the Promotion of Regulatory Reform and the Opening-Up of Government-driven Markets for Entry into the Private Sector (March 23, 2005) however, Convention No. 88 was adopted internationally in 1948 when state monopoly-of-employment policies were in place. In view of changes in thinking regarding job placement since then (the fact that the role played private sector job placement services is now highly valued, growing awareness of the need for public-private cooperation in relation to job placement services, etc.), Convention No. 88 should be interpreted based on the ultimate objective of the ILO, namely protecting workers.

From this standpoint, actively using private sector capabilities to form an employment safety net in Japan, where private job placement services have been developed and play a particularly important role, could be regarded as being perfectly in line with the spirit of Convention No. 88.

In relation to this issue, it is important to note that Article 1, Clause 2 of ILO Convention No. 88 states that "the essential duty of the employment service shall be to ensure, in cooperation where necessary with other public and private bodies concerned, […] the maintenance of full employment".
[http://www.ble.dole.gov.ph/issuances/ILO_88.pdf]

The convention also states that the state-controlled employment offices that make up the national network should be "sufficient in number to serve each geographical area of the country and conveniently located for employers and workers" (Article 3). It is fair to say that this leaves specific matters such as the number of such employment offices and their relative position to the discretion of each individual government based on the socioeconomic circumstances and extent of communications and transport technology in their respective countries.

Bearing in mind the above points, it is essential to continue to discuss the role of Hello Work with regard to compliance with ILO Convention No. 88 and to push ahead with further market testing and the opening-up of Hello Work services to the private sector, whilst also continuing to review services on an ongoing basis rather than sticking rigidly to existing notions and frameworks.

[Specific measures]

I. Full-scale introduction of market testing for Human Resource Data Bank, Career Exchange Plaza and recruitment development services

(i) Full-scale introduction of market testing for Human Resource Data Bank services

There are 12 Human Resource Data Banks around Japan. They are a division of Hello Work that provide free specialist job placement services run by civil servants concentrating on management and specialist or technical jobs, as complementary services on top of Hello Work's general free job placement services.

Full scale market testing should be introduced at three Human Resource Data Banks, including one in Tokyo.

Once the Public Service Efficiency Law (Market Testing Law) (tentative name) has been enacted during the next ordinary Diet session, market testing should then be carried out accordingly before the end of FY 2006 and measures taken to enable the successful bidder to commence Human Resource Data Bank services as soon as possible in after April 2007.

Such market testing should, in principle, be based on contracts spanning approximately three years in order to enable investment in the development of facilities and skills with the aim of increasing efficiency.

If the successful bidder is a private operator, the status of operations (service quality, efficiency, etc.) at Human Resource Data Banks managed by the relevant operator should be compared against that at other Human Resource Data Banks under public sector management and the possibility of extending the introduction of full-scale market testing to other relevant job placement services discussed.

(ii) Full-scale introduction of market testing for Career Exchange Plaza services

There are 15 Career Exchange Plazas around Japan. They are a division of Hello Work that provide employment support services (career consultations, seminars, etc.) for job seekers, particularly those with professional management or technical experience.

Market testing targeting the running of facilities offering a full range of employment support services, including free job placement services for job seekers, should be introduced at eight Career Exchange Plazas.

Once the Public Service Efficiency Law (Market Testing Law) (tentative name) has been enacted during the next ordinary Diet session, market testing should then be carried out accordingly before the end of FY 2006 and measures taken to enable the successful bidder to commence Human Resource Data Bank services as soon as possible in after April 2007.

Such market testing should, in principle, be based on contracts spanning approximately three years in order to enable investment in the development of facilities and skills with the aim of increasing efficiency.

If the successful bidder is a private operator, the status of operations (service quality, efficiency, etc.) at Career Exchange Plazas managed by the relevant operator should be compared against that at other Career Exchange Plazas under public sector management and the possibility of expanding the introduction of full-scale market testing discussed.

(iii) Full-scale introduction of market testing for recruitment development services

Full-scale market testing should be introduced for recruitment development services (five facilities), based on job-seeking trends at each branch of Hello Work.

Once the Public Service Efficiency Law (Market Testing Law) (tentative name) has been enacted during the next ordinary Diet session, market testing should then be carried out accordingly before the end of FY 2006 and measures taken to enable the successful bidder to commence recruitment development services as soon as possible in after April 2007.

If the successful bidder is a private operator, the status of operations (service quality, efficiency, etc.) managed by the relevant operator should be compared against recruitment development operations under public sector management and the possibility of expanding the introduction of full-scale market testing discussed based on the unemployment situation.

(iv) Establishment of special regulations under the Public Service Efficiency Law (Market Testing Law) (tentative name)

Any necessary special regulations relating to the Employment Security Law (Law No. 141, 1947) in order to ensure an equal competitive footing between the public and private sectors in relation to market testing for Human Resource Data Bank and Career Exchange Plaza services should be established under the Public Service Efficiency Law (Market Testing Law) (tentative name).

II. Conducting market testing next year

(i) Career Exchange Plaza services

Career exchange plaza services should continue to be provided at the same five locations as this year.

(ii) Youth Career Exchange Plaza services

Youth Career Exchange Plaza services should continue to be provided at the same location as this year.

(iii) Recruitment development services

Recruitment development services should continue to be provided in the same three areas as this year.

③ Statistical research operations

[Specific measures]

The cabinet has approved the following statement regarding statistical research operations, as set out in the aforementioned revised Three-year Plan for the Promotion of Regulatory Reform and the Opening-up of Public Services to the Private Sector. "Statistical services, including field surveys and results, should, in principle, be opened up to the private sector, on the condition that private research bodies be bound by the same obligation of confidentiality as their public sector counterparts, either in the eyes of the law or contractually. If statistical research is to be entrusted to multiple private bodies, a standard research procedure manual should be provided or some sort of equivalent action taken to ensure a uniform level of work in order to maintain and improve the quality of statistics." This needs to be implemented quickly and reliably.

In FY2006, small scale statistical research should be carried out on a trial basis targeting private companies (Science and Technology Research and Private Economic Research (both designated statistical research projects)), based on the aforementioned three-year plan.

As part of discussions regarding market testing and the opening-up of designated statistical research projects to the private sector, it would be beneficial to carry out specific studies in advance to verify the extent of the impact on areas such as the accuracy of results depending on different research bodies (government or local authorities vs. private operators) and methods (research conducted by official researchers vs. postal or online research). Based on comparisons and analysis of the impact on such areas, the aim of the aforementioned trial research is to discuss and draw conclusions regarding any potential adverse effects that could result from the comprehensive opening-up of the implementation of designated statistical research projects in general (excluding planning) to the private sector and what level of preventive measures should be taken response.

The Ministry of Internal Affairs and Communications should proceed with this as part of the implementation of trial research, covering the entire process from the planning and institutional design stages through to the verification and evaluation of research results, in close cooperation with the Council.

Providing that statistical accuracy and reliability can be guarantees and that reporters' confidentiality is protected, the aforementioned two categories of statistical research projects should be market tested and opened up to the private sector by FY2007 at the latest, based on the results of trial research.

The relevant government ministries and agencies should also make use of the results of the aforementioned trial research in order to promote initiatives to enable market testing and the opening-up of other designated statistical

research projects as soon as possible.

As part of such initiatives, the Ministry of Internal Affairs and Communications should formulate the necessary plans for all designated statistical research projects under its control, as well as the aforementioned two categories, by the middle of FY2006 at the latest in order to enable market testing and the opening-up of research to the private sector by FY2007, in cooperation with the Council (any designated research projects not implemented by FY2007 should be implemented as soon as possible thereafter). The Ministry of Internal Affairs and Communications should also take the necessary steps to revise guidelines for market testing and the opening-up of designated statistical research projects under the control of other ministries and agencies as soon as possible.

The necessary measures should be implemented to enable operations carried out by the National Statistics Center to be market tested and opened up to the private sector by the middle of FY2006 in order to further increase operational efficiency, taking into account the type, nature and level of expertise of the relevant operations.

④ Prison administration

[Specific measures]

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

Consequently, based on the policy that anything that can be done by the private sector should be left to the private sector, certain operations have been opened up to the private sector in order to enable prison facilities to maintain and improve their capabilities and operate more efficiently.

Market testing, in the form of model projects, has been carried out at two prison facilities during the current fiscal year. Progress has also been made with the establishment of private sector-driven prisons, making use of the PFI and structural reform special district systems.

In order to harness private sector capabilities to better run prison facilities, thus increasing efficiency thanks to private operators' resourcefulness and improving the transparency of prison administration at the hands of such operators, these projects should be continued in FY2006, based on the results obtained from market testing on the relevant model projects carried out during the current fiscal year (operations such as guarding prison buildings, outside patrols, security, guarding facilities such as reception offices and auxiliary operations related to the treatment of inmates at Miyagi Prison, Fukushima Prison and Fukushima Branch Prison).

The opening-up of other facilities to the private sector should also be discussed and promoted, taking into account progress with the development and running of the Mine Social Rehabilitation Promotion Center, a pioneering initiative based on the PFI and structural reform special district systems

⑤ Local authority services

[Specific measures]

One area on which particular emphasis has been placed as part of the government's much-publicized need for administrative financial reform is that of the increased efficiency of local authority services and improvements in local government finances. Maintaining, improving and increasing the efficiency of local government services is set to become an increasingly urgent issue in the future, not least because there is expected to be an increased need to maintain and improve the standard of existing services and reduce the burden on local finances as a result of the mass retirement of workers belonging to the so-called baby-boom generation, which is due to reach a peak in FY2007.

As local authorities gain increasing levels of autonomy in line with the government's so-called three-point reform package, the more aware local authorities are expected to examine the contents of their services in greater depth and to actively proceed with the opening-up of services to the private sector through market testing and range of other techniques in an attempt to maintain and improve the standard of their services and increase efficiency.

It clearly states in Creating a Smaller, More Efficient Government that, in order to provide support for trends such as these amongst local authorities, the government should "take the necessary measures to enable forward-thinking local authorities to introduce and implement market testing under their own initiative, including preferential regulatory measures". The revised Three-year Plan for the Promotion of Regulatory Reform and the Opening-up of Public Services to the Private Sector and the Basic Policy for Economic and Fiscal Management and Structural Reform 2005 (approved by the cabinet June 21, 2005) both feature similar suggestions.

Based on this, the necessary environment should be created in order to enable local authorities to carry out market testing and actively open up their services to the private sector in the future, including the establishment of preferential measures relating to current laws under the Public Service Efficiency Law (Market Testing Law) (tentative name).

With the exception of auxiliary services, local authority information and reception services (services carried out at local authorities' main offices, branch offices or other divisions, including receiving and processing requests for copies of resident cards and other official documents and distributing the relevant documents) are essentially by provided by local authority staff. This system has been criticized due to the fact that there are limits to the extent to which the quality of services can be improved and costs reduced as a result of factors such as the need to introduce staff rotation schemes for regular employees or recruit non-regular employees in order to implement initiatives designed to offer local residents greater convenience (extending services hours, handling inquiries at weekends or on holidays, etc.).

Bearing in mind the current situation, the government needs to establish preferential legal measures under the Public Service Efficiency Law (Market Testing Law) (tentative name) in relation to the following information

services in order to enable services to be made more convenient for local residents, to improve cost effectiveness and to enable local authorities to implement market testing under their own initiative. The relevant mechanisms must also take personal data protection into full consideration.

(i) Receipt of requests for family registers and other documents in accordance with the Family Registration Law and provision of the relevant documents

(ii) Receipt of requests for copies of certificates of alien registration and other documents in accordance with the Alien Registration Law and provision of the relevant documents

(iii) Receipt of requests for tax certificates and other documents in accordance with the Local Tax Law and provision of the relevant documents

(iv) Receipt of requests for copies of resident cards and other documents in accordance with the Basic Resident Register Law and provision of the relevant documents

(v) Receipt of requests for copies of family registers and other documents in accordance with the Basic Resident Register Law and provision of the relevant documents

(vi) Receipt of requests for seal registration certificates and provision of the relevant documents

Further discussions should be held with regard to the suitability of other local authority services, as well as those listed above, for market testing in the future, taking into account proposals submitted by local authorities and private operators. Once conclusions have been drawn, the necessary measures should then be implemented in due course.

⑥ Independent administrative organizations

[Specific measures]

The following necessary measures should be implemented in relation to services provided by the relevant independent administrative organizations.

Based on the policy that anything that can be done by the private sector should be left to the private sector, discussions should also be held as soon as possible with regard to other organizations and services apart from those listed below, including a review of independent administrative organizations' financial operations based on the Basic Policy on the Reform of Policy-based Finance (Council on Economic and Fiscal Policy, November 29, 2005). Furthermore, in order to increase efficiency and maintain and improve the quality of public services, the implementation of market testing also needs to be discussed as soon as possible.

I. Japan Science and Technology Agency

[Specific measures]

The aim of the Japan Science and Technology Agency (JST) is to lay the foundations for the promotion of science and technology through a comprehensive range of activities, including basic scientific and technological research to help generate new technology, basic research and development, the commercialization of new technology and the distribution of relevant information in its role as a core organization for information relating to science and technology in Japan.

One project managed by JST is the Miraikan National Museum of Engineering, Science and Innovation, which is based on projects planned and implemented by JST in conjunction with the results of its own basic research and the results of research in the four priority fields under the government's Science and Technology Basic Plan. The museum is of great significance because it provides people with information in such a way that is designed to breathe new life into communication between science and technology and the general public. All this is possible thanks to an environment in which the Executive Director of the museum is free to show their initiative. Nevertheless, it has been said, in the Reorganization and Rationalization Plan for Special Public Corporations for instance, that the museum's activities could be managed even more efficiently through steps such as greater private sector involvement.

Discussion is therefore needed with regard to possible methods of qualitatively and quantitatively evaluating the effectiveness of the large sums of public funds invested into the relevant facility in policy terms. In addition to discussing the feasibility of continued market testing in the future and making efforts to increase private sector involvement, the project should also be promoted based on increased operational efficiency, through steps such as the introduction of competitive tendering.

JST also handles selected screening and implementation operations as part of the Ministry of Education, Culture, Sports, Science and Technology's science and technology promotion subsidy program (handling public appeals for new issues, running part of the screening and evaluation working group, managing issues, etc.). The Reorganization and Rationalization Plan for Special Public Corporations underlines the need to take action with regard to the future of competitive research funding, including steps to correct the trend towards concentrating and overlapping funds on specific areas of research and to clarify cost effectiveness.

Therefore, in order to ensure that science and technology promotion subsidies are adequately distributed so as to maximize the effect on society as a whole, there needs to be a fairer, more transparent, falsifiable, strict framework for screening (to gauge whether or not the relevant subsidized research will have a sufficient socioeconomic effect in line with the public funds put into it) or retrospective evaluations (to verify whether or not completed research has had such an effect). Although five-year follow-up evaluations for general research have been carried out on a trial basis starting this year, efforts need to be made to further promote and expand the scope of such initiatives in such a way that will make it possible to measure the socioeconomic effects of research on a wide scale.

As the effects of basic research such as that funded by science and technology promotion subsidies on society as a whole are indirect and spread out and can only be ascertained over a long period of time, there is an urgent need to develop a rigid screening or evaluation system to help allocate funding in such a way that will help promote science

and technology more efficiently. As they will be responsible for allocation of huge amounts of government funding, those commissioned to carry out screening or evaluations should be screened rigorously (doctorates, proven track records in terms of both qualitative and quantitative research, etc.) to ensure that they have the required standard of academic excellence (research performance, etc.) and judgment to carry out the relevant screening or evaluations in line with the essential purpose of the program.

Either way, screening and evaluations should be carried out retrospectively by a highly qualified, highly skilled independent third party via a mechanism that will enable the research to be judged strictly.

Thus a high quality screening and evaluation system needs to be developed in cooperation with outstanding researchers, engineers and other scientific and technical specialists.

Finally, in light of the fact that the science and technology promotion subsidy program has also been criticized for entailing too much detailed paperwork, ways to improve the administrative process and to make operations more efficient also need to be discussed.

II. Japan Student Services Organization

[Specific measures]

The Japan Student Services Organization (JASSO) is an independent administrative organization that was formed in April 2004 as a result of a merger between a number of organizations including the Japan Scholarship Organizations and the Association of International Education Japan. It provides loans to cover education costs to help ensure equal opportunities in education and provides services designed to promote exchange with overseas students.

JASSO's scholarship services are similar to those provided by policy-based finance institutions. Discussions should be held during FY2006 with regard to reviewing JASSO's lending services, including the possibility of market testing, based on the Basic Policy on the Reform of Policy-based Finance (Council on Economic and Fiscal Policy, November 29, 2005).

As the use of private sector operators has proved effective in the past, mainly in relation to the collection of scholarships, the possibility of expanding the scope of private sector involvement to include scholarship lending and other services should also be discussed alongside reviews of policy-based finance services in general in order to further promote the opening-up of services to the private sector, which could be expected to enable services to be made more efficient and more effective.

Of JASSO's support services for overseas students, the management of International Student Houses has been fully entrusted to Japan Educational Exchanges and Services. Nevertheless, improvements still need to be made in areas such as sweeping reviews of the selection criteria for operators and the introduction of competitive tendering.

The above measures should be discussed and finalized before the end of FY2006.

III. Employment and Human Resources Development Organization of Japan

[Specific measures]

(i) Full-scale introduction of market testing in relation to professional training activities as part of "Ability Garden"

In addition to continuing to provide services via "Ability Garden" (established and managed by the Employment and Human Resources Development Organization of Japan) next year, six of the 12 industry-wide mid-career training courses that have been in place for a fixed period after development and trial implementation should be subjected to market testing before the end of FY 2006 in accordance with the Public Service Efficiency Law (Market Testing Law) (tentative name) once it has been enacted during the next ordinary Diet session and measures taken to enable the successful bidder to commence training activities from April 2007 onwards.

(ii) Full-scale introduction of market testing in relation to work experience activities at the Vocational Museum

Of the work experience activities at the Vocational Museum (established and managed by the Employment and Human Resources Development Organization of Japan), work experience activities in five professions other than those implemented in conjunction with the likes of industry groups and traditional crafts organizations (i.e. activities implemented by the Vocational Museum itself) should be subjected to market testing before the end of FY 2006 in accordance with the Public Service Efficiency Law (Market Testing Law) (tentative name) once it has been enacted during the next ordinary Diet session and measures taken to enable the successful bidder to commence work experience activities from April 2007 onwards.

(iii) Quick disposal of employee housing

Based on the cabinet-approved Reorganization and Rationalization Plan for Special Public Corporations, employee housing should be transferred or abolished as soon as possible, depending on whether or not there are any residents living there, with the help of private sector knowledge and expertise if necessary. Although employee housing was originally developed to provide accommodation for employees relocating to the area, it was subsequently developed on a nationwide scale, with eligibility expanded to include anyone deemed by the relevant public employment security office to be in need of accommodation for the purpose of job security. The number of relocating employees living in employee housing is currently around the 20% mark and there are even households living there that do

not fall under the category of "low income households struggling to find housing", as stipulated in the Public Housing Law.

Despite the fact that the scheme is essentially designed for government and local authority employees, there are even cases of regular citizens being allowed to live in employee housing at a rate significantly lower than the market rent.

In addition to the fact that employee housing has strayed a long way from its original purpose, it is also being managed in a questionable manner compared to the original aim of the system. Furthermore, despite the fact that the Reorganization and Rationalization Plan for Special Public Corporations, which was approved by the cabinet in FY2001, clearly states that measures should be discussed for the early abolition of employee housing, depending on whether or not there are any residents living there, and housing abolished as soon as possible, insufficient action has been taken, with no concrete disposal plans outlined as yet.

In addition to retracting the notion that it will take 30 years to fully abolish the employee housing scheme, the following matters need to be discussed and finalized before the end of FY2006.

There is currently employee housing that is aging or functionally obsolete, meaning that its property value is exceedingly low. Similarly, there is housing where it is difficult to secure a sufficient income from rental management. Such housing should therefore be transferred or abolished as soon as possible, drawing on private sector knowledge and expertise. Specifically, housing should either be transferred to local authorities via conventional methods or sold off quickly to the private sector in the form of vacant lots via competitive tendering (including the termination of all current regular rental contracts). With the cooperation of the relevant local authority, any residents that meet the criteria for public housing should be relocated to public housing under local authority management or something similar. Housing assistance systems should be used to cover any necessary housing costs for households on welfare benefit that are relocated to alternative accommodation after leaving employee housing. Bearing in mind fairness in terms of the fact that the majority of households on the same income have to pay market rent to live in private sector rental accommodation, as well as the fact that there are other possible approaches apart from the existing system whereby tenants cannot be evicted from private sector rental accommodation without just cause (thereby resulting in the issue of eviction payments), all other residents should be required to terminate their rental contracts and vacate the premises based on adequate compensation standards designed to promote relocation.

Elsewhere, private sector knowledge and expertise should be used in relation to relatively new housing to help make the most effective use of the land available. If a building is going to continue to be used for example, all ties to current regular rental accommodation should be severed in order to sell off the land and building as a whole or individual apartments to the private sector via competitive tendering so as to quickly maximize gross earnings.

Either way, with the help of private sector knowledge and expertise, every effort should be made to maximize gross earnings until the transfer or abolition of employee housing has been completed and, depending on whether or not there are residents living there, such housing should be transferred or abolished as soon as possible based on cabinet approval.

Furthermore, appropriate measures should be taken to phase out housing for government and local authority employees due to the fact that it does not coincide with the essential purpose of employee housing.

Finally, doubts remain as to whether or not the current practice of entrusting the management of employee housing to foundations genuinely results in increased efficiency. Discussions should be held with regard to the introduction of competitive tendering for the management of employee housing until the scheme is abolished in order to genuinely increase efficiency, making use of private sector knowledge and expertise.

IV. Organization for Small & Medium Enterprises and Regional Innovation

[Specific measures]

SME Universities, a division of the Organization for Small & Medium Enterprises and Regional Innovation, provide a wide range of training services for managers and employees from small and medium sized companies to help such companies secure a management base.

Although these universities have started to outsource the management of their facilities and the running of training services to the private sector, its operations have not been fully opened up to the private sector to include areas such as planning as yet. In addition to enabling reduced costs thanks to the resourcefulness of private operators, fully opening up operations to the private sector could also be expected to maintain and improve the quality of SME University services by responding to users' actual needs. This would also help optimize the allocation of management resources in order to improve the Organization for Small & Medium Enterprises and Regional Innovation's services, as required under its medium term plans.

With this in mind, market testing should be carried out at one SME University (campus) next year.

Based on the results of market testing trials next year, the introduction of market testing for training services at SME Universities in accordance with the Public Service Efficiency Law (Market Testing Law) (tentative name) once it has been enacted during the next ordinary Diet session should be actively discussed.

V. National Institute for Sea Training

[Issue recognition]

Although the percentage of Japanese seamen involved in overseas shipping has fallen significantly over the last 20 years, the functions that they are required to perform have moved beyond merely those of conventional crew members as their roles have undergone a dramatic transformation to include areas such as ship and organizational management, including the management of foreign crew members and civilians. The qualifications and skills required of Japanese seamen have also changed significantly, with the likes of management and IT skills becoming essential.

The National Institute for Sea Training however is drifting further and further away from the needs of the employers who take on its graduates, leaving it in a difficult situation. A fundamental review of the scale and organization of the National Institute for Sea Training, along with its approach to practical training, is therefore an urgent issue.

Having invested a large amount of public funding into these services, it is the government's duty to make every effort to increase efficiency and to carry out ongoing reviews. The division of roles with other education institutions needs to be clarified and the future of the National Institute for Sea Training needs to be reviewed as soon as possible, making full use of private sector expertise.

[Specific measures]

As part of discussions by concerned parties regarding education for seamen in line with actual needs, market testing and the opening up of services provided by the National Institute for Sea Training to the private sector should be actively discussed and finalized by the end of FY2006, in close cooperation with the Council.

VI. Japan Railway Construction, Transport and Technology Agency

[Issue recognition]

The Japan Railway Construction, Transport and Technology Agency is an independent administrative organization that was established in October 2003 as a result of a merger between the Japan Railway Construction Public Corporation and the Corporation for Advanced Transport and Technology. Its operations span a wide range, including railway construction and ownership, railway subsidies, joint shipbuilding, advanced shipping technology, basic research and one-off approved national railway liquidation. These operations are managed based on individual accounts that are intricately linked.

The Japan Railway Construction, Transport and Technology Agency has a massive budget, coupled with extensive facilities and similarly massive debts. Its operations are also vital to support the country's social infrastructure. However, based on the fact that the government needs to reform its financing activities and

dramatically reduce its debts and credits, the fact that there is unlikely to be any major increase in demand for railways as the country's rail network is more or less complete and the fact that domestic shipping is going through a difficult phase, it is becoming increasingly important to carry out sweeping reviews regarding the function performed and operations carried out by the Japan Railway Construction, Transport and Technology Agency in the future.

[Specific measures]

Based on the principle that anything that can be done by the private sector should be left to the private sector, the contents of all of the operations carried out by the Japan Railway Construction, Transport and Technology Agency should be closely examined and extensive discussions held regarding the future of such operations and the agency's function from FY2006 onwards.

2 Opening Government-Driven Markets to the Private Sector

[Issue recognition]

(1) Principles

The council considers the opening of government-driven markets to the private sector a focal issue under the principle of allowing the private sector to do what it is able to do. The privatization process is being implemented for each government-driven market.

The areas subject to this process are administrative work and business activities conducted directly by the government, independent administrative institutions, private organizations established under special laws, such as special and authorized corporations, not-for-profit organizations and other designated corporations, and the administrative work and business activities of local public entities. Privatization is conducted by singling out each of these areas and considering the necessity of their work or business activities and the legitimacy of the organization conducting it.

"Privatization" includes (a) private transfer (privatization, transfer), (b) full commissioning to private firms, and (c) paving the way for private entry. Within private transfer, "privatization" means that the government organization itself that conducted the work becomes a private entity, and "transfer" means reallocating the work to a private firm. Full commissioning to private firms is done under agreed rules between the government and private organizations concerning the content, domain, quality and standards of work to be commissioned. When the commissioned private firm displays creativity and ingenuity in delivering an effective and fulfilling result, it minimizes governmental involvement, in practice ending up commissioning a full package of work. Paving the way for private entry is exemplified when designating conditions are expanded for designated organizations or when holding general competitive bidding.

Private transfer is ideal under spirit of privatization, and for cases where private transfer is temporarily impossible, full commissioning should be attempted. It goes without saying that partial commissioning (e.g., outsourcing printing and delivery work) should be further promoted. This work and business activities must be actively directed toward privatization under the principle that the private sector should do what it is able to do, and the notion that the work is strictly government work must be eliminated.

Of course, any work or business activity considered unnecessary during the process of reviewing individual governmental organizations must be abolished immediately.

For privatization to be actively facilitated, information on content and cost structures for the

work or business activity should be disclosed to allow firms considering entry to the market to make informed decisions.

(2) Activities in FY2005

Acting on the above basic principle, the council acknowledges the need to make a wide range of governmental administrative work and business activities excluding policy planning work subject to privatization. To filter out potential areas for which privatization can be considered, we conducted a survey in FY 2004 asking every ministry to identify their work and business activities and to provide a summarized explanation, indicating the laws they are based on, the executing legislature, the financial classification, the ability and inability for the activity to be privatized, the presence/absence of corporate conditions, and reasons for inability to privatize it. From a total of 812 work and business activities that were discussed, we filtered out 81 areas as subject to consideration, and ended up recommending the privatization of 36.

FY2005 called for further privatization, so we expanded our scope, segmented work and business activities into the following five categories by executing legislatures, and began consideration including the possibility of implementing a market test (competitive tendering between the public and private sectors).

As a result, the council decided to continue with the privatization of those that are under the specific policies of each category.

(1) Administrative work or project conducted directly by the government
(2) Incorporated administrative institutions
(3) Private corporations established under a special law, such as special corporations and licensed corporations
(4) Not-for-profit organizations, including designated corporations
(5) Administrative work or business activities of local public entities

(1) Administrative work and business activities conducted directly by the government

[Issue recognition]

From the 812 governmental work and business activities surveyed in FY2004, we selected those conducted directly by the government and considered their individual and specific suitability for privatization.

Some people believe that work and business activities directly conducted by the government

(a) involve exercising government authority, so must be done only by government officials, (b) may not be conducted fairly or neutrally when performed privately, (c) deal with important privacy information, so should only be performed by government officials under strict obligations of confidentiality.

(a) The issue of to whom the right to exercise governmental authority is given is solely an issue of legislative policy and does not necessary have to be given to government officials. Therefore, privatization is possible depending on the restrictions inherent in the structure.

(b) The possibility of private firms engaging in unfair and biased work or business activities can be countered with law and contracts, so it would not be considered a major problem.

(c) The argument that government officials operating under strict obligations of confidentiality must deal with privacy information can be solved if a the requirement of confidentiality equivalent to what is currently imposed on government officials can be documented in law or contracts. Therefore, it is not an argument against privatization.

[Specific measures]

A) Moving and impounding illegally parked vehicles; maintaining parking meters

The police superintendent and prefectural authorities designate organizations that move and impound illegally parked vehicles, yet in reality, they limit their designation to not-for-profit organizations, such as traffic safety associations in each prefecture. Since there are no logical rules for limiting the designation to not-for-profit organizations, consideration should be given to expanding the designations to other organizations in general, including commercial companies, subject to monitoring the status of illegal parking after the new parking restrictions are enforced.

On a different note, there are cases currently where tow-away costs for illegally parked cars are not collected before the vehicles are reclaimed. The procedures for collecting the costs need to be reconsidered to further deter illegal parking. [Discussions to start in FY2006 with a conclusion reached during FY2007]

Administrative work related to maintaining parking meters can currently be commissioned to not-for-profit organizations that are established for the purpose of contributing to road traffic safety, and to those whom the Prefectural Public Safety Commission approves as possessing the necessary and appropriate organization and expertise to perform the work. It is currently commissioned only to not-for-profit organizations, such as the traffic safety association in most prefectures, yet there are no logical reasons for limiting the commission to not-for-profit organizations. Therefore, the scope should be expanded to include general

organizations including commercial companies. [Action to be taken during FY2006]

On a different note regarding the traffic safety association that conducts this work almost exclusively, complaints have been made against their means of collecting membership fees that require appropriate consideration toward its optimization. [Action to be taken during FY2006]

B) Support activities of the Self-Defense Forces' Provincial Liaison Offices [Action to start in FY2006]

Activities that support the Self-Defense officers, (such as job search assistance for officers seeking a new job) which are conducted at the Self-Defense Forces' Provincial Liaison Offices, are currently under the Survey and Research of the Force's External Work including Employment Support Activities at the Japan Defense Agency. Privatization should be promoted after dealing with the results of this survey.

On a different note concerning new officer recruiting at the provincial liaison offices, there are currently many active officers conducting this work, which needs to be made more efficient. We need to consider what other countries are doing and consider alternative methods, such as employing retired officers.

(C) Operation and Management of National Government Official Examinations [Action to be taken during FY2006]

Of the administrative work required for National Government Official qualification examinations, the work of printing information guides, application forms, test IDs, entering application information into computers, scoring and processing multiple choice answer forms (marked sheets), and preparing qualification notifications and entry candidate lists are all commissioned to private businesses. Nevertheless, we need to request further privatization that includes the comprehensive commissioning of the work.

(D) Survey work on the the income levels of members of the public [Action to be taken during FY2006]

The National Personnel Authority, together with the personnel commissions of prefectures, cities and special wards, conducts an survey every year of the income of members of the public at income counseling. Since only a portion of this work is commissioned to private businesses, we should request further privatization that includes comprehensive commissioning of the work.

(E) Credit card settlements of social insurance premiums

(a) National Pension Insurance [To be discussed during FY2005. Action to be taken promptly thereafter]

In diversifying payment methods to improve the National Pension Insurance payments, a decision on credit card payments should be reached during FY2005 and put into action immediately.

(b) National Health Insurance [[To be discussed during FY2005. Action to be taken promptly thereafter]]

The All-Japan Federation of the National Health Insurance Organizations, in countering the declining payment rates of national health insurance and in responding to requests from business, launched a research committee (Research Committee on the Next Generation of NHI Payment System) in July 2005 that conducts specific considerations on payment measures including credit card settlements. A decision should be reached during FY2005 and put into action immediately.

(c) Nursing Care Insurance [To be discussed during FY2005. Action to be taken promptly thereafter]

To diversify the methods of paying nursing care insurance, a decision on credit card payments should be made during FY2006 and promptly put into action.

(F) Credit Card Settlement of National Taxes [To be discussed during FY2006]

To diversify the methods of paying national taxes, various issues on credit card payments such as bearing service charges should be considered and a decision made during FY2006.

(2) Independent Administrative Institutions

[Issue recognition]

The Independent Administrative Institution Law requires independent administrative institutions to set a mid-range goal in a three to five year timeframe and to set work operational goals that need to be achieved. At completion of the mid-range timeframe, institutions should consider the necessity of continuing their work. They should also continue the institution's

existence and their work in general. Fifty-three institutions complete their mid-range goals as of FY2005, of which 29 already decided on a review during FY2004.

The duty minister, the Ministry of Internal Affairs and the Communications Evaluation Committee, among others, review the administrative work and business activities of independent administrative institutions. Our council has also had to give necessary considerations to their work and business activities no later than the end of their mid-range timeframe. As a result, we reached the following conclusions concerning privatization in relation to the following independent administrative institutions.

[Specific measures]

(A) Employment and Human Resources Development Organization of Japan

(As stated in "1 Immediate Implementation of Market Tests")

(B) National Center for Industrial Property Information and Training [Action to be taken during FY2006]

The work responsibilities of the National Center for Industrial Property Information and Training covers a wide range, from referencing public reports issued since its establishment in April 2001 to maintaining documents related to inspections and judgment. It also encompasses promoting patent distributions, advising, disseminating information that was added in October 2004, training and conducting the business of information systems that will be added in FY2006. The Center needs to clearly specify how it can split its work with the private sector and commission any work that is capable of being independently performed by private businesses and promote further privatization in their other businesses as well.

(C) Organization for Small & Medium Enterprises and Regional Innovation

(As stated in "1 Immediate Implementation of Market Tests")

(D) National Museum of Art [Action to be taken during FY2006]

The National Museum of Art has outsourced cleaning, hall operation, restaurant operation, and information guidance to external businesses. In an effort to find any other areas where high-quality services can be provided at low cost, the museum should expand its range of work that is subject to outsourcing and further promote comprehensive outsourcing while aiming for efficiency in facility management and exhibit set-ups.

As part of this process, immediate consideration and measures to improve quality should

be taken while paying attention to the characteristics of the five museums, including the National Art Center, Tokyo, which is opening in FY2006. At the same time, it is important to monitor the government's debate and experience concerning privatization and market tests, and monitor operation/management trends at public art museums.

(E) National Museum, IAI National Research Institute for Cultural Properties [Action to be taken during FY2006]

The National Museum has outsourced cleaning, hall operation, restaurant operation, and information guidance to external businesses. In an effort to find any other areas where high-quality services can be provided at low cost, the museum should expand its range of work that is subject to outsourcing and further promote comprehensive outsourcing while aiming for efficiency in facility management and exhibit set-ups.

As part of this process, immediate consideration and measures to improve quality should be taken while paying attention to the characteristics of each museum. At the same time, it is important to monitor the government's debate and experience concerning privatization and market tests, and monitor operation/management trends at public art museums.

(F) Japan Science and Technology Agency

(As stated in "1 Immediate Implementation of Market Tests")

(G) Japan Student Services Organization

(As stated in "1 Immediate Implementation of Market Tests")

(H) National Livestock Breeding Center [Action to be taken during FY2006]

The National Livestock Breeding Center should integrate stock farms around the country to rationalize their business and make it more efficient. Local public entities and private businesses already conduct work similar to the Center's work of increasing the breeding of improved livestock, distributing stud animals, and producing and distributing seeds for feed crop. The Center should clearly specify their business domain that they really need to conduct and promote the privatization of this work to local public entities and private businesses.

Other work, such as the administrative work necessary at the Center and stock farm operation can be made efficient through privatization. Any work that can be performed at the private level should be directed toward privatization.

(I) Forest Tree Breeding Center [Action to be taken during FY2006]

For rationalized and more efficient operations, the Forest Tree Breeding Center should review their administrative work and business activities at their breeding centers, breeding conservation gardens and tree breeding technical gardens around the country, among others. Since local public entities also develop new seeds, the Center should clearly specify the business domain that they rally need to conduct and transfer to local public entities any work they are capable of conducting.

Any other administrative work conducted at the Center that can be performed at the private level should be directed toward privatization.

(J) Center for Food Quality, Labeling and Consumer Services [Action to be taken during FY2006]

For rationalized and more efficient inspection/authorization work, the Center for Food Quality, Labeling and Consumer Services should jointly work with compost/feed inspection centers and agrichemical inspection centers and promote the rationalization of regional centers.

Also, non-technical work such as the management of various inspections can be made efficient by private commissioning. Any work capable at the private level should be directed toward privatization.

(K) National Agency of Vehicle Inspection [Action to start during FY2006]

Approximately 70% of inspections to extend the life of automobiles (Safety Inspections) are already conducted at designated private garages in a service package consisting of checking, overhauling and inspection.

Despite this, designated private garages are not allowed to conduct inspections on their own so the remaining 30% are done at NAVI.

Appropriate action needs to be considered in order to make more use of private abilities and steadily increase the rate of designated maintenance.

(L) National Institute for Sea Training

(As stated in "1 Immediate Implementation of Market Tests")

(M) Organization for the Environmental Improvement of Airports

The Organization for Environmental Improvement of Airports is an independent administrative institution established in October 2003 that aims to prevent and reduce

problems around airports resulting from aircraft noise, and improve the living environment by implementing environmental maintenance plans.

The Organization has been receiving up to now commissions from the government on compensation work and greenery construction work related to Osaka International Airport and Fukuoka Airport since the licensed organizations that preceded it was established. (Osaka International Airport Environment Maintenance Organization in 1974, Fukuoka Airport Environment Maintenance Organization in 1976.) The Organization plans to reduce noise emissions by introducing new, quieter planes and reviewing airport operations, and plans to reconsider the noise restriction boundaries. As these work and business activities have continued for 30 years, more advanced plans to further reduce noise must be considered. These plans should start from FY2007 and reach a conclusion during FY2008. [Consideration to start in FY2007. Conclusion to be reached in FY2008.] Together with noise reduction, the Organization's work and structure should be reviewed as well.

The tenement housing business, following the cabinet decision made in the Special Organization Resolution and Rationalization Plan, should be cleared within two years using knowledge from private businesses. [Action to be taken during FY2007]

(N) IAI Japan Railway Construction, Transport and Technology Agency

As stated in "1 Immediate Implementation of Market Tests"

(3) Private Corporations established under the special law, (special corporations, licensed corporations)

[Issue recognition]

Private corporations established under a special law refer to special corporations and licensed corporations that are made into private corporations. Based on the Final Report of the Provisional Research Committee for Administrative Reform (March 1983), these corporations engage in business that is legally not monopolistic, and have minimum government intervention under conditions that include no government investment.

Yet some private corporations established under the special law in practice continue to engage in exclusive business although they are legally not monopolies.

These private corporations established under the special law (37 corporations as of April 1, 2005) were planned to be reviewed by the end of FY2005 under the Guidance Standards Concerning Private Corporations Established Under Special Laws (which passed the Cabinet

on April 26, 2002), and we have carefully scrutinized their privatizing possibilities in this council as well.

As a result, it was concluded that the following corporations be privatized.

[Specific measures]

(A) The High Pressure Gas Safety Institute of Japan [Action to be taken during FY2006]

The current certification system under the High-Pressure Gas Safety Law allows voluntary inspections for completion-after-change inspections and safety inspections. Those for completion-after-change inspections are limited to work with minor changes. Yet this would be revised so that those that are extensions or reconstructions of existing operating facilities and that do not have problems in their safety management would be handled as voluntary inspections. All inspections set down in the High-Pressure Gas Safety Law are privatized under the current system, and private inspection organizations are already entering the field. The High Pressure Gas Safety Institute and private inspection organizations should define their responsibilities in ways such that the institute would appropriately deal with inspection demands that the private inspection organizations cannot handle, and promote further privatization.

(B) Hazardous Materials Safety Techniques Association

The Fire Code allows assessments made in exterior tank inspections to be commissioned to the Hazardous Materials Safety Techniques Association. Nevertheless, private inspection organizations should also be allowed to enter the market and improve on their inspection skills. [Action to start during FY2006]

The certification system under the Fire Code limits the use of voluntary inspection results, and does not allow voluntary inspections like those seen in the High-Pressure Gas Safety Law. Therefore, to promote businesses' voluntary security, certification systems, standards and ex post facto actions that allow businesses meeting certain safety management standards to conduct voluntary inspection should be considered from safety procurement perspectives. Should a certification system or standard be established as a result, businesses fulfilling the certification standard should be allowed to conduct voluntary inspections. [To be discussed and a conclusion reached during FY2007. Action to be taken thereafter]

(C) Japan Fire Equipment Inspection Institute [Action to be taken in FY2006]

The Japan Fire Equipment Inspection Institute inspects fire prevention machines and

equipment. Several amendments to the laws have taken place to dissolve the Institute's business monopoly. Under the 2003 law amendment, measures aiming at privatization were put into effect, such as the organization registration system that replaced the designation system. Under this amendment, three registration segments were created that allowed organizations with only a limited technological range to enter the market. Yet despite these privatization measures, there are still no private entrants since the system went into effect in FY2004.

Therefore, to provide efficient, low-cost service and facilitate private inspection organizations in entering the market and competing with the Japan Fire Equipment Inspection Institute, the above measures to promote market entry need to be adopted and actively encouraged for corporations that are likely possess sufficient knowledge and technology.

(D) Social Insurance Medical Fee Payment Fund [To be discussed starting in FY2006 and a conclusion reached]

Concerning the administrative work in the Health Insurance Association relating to the assessment and payment of medical fees, letters of notification have previously provided guidelines to outsource this work to the Social Insurance Medical Fee Payment Fund. Yet today, this notification system has been abolished and the assessment and payment of medical fees and prescription fees is possible by the Health Insurance Association alone or by a third party other than the Social Insurance Medical Fee Payment Fund.

Therefore, if the Health Insurance Association makes a specific request to the Ministry of Health, Labour and Welfare on direct assessment or payment, the content must be immediately considered and a decision must be made.

Privatization of the Payment Fund's work should be promoted in ways that include the advance of IT, such as online requests, or specializing on specific work that depends on the spread of assessment/payment by the third party mentioned above.

(E) Japan Electric Meters Inspection Corporation

Concerning the inspection of electric instruments and the inspection of electric meters with transformers, a system to designate certifying institutions was introduced in 1986. This system allowed the entry of not-for-profit organizations fulfilling specific designation standards. In 2001, the not-for-profit organization requirements were deleted from the designation standards, legally allowing the entry of any private business that has the expertise and has no interest in the parties receiving certification.

Yet, since there are still no entrants to become designated certifying institutions, the entry

of private businesses that possess appropriate expertise and knowledge should be promoted by drafting guidelines that clearly specify the range of possible relationships, such as investment or human relationships. The same clarification should be made for other meters as well. [Action to be taken in FY2006]

And from the perspective of promoting additional private entrants, a comprehensive discussion within the current review process of measurement systems should be conducted concerning inspection/certification systems in the measurement field, including electric meters. [To be discussed and a conclusion reached during FY2006]

(F) Light Motor Vehicle Inspection Organization [Action to be start in FY2006]

Approximately 60% of inspections to extend the use of light motor vehicles (Safety Inspections) are already conducted at designated private garages in a service package consisting of checking, overhauling and inspection.

Nevertheless, designated private garages are not allowed to conduct inspection on their own, so the remaining 40% are performed at the Light Motor Vehicle Inspection Organization.

Appropriate action needs to be considered in order to make greater use of private capabilities and gradually increase the rate of designated maintenance.

(G) Japan Craft Inspection Organization [Action to be taken in FY2006]

Of the various inspections relating to marine craft, the inspections of small craft under 20 tons gross is conducted mostly at the Japan Craft Inspection Organization, a licensed corporation, and the Nippon Kaiji Kyokai Foundation. Both institutions act on behalf of the government. Of these inspections, mid-term inspections are performed under the registered organization system, but with no private entrants, the system is hardly used. The only registered certifying institution for certifying mass products that received model approval is the Japan Marine Products Certification Foundation.

On the other hand, from the perspective of utilizing private skills, the Certified Maintenance Business Location system allows a business that conducts maintenance to legally omit inspection of marine craft if it meets a specific standard. Similarly, a certification business that manufactures mass products that received model approval would be exempt from certification with only a voluntary inspection.

Privatization, therefore, should be promoted while observing the trend in the marine craft inspection market, promoting a third-party inspection system, and aiming for the proliferation of certified manufacturing business and certified maintenance business systems.

(H) Tokyo Small and Medium Business Investment & Consultation Co., Ltd.; Osaka Small and Medium Business Investment & Consultation Co., Ltd.; Nagoya Small and Medium Business Investment & Consultation Co., Ltd. [Action to be taken in FY2006]

Small and Medium Business Investment & Consultation companies are corporations that aim to operate investment businesses for small and medium-sized companies and educational businesses to teach management and technology to their investing companies to promote small and medium-sized companies to consolidate their capital and plan for healthy growth. They position themselves as policy executing institutions based on the Investment Development Corporation Law for Small to Medium-Sized Companies. Their work should be made more conspicuous and managed more openly by clearly specifying the assessment standards for their investing companies and appropriately disclosing information on their investment selection processes.

(I) Japan Safe Driving Center [To be discussed and a conclusion reached during FY2006]

The Japan Safe Driving Center is a lawful monopoly engaged in driving record certification and traffic accident verification. It also conducts safe driver training. Yet automobile manufacturers are training general drivers at their own training facilities, which indicates that organizations other than the Center are capable of conducting some of this work.

The center, therefore, needs to clearly specify how to share this work with private organizations, and transfer to the private sector any work capable of being performed by private companies. The center should also promote privatization with any of the other potential businesses. Of their safe driving training business, those targeted at general drivers may need to be considered for abolition or scaling back in terms of social needs with the possibility of private businesses taking over. Its management of safe driving training facilities needs to be streamlined through measures such as introducing general competitive bidding.

(J) Japan Vocational Ability Development Association [A conclusion to be reached during FY2006. Action to be taken promptly thereafter]

The Japan Vocational Ability Development Association receives subsidies from the government to conduct many businesses, yet since private entrants are seen only in a few of its technical certification occupations. Therefore, further privatization needs to be promoted.

The occupations in which private entrants are not seen need to be considered from the perspectives of social demand to determine whether they should exist as technical

certification occupations, and should be reviewed.

(K) Japan Industrial Safety and Health Association [A conclusion to be reached during FY2006. Action to be taken promptly thereafter]

Some of the business engaged in the supply of information as well as training and education that the Japan Industrial Safety and Health Association conducts with government subsidies can be adequately conducted by other organizations.

These operations, therefore, need to be clearly divided with the private sector and those that are capable of being privatized should be commissioned to other organizations and directed toward privatization through methods such as competitive contracting.

(4) Not-for-profit organizations (designated corporations and suchlike)

[Issue recognition]

Of the not-for-profit organizations established under Article 34 of the Civil Code, including corporate juridical people and foundations, this council considered privatization of those that conduct specific work and business activities based on government designation (designated corporations) and those that in practice receive designation.

Designation tends to be given only to one not-for-profit organization in the country. The reason is that it is believed that its work and business activities need to be conducted (a) under a uniform standard nationwide, and (b) from a fair and neutral position.

(a) If a uniform standard nationwide is required for the work and business activities, manuals and guidelines would enable such uniformity. Therefore, thus there is no need to be restricted to one corporation.

(b) If a fair and neutral position is required to conduct the work and business activities, laws and contracts would assure fairness and neutrality. Therefore, there is no need to limit designation to not-for-profit organizations.

Allowing the entry of multiple organizations would rather create competition and lead to improved convenience of work and business activities, quicker processing and effective and low-cost service. Privatization measures such as multiple designations and general competitive bidding should be promoted as much as possible.

[Specific measures]

(A) Airport Environment Improvement Foundation [To be discussed and a conclusion reached during FY2006]

The Airport Environment Improvement Foundation operates airport parking lots at 22 of the 26 government-operated airports. It deals with neighboring residents to fill in for what the government cannot take care of. Any new parking lots added to the 22 airports would be contended publicly, and the operating company would be selected from multiple companies. (The operator for the parking lot at New Kitakyushu Airport that is due to start operation in March 2006 would be selected by the PFI method.) Yet for the existing 22 airports, necessary environmental plans and the circumstances surrounding the airports need to be considered advance toward privatized management.

(B) Japan Institute of Worker's Evolution [A conclusion to be reached during FY2006. Action to be taken immediately thereafter]

The Japan Institute of Worker's Evolution is a designated corporation singled out as the only operating organization of its kind designated in the country. Most of its work is conducted with government subsidies, although some of it can be conducted adequately by organizations other than this designated corporation.

These operations of the foundation in general, therefore, need to be clearly divided amongst the private sector, and those that can be conducted by private organizations should be commissioned to such organizations through means such as competitive tenders.

(C) Care Work Foundation [A conclusion to be reached during FY2006. Action to be taken immediately thereafter]

The Care Work Foundation is a designated corporation singled out as the only operating organization of its kind designated in the country. Most of its work is conducted with government subsidies, although some work in businesses like the area of improving the skills of workers engaged in nursing care (teaching Level 2 Training of Visiting Care to workers designated from Hello Work) can be conducted adequately by organizations other than this designated corporation.

These operations performed by the Center in general, therefore, need to be clearly divided with the private sector, and those that can be conducted by private organizations should be outsourced to such organizations through means such as competitive tenders.

(D) Corporate Juridical Person: The Japan Institute of Invention and Innovation [Action to be taken during FY2006]

The Japan Institute of Invention and Innovation is a national organization with approximately 10,000 members in 47 prefectural branches. It conducts various businesses such as intellectual property research and counseling. It aims to promote inventions and the spread of the industrial property rights system. Just under 50% of its business is commissioned from the government. Some of this work that can be conducted by private organizations should be outsourced to such organizations through means such as competitive tenders.

(E) Corporate Juridical Person: Japan Boiler Association [To be discussed during FY2006. Action to be taken thereafter]

In the certification system under the Industrial Safety and Health Law, voluntary inspection is not permitted for boilers and Type 1 pressurized containers, contrary to what is stipulated by the High-Pressure Gas Safety Law.

Therefore, from a safety perspective, a certification system/standard should be considered to allow voluntary inspection to be performed by businesses meeting specific safety management standards.

Should a certification system/standard be established, businesses meeting the certification standard should be permitted to conduct voluntary inspections. [To be discussed and a conclusion reached during FY2006. Action to be taken thereafter]

The entry of private inspection institutions other than Japan Boiler Association should be promoted. [Action to be taken during FY2006]

(5) Administrative work and business of local public entities

[Issue recognition]

A situation should be promoted where administrative work and business is conducted by the government as well as at local public entities through privatization under the principle that anything that can be performed by private enterprises should be privatized. The operations that are conducted at local public entities particularly include matters that deal directly with the public. These operations require action that would improve efficiency, convenience and transparency of the work and business activities.

Activities to privatize work and business activities conducted by local public entities require that the groups themselves act independently. At the same time, the government, with due consideration of decentralization, should request them to take action enthusiastically.

[Specific measures]

(A) Selection Process of Designated Administrators [Action to be taken during FY2006]

The Law to Amend a Part of Local Autonomy Law, enforced in September 2003, has allowed designated administrators to manage public facilities. Yet in actual operation, the selection of designated administrators is commissioned to the selection committee and there have been cases where the selection process was obscure.

Therefore, in considering the selection procedures, local public entities need to be informed of the actual selection process including specific cases, and from these research results appropriate measures need to be taken in ensuring transparency in the selection process.

(B) Over-the-counter work at cities, wards, towns and villages

(As stated in "1 Immediate Implementation of Market Tests")

(C) Collection and Storage of Public Funds [Action to be taken starting FY2006]

The Local Autonomy Law fundamentally prohibits private people from collecting or holding public funds, with the exception of charges, service fees, rent, the sale of goods, and redemption of credit principle and interest, which may all be outsourced to private parties.

Should private sectors and local public entities request it, all monetary affairs should be allowed to be outsources to private entities, and appropriate measures need to be considered.

Matters for which specific collection and holding processes are stipulated in the Individual Law should also be widely allowed to be outsourced to private entities and with privatization promoted based on procedures stipulated in the Local Autonomy Law.

3 Drafting Standards for Reviewing Restrictions

1. Drafting standards for reviewing restrictions

[Issue recognition]

(1) The necessity for drafting standards for reviewing restrictions

As mentioned in the Third Report on Promoting Restriction Reform (December 22, 2003) drafted at the preceding General Council for the Reform of Restrictions, the fundamental rules concerning restrictions were planned to improve visibility in administrative procedures and quality of restrictions through measures such as Administrative Procedure Law (1993 Law No. 88), Procedures for Submitting Opinions Relating to Setting or Amending Restrictions (which passed Cabinet on March 23, 1999), or On Administrative Institutions Implementing Confirmation Procedures Prior to Law Application (which passed Cabinet on March 27, 2001)

To further advance the reform of restrictions, it is necessary to promote review not only with the former method of reforming restrictions that focuses on individual areas/matters, but also by drafting standards that would review restrictions beyond the areas, focusing on the characteristics and form of enactment of the restriction itself (hereafter "review standard").

Restrictions are established through appropriate considerations based on social needs at the time of its introduction. But they would, as mentioned in the Third Report above, cause various problems and difficulties if they are not reviewed even after the social and economic situations have changed and after there has been a decline in their significance and necessity.

As mentioned in the First Report on Promoting the Reform of Restrictions and Privatization (December 24, 2004), this council must draft cross-discipline review standards for various restrictions and promote drastic reviews in order to promptly and objectively discuss and determine the necessity and rationality of restrictions under an awareness of the issues above. This review standard must be cross-discipline rather than be confined to individual areas, and in that sense, it must aim to create a system that demands uniform processing according to the characteristic of the restriction.

The reform is an urgent part of Japan's structural reform. Therefore, the drafting of review standards should be done sequentially starting with those for which there is no need to wait for the full completion. After prompt government approval, the actual review procedures should begin as necessary.

Based on an awareness of the above issues, the review standards that need to be drafted as a matter of priority are as follows.

(1) Review standards for restrictions based on rules other than notification ordinances

Rules other than notification ordinances are understood as having no authority to regulate private people. Nevertheless, in relation to other matters discussed in this council and its predecessor, the General Council for the Reform of Restrictions and other institutions that promote reform of the restrictions, there are many cases where notification ordinances are regarded as restrictions. These matters include those proposed from the private sector on the reform of restrictions on a nationwide level and at the special regions subject to structural reform during the month in which applications are concentrated. (The same applies hereafter.)

This council believes that there are notifications of this type that indirectly have effects similar to law and, in practice, act as restrictions or become superfluous restrictions exceeding the meaning and intent of the relative law. Since these are enacted and released in various forms of notification, citizens cannot determine whether they are legally binding or not, which is problematic from the perspective of ensuring transparency of the restrictions.

(2) Review standards based on rules that have been in effect for a specific time

Restrictions are established through appropriate considerations based on social needs at the time of enactment. Yet they would, as mentioned above, cause various problems and difficulties if they are not reviewed even after the social/economic circumstances have changed and their significance and necessity have declined.

This council believes that some restrictions that have been in effect for a specific time need to be actively reviewed to bring them up to date. This, in other words, is the "time assessment" on restrictions.

This council selects specific cases from matters discussed in this council and its predecessor, the General Council for the Reform of Restrictions, and other institutions that promote the reform of restrictions. It reviews each case, drafts review standards and promotes review of the restriction. In this process, we have considered the review standards of restrictions based on rules other than the notification law as the issue requiring top priority.

Restrictions based on rules that have been in effect for a specific time need to be reviewed

continuously according to changes in social and economic circumstances. This council considers it necessary to establish a system that periodically reviews such restrictions. Considerations need to be taken on the range of restrictions subject to review, the review period, and the system of promoting review through exchanging opinions among experts and reviewing specific cases extracted from matters discussed in this council and its predecessor, the General Council for the Reform of Restrictions and other institutions promoting the reform of restrictions.

(2) Review standards of restrictions based on rules other than notification ordinances concerning restrictions

A) Status of considering drafting review standards

(a) Considering specific cases

In drafting the review standards for restrictions based on rules other than the Notification Law, this council identified the necessity of sorting out and categorizing rules that are set down by administrative institutions and applied to general cases. We conducted hearings on 15 typical cases (eight ministries and government offices) extracted from matters that came up in exchanges of opinion with experts and past discussions, and exchanged opinions with the jurisdiction ministries on characteristics of the notifications and on their legal effects.

As a result of the exchange of opinions, we discovered that the strengths of various levels are associated with the effects that the notifications have on private people. Some have strong effects, as in judgment/penalizing standards regulated in the Administrative Procedure Law, while others have random applications, such as technical advice and recommendation defined in the Local Autonomy Law. They are enacted and released in various forms such as notifications and guidelines. This is the reason for private people regarding the notifications as restrictions. We reached an understanding that eliminating these causes is necessary to promote the reform of restrictions and to ensure administrative transparency.

(b) Conducting exhaustive survey on notifications

Along with the above exchanges of opinion, this council received cooperation from relative ministries and conducted an exhaustive survey on notifications relating to restrictions. The council also obtained rough replies on the direct legal effects that notifications have on base/relative laws and private people. Those replies to which the

ministries with jurisdiction determined as having no direct legal effect whatsoever can be deemed as having no function in restricting private people. Yet private people cannot immediately determine whether a specific notification has or does not have any legal effect. Therefore, the notifications need to include revisions based on review standards stated below, such as clearly stating that complying with the specific notification is optional. Those judged to "have direct legal effect" need to be revised following the review standards stated below that are based on ideas stipulated in "The notion of notifications related to restrictions," stated below.

The contents on this survey need to be examined further by this council and relative ministries after conducting a review based on the review standards. This will be conducted with further cooperation of the relative ministries during the review process.

B) The notion of notifications related to restrictions

The council's idea on the notion of notifications related to restrictions is stated as follows. This is based on exchanges of opinions stated above with experts and with the ministries having jurisdiction over individual notifications.

(a) The legal effects of notifications

In theory, rules that are set down by administrative institutions and that apply to general cases can be sorted into two main categories, legal orders and administrative rules. Legal orders are general rules that administrative institutions set in relation to private people concerning their rights and obligations. They include government, cabinet and ministry ordinances and foreign department rules. Legal orders legally restrict private people, and basically require legal justification. Opposed to legal orders is the notion of administrative rules. Any rule other than notification ordinances is considered to apply to administrative rules. Notifications do not legally bind private people, and are classified as rules that do not regulate private rights or obligations.

For example, when a high-level administrative institution defines an interpretation of an ordinance and releases it to a lower-level administrative institution as a notification, this notification legally binds the lower-level administrative institution. Although it does not possess direct, legal authority over private people, if the lower-level administrative institution applies an ordinance based on an interpretation of this notification and a private person who violated the enforcement of this law is penalized by the lower-level administrative institution, the notification may consequently pose an indirect legal effect on the private person, as the

person would incur a loss. Concerning notifications concerning matters that relate to rights and obligations of private persons, private persons may demand that administrative institutions obey the notification under the principles of equality and faith (principle of protecting trust and prohibiting objections). Notifications regulating the discretionary standards of administrative institutions may be evaluated in terms of their rationality when they are used in legal interpretations during lawsuits. When a penalty has been issued in response to the violation of a law, notifications that administrative institutions use to interpret the law act as a strong incentive for private people, and in principle, have a powerful effect. As stated above, notifications that regulate matters relating to the rights and obligations of private people by indicating interpretations fo the law and enforcement standards possess a so-called "external effect."

Under the constitutional state and a democratic government, the will of the assembly that represents the people is considered the will of the people. Therefore, the assembly understands that they can impose legal obligations on the people, which is done principally through law. They also understand that general rules concerning people's rights and obligations can take the form of a legal orders based on the commissioning of a law, under perspectives that expertise/technical issues are not appropriate for diet councils and that legal orders are capable of maintaining flexibility to situational changes. Therefore, they believe that general rules concerning people's rights and obligations should principally be legal orders based on these laws or commissions from these laws.

Setting down standards of judgment for administrations with notifications has merits in that they heighten the anticipated transparency and the activities of the administration and they create expectations for fair and neutral administration. But it carries the issue of whether administrations can set down notifications that have the so-called "external effects" on private people in forms other than legal orders based on commission from the laws. Matters that can be regulated by notifications need to be limited to those which, when commissioned to administrative institutions, would benefit the people, such as matters that require fast and flexible response to changes that are difficult to anticipate, or matters that cannot fully or specifically be defined in legal orders based on laws or commissions from the laws due to their significant necessity to consider individual cases for judgment.

(b) Categorization of notifications by the existence of "external effects"

a Those that are categorized as having “external effects”

(a) Those that need to be dealt as judgment/penalizing standards defined in the Administrative Procedure Law

Rules that limit the rights of private people or create obligations are essentially set down in ordinances. Yet since, in the course of processing specific cases, a restriction by ordinance alone has often caused questions on its interpretation or enforcement, matters relating to interpretation and enforcement of ordinances are often set down as notifications. These notifications that define interpretation and enforcement of the laws may consequently affect a person’s right or obligation in that they have the effect of defining the range of approvals and clearly identifying standards of penalties. Judgment standards and standards of penalties (and a portion of Article 245 Clause 9 of the Local Autonomy Law that refer to work processing standards of legal commissioning work) are typical of such examples. Yet some notifications that the Administration Department enforced as not applying to judgment/penalizing standards were believed to have had “external effects” on private rights and obligations as stated in B) (a) above.

Therefore, the range of judgment/penalizing standards should be clearly specified, and the fact that the notification has judgment/penalizing characteristics must be clearly stated. Even in the case of notifications that do not apply to judgment/penalizing standards as stated below, those that have been evaluated as having “external effects” on private rights and obligations must be dealt with appropriately according to judgment/penalizing standards.

Judgment/penalizing standards that need to be defined in legal orders based on laws or commissioning of the laws need to be defined that way. However, those that take the form of notifications should be reviewed from the following perspectives.

1) Some notifications set excessive restrictions that go beyond the significance and intent of the legal order based on the justifying law or commissioning of the law, or set restrictions even though the legal order based on the law or the commissioning of law does not clearly specify the restriction. Administrative institutions can only regulate within the scope of judgment that lawmakers have permitted them under the framework of the law. Excessive restrictions, therefore, violate the law and must be reviewed.

2) Since judgment/penalizing standards have “external effects,” as stated above, the question lies in whether such standards can be enacted by division managers or department heads. Considering that enacting and releasing anything that has “external

effects" on people is an activity of extreme importance to the ministries with jurisdiction, the person responsible for enacting and releasing the item must principally be the ministry having jurisdiction or the minister. The situation must be reviewed according to these perspectives.

Currently, it is necessary to verify the content of the notification in order to find out whether the notifications apply to judgment/penalizing standards defined in the Administrative Procedure Law. Some ministries having jurisdiction enact/release notifications that state that individual notifications are judgment/penalizing standards defined under the Administrative Procedure Law. However, it is necessary to clearly specify whether these individual notifications apply to judgment/penalizing standards defined in the Administrative Procedure Law or not. Those that need to be dealt with as judgment/penalizing standards defined in the Administrative Procedure Law must clearly specify as such and clearly identify each notification as "judgment standard" and/or "penalizing standard". The situation must be reviewed according to this perspective.

(b) Those other than judgment/penalizing standards

Concerning legal orders based on laws or the commissioning of laws that define matters relating to private rights and obligations, notifications that define enforcement standards of administrative institutions and that do not apply to judgment/penalizing standards may in the end conduct administrative sanctions based on ordinance restrictions. However, they have nonetheless defined judgment standards of the administration based on legal interpretation and enforcement when it was enacted and released. Therefore, it should be considered as having an "external effect" on private people. (This includes the portion of Article 245 Clause 9 of the Local Autonomy Law that defines work processing standards of legal commissioning work.) The notifications above that are capable of being set down in the form of a legal order based on laws or the commissioning of laws should be set down in that way. However, since they define legal interpretations and enforcement standards of what administrative institutions have considered appropriate at the time of its enactment, they are considered unsuitable as legal orders based on laws and the commissioning of laws. This situation is also due to the fact that situational changes and individual circumstances must be considered as applying the ordinance to individual cases. These cases of "external effects" on people in the form of notifications must be reviewed under the following perspectives.

1) These cases define standards of legal interpretation and enforcement that

administrative institutions considered appropriate at time of enactment. Therefore, some ministries having jurisdiction explain that they do not legally bind people since any administrative sanctions on individual cases must be judged according to ordinances. Private people, on the other hand, receive the "external effect" as explained above, and regard the standards as a form of sanctions. Since the ministries having jurisdiction explain that the standards are different from "legal orders" and are not ultimately sanctions, the characteristics of these standards need to be clearly specified in notifications to avoid confusion. The situation must be reviewed according to this perspective.

2) On enacting and releasing notifications having "external effects" on people, the content of these notifications need to be subject to people's scrutiny prior to enactment. Allowing third-party institutions such as councils and discussion forums to review the notifications or applying for public comments would prove important in confirming the rationality of the notification beforehand. The situation must be reviewed according to this perspective.

b Notifications categorized as not having "external effects"

There are various forms and characteristics of notifications that are categorized as not imposing "external effects" on people. Some typical examples are (i) administrative guidelines defined in the Administrative Procedure Law, and (ii) those that include technical advice and counsel defined in Article 245-4 in the Local Autonomy Law. Item (i) is achieved with the people's voluntary cooperation, and (ii) does not have powers over local public entities that interpret and apply the ordinance. Neither impose any "external effect" on people. Therefore, both (i) and (ii) can be set down in the form of a notification. However, they require review according to the following perspectives.

(1) Of notifications that include technical advice and counsel defined under Article 245-4 of the Local Autonomy Law, there are some that would benefit people when they are set down as national obligations. These need to be reviewed under the spirit of decentralization to be set down as a law or government ordinance without depending on the technical advice or counsel that do not have powers of enforcement. In order for local public entities to determine whether to employ the technical advice/counsel or not, they need to clearly understand the notions under which the advice/counsel was made. Technical advice and counsels need to include the process in which the recommended plan was reached and not just the end plan itself.

(2) It is not clear whether the notifications enacted and released today have legal effect on

people, and this uncertainty unfairly binds people's activities. If notifications do not have legal effects on people, it should be stated so with a note at the head of the notification saying, "This notification is not legally binding" or "Compliance with this notification is optional." The situation needs to be reviewed according to these perspectives.

(c) Notifications that include multiple aspects of the above categories

Some notifications include multiple aspects of the above categories, namely "judgment and penalizing standards," "those other than judgment/penalizing standards that have 'external effects'," "administrative guidelines," and "technical advice and counsel." It is preferred that these existing notifications be revised separately by categories. However, they may remain combined if it would benefit people better when multiple elements are set down for the sake of transparency.

In this case, the review standards (to be mentioned below) would follow what is applied to the "judgment/penalizing standard." The category above to which the individual elements in a notification apply would be clearly stated at the head of each element. The situation needs to be reviewed according to these perspectives.

[Specific measures]

(1) Promoting review through review standards [Implementation to start from FY2005]

This council and the individual ministries should promote a review on restrictions based on rules other than notifications according to the following review standards, and should take necessary measures.

Review standards concerning restrictions based on rules other than notifications

(1) Significance

These standards should be established to promote objective and cross-discipline review on restrictions based on rules other than notifications. Therefore, restrictions reviewed based on these standards are not necessarily approved unconditionally. Individual restrictions that are considered to require reform, such as abolition or amelioration, should be prioritized for reform of restrictions as intended.

(2) Those subject to review

Notifications subject to review are rules that apply to general cases defined by administrative

institutions that concern restrictions and that exclude government, cabinet, department ordinances, external restrictions, National Personnel Authority restrictions, Board of Audit restrictions, and notices defining orders based on legal commissioning (hereafter, "legal orders"). "Restrictions" mentioned here should follow the definition stated in the Second Special Administrative Reform Promotion Council's "Report on Public Restriction Alleviation and others." (December 1, 1988)

(3) Categorization focusing on notifications that have or do not have "external effects" on people

Notifications having "external effects" on people may be categorized into (i) judgment/penalizing standards defined in the Administrative Procedure Law, (ii) those with "external effects" on people and that do not apply to the above judgment/penalizing standard, and (iii) notifications that do not have "external effects" on people. The review standards for each category are defined here.

An example of a notification that has an external effect on people, as stated here would be when a high-level administrative institution defines an interpretation on an ordinance having jurisdiction and releases it to a lower-level administrative institutions as a notification. The notification legally binds the lower-level administrative institution, yet does not legally bind people in a direct way. But when the lower-level administrative institution interprets and applies an ordinance according to the notification, a person violating the enforcement of this law based on the notification would be penalized by the lower-level administrative institution and would in effect incur a loss and receive an "external effect." In other words, the administrative institution defines matters concerning private rights and obligations in a way other than a legal order by indicating interpretations of ordinances and standards of enforcement.

(4) Review of those to be treated as "judgment/penalizing standards" should be promoted as follows.

(a) Check whether the notification has any "external effects" beyond the context and range of its justifying ordinance. Any excessive provision should be reviewed as defined by ordinance or be abolished.

(b) Those that would be defined as a judgment/penalizing standard should in principle be enacted and released under the name of the ministry having jurisdiction or its minister. (Those applying to the administration agency, the agency enacting the judgment/penalizing standards under the Administrative Procedure Law, should be allowed to enact and release the standard under the name of the administration agency.)

(c) Notifications that have an effect on whether the requested approval should be given or

not, or whether a penalty should be imposed or not should be treated under the judgment/penalizing standard defined under the Administrative Procedure Law. These notifications, upon being enacted and released, should be given names such as "judgment standard" or "penalizing standard".

(d) Those to be treated as judgment/penalizing standards should file for procedures to be subject to public opinion and their content should be actively publicized.

(5) Review of those applying to "Standards other than judgment/penalizing standards" should be promoted following the standards below.

(a) Check whether the notification has any "external effects" beyond the context and range of its justifying ordinance. Any excessive provision should be reviewed to be defined by the ordinance or be abolished.

(b) Measures to avoid confusion should be considered, such as clearly identifying on the notification that the standard has a legal interpretation as an enforcement standard that the administration considers appropriate at the time of its enactment/release.

(c) Check whether the rationality and transparency of the standards are ensured through third-party institutions such as councils and discussion forums. If not, the necessary measures need to be taken to implement such procedures.

(6) Review standards on "notifications that do not have 'external effects' on people"

A There are various forms of notifications that do not apply as having "external effects." Typical examples can be categorized as follows according to their characteristics.

(a) Administrative guidelines: Content common to administrative guidelines that are imposed on multiple people that meet specific conditions to achieve a uniform administrative purpose.

(b) Technical advice and counsel: Technical advice and counsel on administrative work in local public entities, based on Article 245-4 of the Local Autonomy Law.

B Technical advice and counsel enacted and released under Article 245-4 of the Local Autonomy Law that are considered beneficial to people when legally obligated and uniformly implemented nationwide should be reviewed as defined under law.

C Those applying as administrative guidelines and technical advice/counsel should be clearly

identified using clear terminology, "Administrative Guidelines" and "Technical Advice/Counsel" respectively, in order to clearly specify that they do not have "external effects" on people.

(7) Notifications that fall under multiple categories would, in principle, apply under review standards concerning "judgment/penalizing standards," and those that do not include "judgment/penalizing standards" would, in principle, apply under review standards concerning "standards for those other than judgment/penalizing standards." To which category above individual elements of a notification applies should be indicated at the head of each element.

(2) System for promoting review [Implementation to start from FY2006]

To strongly promote review based on the above review standards, the necessary measures under the following guidelines need to be taken with regard to the system of review standards.

A Individual ministries and agencies should begin categorizing the enacted and released notifications relating to restrictions based on categories defined in the above review standards, and should complete the process during FY2006.

B Individual ministries and agencies should promote review in the following manner based on the above categories and review standards.

(a) Each ministry and agency would select notifications subject to the following fiscal year's review by the end of the current fiscal year, upon considering the opinions of the institutions that are promoting review.

(b) Each ministry and agency would report the review results of notifications selected for review by the end of December to the institutions that are promoting review.

(c) Review institutions would evaluate the reported review results, and would request reconsiderations to ministries having jurisdiction as necessary. Review results would be determined by the end of each fiscal year and disclosed by the institutions that are promoting review.

C. When ministries and agencies enact/release a new notification, they would refer to the above review standards beforehand.

D For FY2006, this council will function as the institution promoting review. The function of the institution promoting review from FY2007 would be determined during FY2006 from the review progress status.

2. Obligating Restriction Influence Analysis (RIA)

[Issue recognition]

Restriction Influence Analysis (RIA) is a method of improving visibility on establishing or abolishing restrictions from the perspective of reaching appropriate agreement, which is achieved by objectively analyzing the anticipated burden and effects prior to enforcement, and disclosing it to the public. The Three-Year Plan for Promoting Reform of Restrictions and Privatization (passed cabinet March 19, 2004) states that the implementation of this analysis should be promoted.

Up to now, this council, together with the Ministry of Internal Affairs and Communications, has promoted the use of RIA methods. We have initiated activities of the individual ministries, such as in drafting the "Implementation Outline on RIA Test Implementation" in August 2004. Following our initiatives, individual ministries have conducted and disclosed information on over 100 RIA tests as of October 1, 2005, indicating steady progress.

The Ministry of Internal Affairs and Communications obtained, analyzed and summarized information on RIA tests conducted in each ministry, provided the knowledge and information obtained from these results to each ministry and conducted survey research, and promoted development of evaluation methods of restrictions form the policy evaluation perspective. The Price Stability Policy Council is currently discussing draft RIA guidelines in the field of public utility charges.

This council has been updating the RIA implementation status at each ministry and progress of discussions at the Ministry of Internal Affairs and Communications, and we have reached the understanding that the environment is set for actual RIA implementation. We need to accelerate our actions to implement RIA earnestly as soon as possible.

Individual ministries will need to use RIA methods widely and at appropriate timing when establishing or abolishing restrictions. The specific framework of obligations, such as the range of

RIA obligations and the timing of RIA implementation, should be considered from the perspectives of the necessities of RIA implementation, and established so that RIA would be voluntarily implemented even if the considerations prove that some are too minor to be obligated.

[Specific measures]

Individual ministries should successively and actively conduct RIA tests, and the Ministry of Internal Affairs and Communications should continue to gather, analyze and survey/research implementation information in order to take the measures necessary to obligate prior evaluations on restrictions under the framework of the "Law Concerning Policy Evaluations Conducted by Administrative Institutions." [Action to be taken from FY2006]

In addition, individual ministries should strive to actively and voluntarily do the same for restrictions that do not reach the obligations of prior evaluation. The Ministry of Internal Affairs and Communications should take necessary measures to promote this. [Action to be taken from FY2006]

Attesting Standards and the Certification System

[Issue recognition]

(1) Reviewing the Certification System

This council and its predecessor, the Council for the Reformation of General Restrictions among other institutions promoting reform of the restrictions have consistently proposed reviewing the certification system, which has passed the cabinet each time as a three-year plan concerning the government's promotion of reform of restriction.

As stated in the Three-Year Plan for the Promotion of Reform of Restrictions (revised) (which passed Cabinet on March 29, 2002), certifications on business monopolies needed to be reviewed in terms of abolition of certification, mutual interaction, review of business domain, abolition of payment rules and review of acceptances in order to improve service content resulting from active competition among various business fields, lower prices and improved convenience for the public. Necessary certifications would be reviewed in terms of abolition of certification, alleviation of unit requirements, expansion of business domain and the use of external commissioning in order to reduce the costs to the business for positioning certified members and relaxing restrictions and conditions on positioning workplaces.

Reviews of individual certification systems were conducted based on the above basic guidelines, although there are some that still strongly require review. Specific items to be

reviewed differ in content and status depending on the individual certification system, but those that strongly require review need to be reviewed individually based on the opinions of those demanding the change and relative personnel, and according to the above basic guidelines.

Concerning certified business monopolies, the above Three-Year Plan (revised) states, "the operations of certified business monopolies that are considered appropriate to hand over to certified people in neighboring fields should be considered, allowing entry of other business genres in order to lower the walls surrounding the certification systems." Reforms of restrictions have been conducted based on these guidelines, such as allowing judicial scriveners to be substituted for litigants at summary courts, or giving the rights of substitution to patent attorneys in lawsuits concerning patent rights violations. Nevertheless, we see some cases in recent years that go against this trend of lowering the walls surrounding the certification systems, such as the issue of certified business monopolies requiring registration with the organization in order to conduct business. These issues need to be strongly reviewed in order to lower the walls surrounding the certification systems.

The Judicial System Reform Promotion Plan (which passed Cabinet on March 19, 2002) plans to expand the population of law practitioners by monitoring the status of new law practitioner training systems, including law graduate schools, and certifying 3000 people annually through judicial examinations by 2010. The Three-Year Plan for Promoting Restriction Reform/Privatization (which passed Cabinet on March 19, 2004) states as follows: "In order to allow 3000 people annually to pass the judicial examination, we should first increase the figure to 1500 in 2004 as planned, then monitor the status of the new law practitioner training systems, including law graduate schools to aim for an orderly but rapid achievement of the goal of approximately 3000 by around 2010. Since the number of law practitioners working in various fields of society is determined by the social demand and market principles, the figure of 3000 in 2010 is not the maximum limit. Further research and discussions on the ideal population of law practitioners should be conducted according to this perspective."

For five years from 2006, both old and new examinations will be held at different times covering a wide range of material. An approximation of the number of successful candidates is usually a guide for those wanting to take the exam. However, to avoid narrowing down the alternatives of people who want to become law practitioners, some believe that these numbers should be based on the figures of the old exam (to be called preliminary exams after 2011).

This council believes that this problem regarding how many people pass the old and new exams is due to the insufficient expansion of the number of people allowed to pass judicial exams. The current debate focuses on how to divide the framework of approximately 3000 people into those who have and have not completed law graduate schools. It does not take the perspective of sending out as many talented law practitioners as possible into society as certified experts in order to establish a judicial system that people can make easier use of. The framework itself, seen from these perspectives, has no logical basis whatsoever.

Moreover, the talent that law practitioners are required to have is expected to become increasingly diverse and sophisticated, and expanding the certification of law practitioners would easily meet these demands. From the perspective of cultivating the talent of law practitioners, judicial exams that would act as the most effective means of deriving talent should include more diverse subjects to enable a check on various fields of actual law, and foster skills that can interpret the law both specifically and broadly, and analyze the socio-economic effects of legislative policies.

(2) Review of Inspection and Certification Systems

Concerning the inspection and certification systems, as stated in the Three-Year Plan for Promoting the Restriction Reform/Privatization (which passed Cabinet on March 19, 2004), technological progress and environmental changes need to be constantly considered. Continuing with the policy to drastically review the necessity of maintaining individual systems as arrangements that involve government, immediate action should be taken for those that are considered suitable for shifting to self-check and self-security. Shifting to self-check and self-security is an important policy, but there is the essential issue of whether of not individual inspections and certification systems need to be maintained as structures that involve the government.

Restriction reform and privatization is under way to shift the role of inspection and certification from the government to the private sector by employing a designated institution system. Despite this, its range is insufficient, and the reality indicates that the core business of inspection and certification is being conducted exclusively by the government and organizations like independent administrative institutions and administrative agencies. For the reform of restrictions and privatization to accelerate and achieve a small and efficient government, privatizing the inspection/certification business that the government, independent administrative institutions and administrative agencies are exclusively conducting is necessary, as well as promoting a shift toward self-check and self-security.

[Specific measures]

(1) Outsourcing Commercial/Corporative Registration to Administrative Lawyers

There is strong demand to enable administrative lawyers to conduct the judicial scrivener's work of preparing registration request forms and conducting registration procedures relating to commercial and corporative registration. Yet there are various opinions on whether privatizing commercial and corporative registration follows the policy of improving service content, reducing prices and improving the convenience of the public through active competition in the various business fields.

To reform the system so that it is beneficial to the people in improving convenience, the Ministry of Justice needs to collaborate with relative ministries and research on the status of commercial and corporative registrations and the needs of the people, and discuss reviewing the system. [To be discussed in FY2006]

(2) Relaxing Restrictions on Certifications Related to the Construction Industry

The approval requirements in the construction industry for management personnel face the recent revision to the commercial code and the diversification of management styles following that revision, and need to be carefully dealt with.

The current status of corporate management styles needs to be studied through research, and the required years of experience to become a certified member of management should be determined so that the people in positions that virtually run management, such as executive directors, who meet a certain standard are treated as a person having the experience to take responsibility for management, as stated in Article 7-1-b of the Construction Industry Law (Law No. 100, 1949). (This standard must not unreasonably limit its scope of application.) [Discussions to be held and a conclusion reached in FY2006]

(3) Expanding the Population of Law Practitioners

(1) While monitoring the status of training systems for new law practitioners, including law graduate schools, the current goal of expanding the number of people passing the judicial exam to approximately 3000 by 2010 should be achieved as early as possible. The possibility for further expansion should also be discussed upon considering social needs and the ideal law practitioner population in the future.

In the process, from the perspective of ensuring that an appropriate law practitioner service is provided to the people, resource materials that are related to judicial examinations and are determined necessary to discussions involving judicial examination

matters should be diligently collected and managed. Effort should be made to understand the relationship between the increase in people passing judicial exams and the quality of law practitioner services. [To be discussed and implemented starting FY2006]

(2) A significant percentage of law school graduates (70% to 80% for example) should be allowed to pass the new judicial examinations, assuming that people with talent and the will to become law practitioners enter the school, and that strict evaluations and accreditations will be conducted. [To be discussed and implemented starting FY2006]

(3) To avoid narrowing the alternatives of people wanting to become law practitioners, a common evaluation standard should determine whether candidates pass or fail the main judicial exams, whether they are law school graduates or candidates who have passed preliminary exams. The number of people who pass the preliminary exams should be reviewed annually in order for the main exams to be a fair competition. These measures should prevent those pursuing law practitioners through preliminary exams to be places at a disadvantage compared to law school graduates. [To be discussed and implemented starting FY2006]

(4) Review of Independent Administrative Corporations and Administrative Substituting Corporations that deal with inspections and certifications (As stated in "Promoting Privatization of Government Businesses")

III. Reform in High Priority Areas for a Cross-Sectional Study

1. Response to the Decline in the Birthrate

[Issue Recognition]

In Japan, the total birthrate has been declining since the mid-1970s. The rate at which we are approaching the age of population decline is the fastest among advanced nations. There are many reasons for the decline in the birthrate: As the percentage of employed women is continuing to increase, women have difficulty in combining work and childcare due to the standardized working arrangements that comply with regulations and systems. Government-sponsored childcare services are considered welfare, and they do not meet the diverse needs of users.

(1) Promoting Various Working Styles to Enable Women to Combine Work and Childcare

Despite the major changes being experienced by the economy and society in the labor market, it is considered that working hours should be restricted based on typical working arrangements that bind workers to working hours, and that the practice of replacing fulltime workers with temporary workers should be prevented. From this perspective, the dispatch of workers is positioned as a provisional system of temporary adjustment for labor supply and demand.

Although there are a more women who are continuing to retain the same position, as in the case of men, standardized working styles are still prevalent, based on a tacit understanding that men are the head of the household and that women as their spouse should do the housework and raise the children. As a result, working couples in particular have difficulty in combining work and childcare. Approximately 70% of working women leave their jobs when they have their first child. Therefore, women who wish to continue working are reluctant to get married and have children, as the burden of childcare increases. And this is a major factor in the ongoing decline in the birthrate.

On the other hand, as the baby boomers become older, there is greater need for more diverse working arrangements for both men and women due to the review of the traditional seniority wage system and long-term employment practices. A response to these needs is in strong demand.

Working arrangements for combining work and childcare are also preferable for older people who wish to strike a balance between work and leisure, and young people who wish to look for work and training opportunities.

(2) Developing an Environment where Users are Given the Freedom of Choice for Childcare

Services to Meet Their Needs

The present childcare systems have many things in common with the earlier nursing care for older people prior to the establishment of the Nursing Care Insurance System. Childcare systems are regarded as welfare provided by the government for special children who receive inadequate childcare. It is far removed from the market where childcare services are provided to meet the diverse requirements of users. The number of working women is expected to increase in the future. The childcare systems need to be changed to a system similar to the present nursing care for older people so that childcare will not be left for families to manage on their own, but instead will be supported in society in a broad spectrum.

As the revised Child Welfare Law was enacted in April 1998, the system for entering approved nurseries was changed so that users can choose a nursery to their liking and nominate cities, towns and villages. However, there is no change in the system where cities, towns and villages screen and decide applicants, and the user's request is not necessarily taken into account as much as would be hoped. Therefore, approved nurseries are not completely liberated from the so-called systems for action where cities, towns and villages allocate the facilities. The user selection system enabling users to select nurseries and apply for cities, towns and villages has been introduced, but it is different from the so-called "contract" based on user's freedom of choice. As long as the systems for action are partially retained and the administration allocates users depending on the vacancies at approved nurseries, incentives for providing quality services efficiently have difficulty functioning in approved nurseries.

Even if there is nearly no difference in the facility standards and service level between approved nurseries and yet-to-be-approved nurseries, there is a huge gap in public financial support. As approved nurseries receive substantial public financial support, nursery fees borne by the users are lower than those of yet-to-be-approved nurseries and home care services such as babysitters. Consequently, the situation becomes unfair: users who are admitted into approved nurseries receive substantial financial support while those who are not admitted pay relatively high fees to use services other than approved nurseries. Moreover, yet-to-be-approved nurseries that do not receive significant public financial support are forced to compete unfairly in comparison with approved nurseries that receive substantial public financial support.

Based on this, the needs of childcare or parental wishes for using nurseries should be greater than the actual figures of children who receive inadequate childcare who are not admitted in nurseries and are on the waiting list, namely, approx. 23,000 children as of April 2005. According to the "Report by the Study Group Concerning Childcare Service Prices" (March 28, 2003), 240,000 children are potentially on the waiting list for nurseries only in Metropolitan areas. Currently, approximately 180,000 children go to yet-to-be-approved nurseries that are

substantially different from approved nurseries in terms of public financial support by the central government. These children should be subject to childcare policy in the same way as children on the waiting list.

Based on these situations, it is essential to promote reform as indicated in the following (a) to (d), centering on the systems of approved nurseries, thereby improving the quality and quantity of childcare services. Services should not be based on the idea of welfare for children who receive inadequate childcare. It is necessary to implement a change from the government-led systems where the services, fees, and supply and demand of childcare services are controlled by the government to user-oriented systems where users are given freedom of choice in childcare services that meet their needs. Therefore, the Council will continue to discuss this issue in order to develop the environment where users are given freedom of choice concerning childcare services that meet their needs.

Reform should be promoted as follows:

(a) Ensuring freedom of choice for users (those who need childcare) and full information disclosure

(b) Introduction of the systems for giving incentives to nurseries to improve services, for example, standardizing the conditions of competition between approved nurseries and yet-to-be-approved nurseries

(c) Changing childcare fee structures from solvency-based systems to benefit-based systems. Currently, childcare fees are determined by a portion of the user's income segment from the welfare standpoint. It is necessary to develop the system where users bear the costs properly and fairly depending on the services to be received.

(d) Replacing the standards for approving children who receive inadequate childcare with more transparent standards

Currently, cities, towns and villages make a decision concerning approval for childcare at their discretion, but it should be changed to standards similar to the ones for the need for nursing care in the Nursing Care Insurance System.

(1) Promoting Various Working Arrangements Enabling Women to Combine Work and Childcare

[Specific Measures]

1. Preparing and expanding exemption from restrictions on working hour [A study in FY2005 that concluded in FY2006]

It is believed under the Japanese labor laws and regulations that working arrangements

restricted by working hours should be protected as typical working styles. However, as the number of workers who select various working styles are increasing along with the changes in economy and society, more people, mainly white-collar workers, are favoring working styles that are not restricted by working hours so they can demonstrate their ability. To cultivate an environment where it is easy to allocate time at their discretion and fully demonstrate their ability, there a strong need for working arrangements that are not restricted by working hours. Also, it is difficult to specify the range of these workers with any consistency. Therefore, it is essential to study the design of the system in the light of respect for self-rule in labor and management, as well as ensuring that labor is protected.

From the above viewpoints, exemption from the restriction of working hours should be studied on an ongoing basis in reference to the white-collar exemption systems in the United States. The health of workers should be taken into account in white-collar jobs that involve highly discretional work, including professional and planning operations under the present discretional working system, and a conclusion should be reached. Exemption from late-night work restrictions also needs to be studied and a conclusion reached, taking into account the health of the workers.

Moreover, with reference to managers and supervisors who are currently excluded from the working hour restrictions, a review of the scope needs to be studied and exemptions should be discussed. Exemption from late-night work restrictions also needs to be studied, taking into account the health of managers and supervisors, and a conclusion should be reached.

2. Review of Worker Dispatch Restrictions

a) Lifting of the ban on preliminary interviews of a person to be dispatched from an entity other than a personnel agency [To be studied in FY2006]

The prohibition has been lifted on the preliminary interview of a person to be dispatched from a personnel agency by the entity to which that person is to be dispatched prior to the dispatch. However, the ban is still in place in the case of the dispatch of other workers.

As operations become increasingly diverse and professional in the recent years, it is difficult to avoid the risks of mismatches solely by providing information through a personnel agency.

In terms of the choice of entity to which a worker is to be dispatched, the employer of that worker, the dispatching agency, should, in principle, evaluate the worker's occupational abilities and select the entity where there is a demand for the worker's skills.

The ban on preliminary interviews is imposed, among other things, to prevent the undue

narrowing of job opportunities for the worker. Some people have indicated that they want to have some prior knowledge of the place where they are to work on the grounds that they are neither machines nor robots.
To prevent the problems caused by mismatching workers and their jobs, including cancellation of the contract partway through, it is necessary to consider preparing the conditions for lifting the ban on preliminary interviews of a person to be dispatched from the entity other than a personnel agency as soon as possible.

b) Review of the obligation to apply for an employment contract for temporary workers [To be studied in FY2006]
Under the revised Law on the Dispatch of Workers from Personnel Agencies, the limit to the dispatch period, set at three years, based on governmental administrative guidance, will be removed for 26 specified jobs. An application for an employment contract must be filed with the entity where the temporary staffer is to work for more than three years, as in the case of the jobs other than the 26 specified above.
The above obligation applies in the following cases:
1) Where the entity where a dispatched temporary staffer works (other than the 26 jobs specified) subject to a restriction in the dispatch period intends to retain the worker in the job longer than the limit that applies to the dispatch period.
2) Where the entity where a dispatched temporary staffer has been performing a job that is not subject to a restriction in the dispatch period (one of the 26 jobs specified) for more than three years intends to hire said temporary staffer to continue the particular job. The reasons for introducing this obligation are: to prevent the entity from exceeding the restriction in the dispatch period and to give the temporary staffer a job opportunity in direct response to his or her request.

On the other hand, it has been pointed out that the parties should be allowed the freedom to employ a person (conclude an employment contract) and the laws should not interfere with this issue, and therefore that the unnatural restriction should therefore be abolished. The obligation to apply for an employment contract has been recently imposed in terms of the 26 specified jobs. Some people are concerned that the entity may not keep a dispatched temporary staffer on the job for more than three years, which will have the effect of destabilizing his or her employment status. The obligation should therefore be studied as required, with a check on the way the obligation has been actually implemented.

c) Clarification of the standards for the so-called combined jobs

The official notice, Standards for Handling the Jobs Involving the Dispatch of Workers, stipulates that the restriction on the dispatch period does not apply if dispatched temporary staffers engage in combined jobs, which means combining one of the 26 specified jobs with other jobs, and other jobs account for less than 10% in terms of hours.

However, some people point out that the standards for combined jobs, in other words, the standards for distinguishing the 26 specified jobs from other jobs, remain unclear. For example, dispatched temporary staffers need to perform other jobs in the case of performing the 26 specified jobs, including morning assembly, cleaning, clearing up after work, telephone answering, and document preparation. It has been pointed out that the interpretation of these jobs should be clarified, and that workers should be dispatched according to proper contracts in order to develop good human relationships in the workplace.

From these viewpoints, it is necessary to clarify the details of these jobs included in the 26 specified jobs regarding the combined jobs, and to report them earlier. [To be implemented in FY2005.]

(3) Preparing the Labor Contract Laws [Study in FY2005, concluded in FY2006]

In preparing the Labor Contract Laws, it is recognized that fair and transparent civil rules concerning labor contracts need to be clarified, except in the case of the Labor Standards Law, which stipulates the minimum standards for labor conditions. Based on these ideas, the Labor Policy Council began to study what shape the labor contract laws should take in the future based on the inquiries by the Minister of Health, Labor and Welfare in September 2005.

To study the aforementioned exemption from regulations concerning working hours, it is necessary to study the labor contract laws. It should be noted that the intentions of both labor and management, the parties to the contract, need be fully respected (self-rule of labor and management) as special laws of the civil law. At the same time, it is necessary to promote discussion in the Labor Policy Council for studying the labor contract laws and reach a conclusion.

[Future tasks]

In addition to the above issues, the Council considers that the following tasks need to be resolved.

Major Review of the Regulations Concerning the Dispatch of Workers

The official name of the Law on Dispatch of Workers from Personnel Agencies (promulgated on July 5, 1985 and enforced on July 1, 1986) is "Laws Concerning Ensuring Proper Management of the Business of Dispatching Workers and the Creation of Work Conditions for Dispatched Temporary Staffers." As clearly indicated in the name, in a sense, the law possesses the characteristics of being regulations (business laws) for the business of dispatching workers. Also, to prevent the replacement of fulltime workers with dispatched temporary staffers (fulltime replacement), stringent restrictions are placed on the jobs to which workers are dispatched and the period. However, these regulations for limiting the freedom of choice for dispatched temporary staffers do not necessarily lead to increases in opportunity to employ fulltime workers. Instead they will destabilize the employment of dispatched temporary staffers. Moreover, these regulations strengthen the characteristics of the laws for protecting fulltime workers instead of the laws for dispatched temporary staffers.

As twenty years have passed since the establishment of the Law on Dispatch of Workers from Personnel Agencies, it is time to return to the original state, the law for dispatched temporary staffers. It is essential to subject the law to a major review and ensure there are options for various working arrangements to facilitate the dispatching of workers. Using dispatched temporary workers, it is easier to select the workplace and the particular jobs in comparison with fulltime workers, and this will contribute to supporting women wishing to combine work and childcare.
The Law for Equal Employment Opportunities between Men and Women, which was enacted and enforced nearly at the same time, has been subjected to major reviews. Similarly, drastic reviews of the Law on the Dispatch of Workers from Personnel Agencies should be studied from the above viewpoints.

In studying the above issues, the following three points from a) to c) should be studied in particular to ensure freedom for dispatched temporary staffers in choosing a job.

a) Removal of the restriction on the dispatch period for jobs other than the 26 specified jobs

For jobs that are subject to a restriction on the dispatch period (jobs other than the 26 jobs specified), the restriction on the dispatch period should be removed to enable dispatched temporary staffers to continue to be employed. It should be noted that the removal of the restriction on the dispatch period is effective and necessary to achieve efficient implementation of the continuous employment systems by establishing a personnel agency, in the same way as the obligation to implement measures for providing employment for older people was stipulated in the revised Law Concerning Stabilization of Employment of Older Persons (to be enforced on April 1, 2006.)

Moreover, with reference to manufacturing jobs, the entity to which a temporary staffer is

dispatched, namely a manufacturing site, is allowed to give directions and orders. Therefore, it is possible to pass down the necessary skills for making products. However, it takes a certain period of time to pass down these skills. As long as there is a restriction on the dispatch period, however, skills that can be passed down are limited. If the dispatch period is short, only simple labor can be assigned to a dispatched temporary staffer.

The restriction on the dispatch period for manufacturing jobs should also be removed to enable skills to be passed down at manufacturing sites and to strengthen the foundations of the Japanese manufacturing industry.

There are permanent part-timers and NEETs (Not in Employment, Education or Training) who have difficulty in finding a fulltime job immediately. As employment measures for these people, it is very effective to provide an opportunity to work continuously at a manufacturing site as a dispatched temporary staffer first, and to develop individual skills.

b) Lifting the ban on jobs prohibited against the dispatch of workers

The freedom to choosing an occupation is guaranteed under the constitution, and there is no rationale for making a difference according to the type of employment. Therefore, the ban on the dispatch of workers according to job type should be lifted, so that even dispatched temporary staffers can get any job as in the case of other workers.

Specifically, the ban on the dispatch of workers should be lifted on all jobs a) to d) below, which are prohibited under the laws:

a) Port and harbor transport
b) Construction
c) Security guards services
d) Medical work at hospitals and elsewhere (excluding the case that dispatched temporary staffers are given opportunities to get a fulltime job by mutual consent between the staffers and the entity where the staffers are dispatched for the jobs)

c) Expanding job opportunities for physically challenged people through the dispatch of workers

Under the law for partially revising the law concerning promotion of employment of physically challenged people (Law No.81, 2005), Article 2 of the supplementary provisions stipulates that the systems should be reviewed three years after the revised law is enforced. Based on this, supplementary resolutions were made in the Health, Labor and Welfare Committee of the House of Councilors on June 28, 2005; the study stipulated in Article 2 of the supplementary provisions must be carried out in the related council to produce a result by the end of FY2009; the employment of physically challenged people as dispatched temporary staffers should be studied,

including the present circumstances, to promote the employment of physically challenged people, and the necessary measures should be undertaken based on the results.
In reviewing the systems under Article 2 of the supplementary provisions based on the above points, the handling of the dispatch of workers for the employment of physically challenged people should be studied in order to expand a job opportunities through the dispatch of physically challenged people. Issues to be examined include the employment ratio systems and the employment subsidies systems for physically challenged people.

(2) Developing the Environment where Users Are Given the Freedom of Choice for Childcare Services to Meet Their Needs

[Specific Measures]

1. Introduction of direct contracts with approved nurseries and direct subsidiaries for users
   a) The usability of users of nurseries should be improved, and approved nurseries should be given incentives to improve services so that they will be chosen by users, instead of being allocated by cities, towns and villages. With regard to direct contracts where users directly apply for the approved nursery that they wish to attend, and the nursery screens and accepts the applicant, certain rules should be established, including securing childcare for low-income families and single-parent families. Therefore, taking into account the degree to which direct contracts are implemented at comprehensive facilities to be operated full scale in FY2006, the introduction for nurseries should be studied as well.

   b) It can be considered that public financial support is changed from the present system for providing subsidies for nurseries to the direct subsidies system for providing them directly to all households who are bringing up preschool children. This measure will enable a variety of operators to enter the market irrespective of whether they are approved nurseries or yet-to-be-approved nurseries, and irrespective of the difference in management structure, such as public organizations, social welfare organizations and corporations. It will also contribute to an improvement in the quality of childcare services through fair competition. On the other hand, some people fear that the quality of childcare may decline without the necessary financial resources as users of childcare increase. It is therefore necessary to review the financial resources by changing the characteristics of childcare as welfare. It is also necessary to create a mechanism for supporting childcare throughout society, like nursing care for older people, instead of leaving childcare to families. Establishing

Childcare Insurance (tentative name) by integrating the existing childcare support budgets and by using these budgets and premiums as financial resources should be studied.

2. Proper procedures for setting childcare fees of approved nurseries

With reference to the childcare fees to be borne by users when they use approved nurseries, the system should be changed to pay the fees as a consideration for detailed services, except in the case of low-income families. Also, it is necessary to establish proper procedures for setting childcare fees by introducing a system where operators can freely set fees even for additional optional services based on the contract with the user. In this regard, the introduction of the system enabling operators to freely set the fees based on the contract with the user is being studied in comprehensive facilities, where full operations are scheduled fir FY2006, taking into account low-income families. If it is confirmed that the usage fees have been appropriately set, the introduction of a system for nurseries should be studied as well.

3. Introduction of the system for approving the level of childcare needs

Where a direct subsidies system in introduced, all households who raise preschool children should be eligible for public subsidies. It is necessary to study the system for determining the state requiring childcare or the level of childcare needs based on childcare needs of households in consideration of the child's age, the working status of the parents and so on and for setting the upper limits of childcare services to be used and covered by public subsidies for a month, depending on the individual level of childcare needs.

The first step is to disclose the standards for screening applicants for admission into nurseries, as specified in the ordinances of cities, towns and villages, and to disclose personal information to the applicant based on the standards. In this way, local governments should be urged to establish a transparent process for approving children who receive inadequate childcare.

4. Promotion of information disclosure regarding childcare services

The obligation to disclose information, including the status of facilities and equipment, the quota for admissions, the status of staff members, the hours of operation, a status of the operations such as childcare policies, and childcare fees, is currently placed on cities, towns and villages. For the introduction of direct contracts, the approved nurseries become parties to the contract, so a means of placing the obligation on approved nurseries to disclose the information should be studied.

In the case of in-home services, the provision of necessary information should also be

studied.

[With regard to 1 to 4, the feasibility of introduction in the case of nurseries is to be studied over the long term taking into account a status of implementation in comprehensive facilities.]

5. Comprehensive centers where kindergartens are integrated with nurseries [Action to be taken by the time the comprehensive centers become fully operational in FY2006]

Usage patterns, facilities and other matters relating to the comprehensive centers where kindergartens are integrated with nurseries are specified in the revised "Three-Year Plan for the Promotion of Regulatory Reform" (adopted at a cabinet meeting on March 25, 2005). These comprehensive centers are important in the development of a new system for raising children from the children's perspective, and they are significant in the future reform of nurseries.

The following points should be studied promptly, and necessary action should be undertaken, toward full operations in FY2006:

a. The mechanism for smoothly transferring the existing kindergartens and nurseries to comprehensive centers. Appropriate action should be taken to respond to the present circumstances in the regions, including standards for the allocation of staff members, qualifications and standards for facilities and equipment.

b. How the public expenses for comprehensive centers should be borne, especially the mechanism for smoothly changing from the exiting kindergartens and nurseries to comprehensive centers

c. Appropriate consideration for not generating a disparity in childcare services between users of short childcare and users of long childcare in comprehensive centers

2. Promotion of Competition in Infrastructure that Supports Everyday Life and Business

[Issue recognition]

The technological innovation and the integration of services and industries among other things driven by improvements in technology are progressing in the areas of infrastructure that support the everyday activities of the public as well as economic and industrial activities, such as finance, IT, the environment and transportation. In these circumstances, the maintenance of traditional vertically divided or overlapping regulations may undermine the convenience of users, and may also adversely affect the everyday activities of public as well as the economic and industrial activities overall through the weakening of this infrastructure.

Therefore, it is essential to eliminate vertically divided and duplicated regulations without delay and develop rules and other conditions to facilitate competition in the marketplace as soon as possible by reviewing the current system from a multi-sector perspective.

1. Competition Policy, Law, Finance

(1) Finance

[Issue recognition]

To vitalize Japan's economy and society, the finance field needs to shift its axis from traditional indirect finance to a market-based direct finance. It is necessary to promote the flow from savings to investment and rapidly establish a structure where funds flow smoothly to growing industries and corporations.

As part of this flow, individual financial institutions, including securities companies, need to initiate change by breaking down walls within the business and providing horizontal financial services to improve the convenience of financial service users. In this process, individual financial institutions are required to implement comprehensive risk management that adapts to increasingly diverse and complex business. Traditional notions of prohibiting other businesses do not stand up under this situation. Therefore, in considering alternative business styles for financial institutions, restrictions concerning their business domain need to be reviewed.

The rules of industrial law need to be freed from dependence on notions of private law

based on the perspective of increasing the effectiveness of industrial law. They need to be made into a system focusing more on economic reality and become free, for example, from whether or not contracts based on private law is necessary, from law forms relating to private organization structures like corporations, unions and trust companies, and from private law forms relating to trade such as substitution, agencies and mediations. It is most appropriate to reestablish industry law to match the economic realities. Furthermore, in the process stated above, promotion of competition policies in the financial field is becoming an issue of increasing importance in Japan. The Financial Service Agency and other agencies should scrutinize the financial field's legal system and its enforcement from this perspective. The Fair Trade Commission also should inspect enforcement of the Antitrust Law (Law No. 54, 1947) in the financial field.

[Specific measures]

(1) Creating a horizontal financial service (investment) legal system [To be discussed and a conclusion reached in FY2005. Action to be taken early in FY2006]

For a long time, Japan's financial/capital market has not debated a shift in its axis from traditional indirect finance to market-type direct finance. New financial structures like the corporate recovery fund have appeared in recent years, and more diverse financial forms can be expected to come through the capital market in the future. Nevertheless, currently there are no legal systems that cover the overall capital market and protect investors. Establishing a fundamental legal system that covers the overall capital market and protects investors while maintaining a balance between the expansion of the supply of risk money is in great demand from the perspective of further vitalizing fund procurement through the capital market.

Therefore, the current Securities and Transaction Law (Law No.25, 1948) should be amended and a flexibly structured investor protection legal system (Investment Service Law [tentative name]) that horizontally covers the capital market should be established.

(2) Individual Matters in Individual Fields

A Financial Institutions with Savings Services

(a) Reviewing measures to prevent problems with securities subsidiaries [To be discussed in FY2006]

Current restrictions restrict securities subsidiaries of banks in the following ways: 1) Becoming an organizing receiver of subsidiaries is limited to securities that are ranked from a designated ranking institution; 2) Confirmation on client agreement concerning transaction of non-publicized information requires a written agreement; 3) Sharing a digital information processing system with the parent or subsidiary bank is prohibited, unless the digital information processing system is managed so that information cannot be transferred between the securities company and its parent or subsidiary bank.

These restrictions have been imposed to prevent problems, yet the following opinions on each of the above restrictions call for their review: 1) Stock certificates are not ranked, yet since the listed/registered stocks have passed evaluations in order to be listed and priced every day at the stock exchange, and even the issuer is obligated to continuously disclose securities reports, the objectivity of stocks is guaranteed in an equal manner to ranked securities; 2) This can be solved through insider trading restrictions, obligations of confidentiality in financial institutions, or by setting up Chinese Walls; 3) Since restrictions on sharing computers should be left to the responsibility of financial institutions, excessive restrictions by this cabinet ordinance should be abolished.

Therefore, the following measures should be taken: 1) Inspection on the range of securities that would be excluded from application of the Cabinet Ordinance on Activity Restrictions on Securities Companies (Ministry of Finance Ordinance No. 60, 1965) as stated in Article 12-1-2; 2) Inspection of cabinet ordinances concerning the transaction of non-publicized information; 3) Inspection of cabinet ordinances concerning the sharing of digital information processing systems.

(b) Allowing subsidiaries to operate te businesses of guaranteeing corporation-directed credits [Action to be taken by FY2006]

The business of guaranteeing credits that subsidiaries of banks and cooperative financial institutions conduct currently exclude from their work domain funds on the businesses of corporations as stated in the comprehensive guidelines for main banks, V-3-3-1 (3), in Article 1 of Financial Services Agency/Ministry of Finance Notice No. 9 (November 24, 1998). Financial institutions are currently working toward diversifying the channels through which funds are provided and the work scope in order to meet the funding demands of individual and small to medium-sized businesses. Nevertheless, this restriction is considered by some as hindering such

efforts.

Should the range of credit-guaranteeing business that subsidiaries of banks and cooperative financial institutions conduct be expanded, it would potentially contribute to forming new business models and would lead to lubricating fund provision most significantly to individual and small to medium-sized businesses.

Therefore, the work that subsidiaries of banks and cooperative financial institutions can conduct should be permitted to include the guaranteeing of credits related to the businesses funds of business corporations within a certain limit.

(c) Expanding corporations eligible to apply to the Commitment Line contract [To be considered FY2006]

Currently, the only conditions for service charges relating to the Specific Loan Framework Contract (Commitment Line Contract) to be excluded from applying to consented interest stated under the Interest Rate Restriction Law (Law No. 100, 1954) and the Law Concerning the Restriction of Receiving of Capital Subscription, Deposits and Interests on Deposits (Capital Subscription Law) (Law No. 195, 1954) are when the loaner (1) has capital of over 500 million yen or a total debt of over 20 billion yen (Law Concerning Exceptions on Commercial Law Concerning Audit of Corporations (Commercial Law Exception Law) (Law No. 22, 1974), Article 1-2-1); (2) is a corporation with capital of over 300 million yen; or (3) is a Specific Objective Company (Law Concerning Circulation of Assets (Law No. 105, 1998), Article 2-3). Therefore, companies such as small to medium-sized companies that mainly procure funds from bank loans cannot use the Commitment Line contract.

The Commitment Line contract is considered a beneficial means of procuring funds not only for major corporations already subject to application, but also for small to medium-sized companies. Therefore, the current fact that small to medium-sized companies are uniformly excluded from the loans should be reconsidered. It has also been pointed out that allowing local public entities, independent administrative institutions and national universities to contract the Commitment Line would help diversify and stabilize their fund procurement.

Therefore, consideration should be given to the possibility of expanding entities providing loans whose service charges relating to Commitment Line contracts would be exempt of consented interest as stated in the Interest Rate Restriction Law and the Capital Subscription Law to include (1) local public entities, (2) independent administrative institutions, (3) schools, (4) national universities, (5) medical

corporations, (6) benefit societies, (7) consumer cooperatives, (8) urban district redevelopment associations, (9) special objective companies (corporations that issue securities and foreign corporations defined in "Securities and Transaction Law Enforcement Law (Governmental Ordinance No. 321, 1965), Article 17-2-2-3 and the Cabinet Ordinance defining securities stated in the same Article 17-2-3"), in addition to small to medium-sized companies (capitalized at under 300 million yen), while acknowledging the intent of the Interest Rate Restriction Law and the Capital Subscription Law.

(d) Relaxing restrictions on the business hours of branches [To be discussed and a conclusion reached during FY2006]

Currently, bank holidays are limited to Sundays and other days defined by government ordinances. Restrictions on bank holidays have been strictly enforced since Article 72 of the Bills of Exchange Law (Law No. 20, 1932) was enacted stipulating that "any draft that meets its maturity on a legal holiday may not be require payment until the next trading day." The article has had legal effects on terminating specific bank transactions.

With the recent, drastic improvement of ATM functions and the expansion of new channels including ATMs in convenience stores, there are fewer concerns than before on branch holidays impeding customer convenience. As the branch strategies of banks increase their diversity and branches start appearing in different forms, there is greater demand than ever for the individual uniqueness of banks, which is reducing the necessity to impose strong restrictions on the holidays of branches that do not conduct checking account businesses.

Therefore, branches that do not operate checking account businesses should be allowed to set their holidays freely.

(e) Excluding the application of compliance rules on third-party share allocations [To be discussed and a conclusion reached during FY2006]

Currently, each time banks or their holding companies conduct third-party share allocations (common stocks, preferred stocks, preferred investment securities), they must establish an internal management system throughout the bank or company under the responsibility of the board of directors.

Yet capital increase by public offering is exempt, subject to compliance rules concerning the establishment of internal management systems under directorial

guidelines, as a significant check function is in effect. On the other hand, some regulations like Rule 144A of the United States Securities Act do not even exempt cases where a private offering in appearance is almost practically issued as a public offering by generally bidding on qualified institutional investors using schematic documents drafted by receiving securities companies according to legal publicizing standards, and the bidders are limited to qualified institutional investors.

This restriction, through the establishment of internal management systems, intends to achieve compliance with the law, such as abiding by the principle of capital sufficiency, preventing abuse of priority positions, appropriately explaining productability, or ensuring optimal disclosure. However, since an increase in investment in practically a similar form as increase through public offering allows a small possibility for inappropriate conduct, it should be made exempt as well.

Also, the holding companies of banks and subsidiary banks are closely related in terms of people and capital, and there are frequent cases of both investment increases being conducted at the same time. In this sense, cases where holding companies of banks receive the shares of subsidiary banks are different from a normally assumed third-party share allocation where banks operating deposit and loan businesses directly allocate shares to their business partners. From this point that establishing an internal management system encourages compliance with the law, it is similarly unlikely that inappropriate dealings would occur between holding companies of banks and subsidiary banks.

Obligating the establishment of internal management systems similar to normal third-party share allocations on these types of investment increases that are less likely to violate the law seems to lack meaning, and such an obligation may hinder fund procurements through such types of investment increase.

Therefore, any types of issues that are almost practically public, like the private offerings to qualified institutional investors based on Rule 144A of the United States Securities Act, and that are confirmed to target institution investors should be exempted from establishing internal management systems on third-party share allocations in the same way as public offerings.

(f) Expanding loan targets beyond members [Action to be taken in FY2006]

Credit associations under Article 53-2 of the Credit Association Law cannot provide loans to non-members with the exception of specific people in local public entities and others. Therefore, there are frequent cases where credit associations

cannot finance PFI projects since the loan recipient must be a member.

PFI projects utilize private funds and expertise on public works and commission to private businesses what local public entities have conducted. Since they are operated under the direction of local public entities based on business contracts between local public entities and private businesses, financing for PFI should be considered financing for local public entities rather than on private companies. Also financing for PFI is usually done by SPC through the creation of project finance where loan funds necessary for design and construction from financial institutions, and paying back loans would depend on cash flow arising from the project. In other words, local public entities and others pay SPC for the service that SPC provides them regarding construction funds and maintenance costs, and that income pays back the loans. In addition, local public entities are deeply involved in financing, since they sign an agreement directly with the financial institution. This is another difference from financing for private companies.

Financing on PFI projects should therefore be considered from the standpoint of financing for local public entities, and credit associations that can finance local public entities should essentially be allowed to provide finance for PFI projects as well. Loan targets should be expanded beyond the members as soon as possible.

(g) Expanding the reasons for termination of legal membership [Considerations to start in FY2006]

The termination of legal membership by credit association members is limited to the reasons stated in clauses in Article 17-1 of the Credit Association Law. This law does not clearly specify legally terminating the membership of those of unknown whereabouts or those who have received judgment on starting recovery procedures. Credit associations must continue managing members even when they increasingly lose track of their whereabouts every year, which increases managing costs. Corporations have recently been permitted under the Law to Revise a Portion of the Commercial Code (Law No. 44, 2002) to sell off shares held by missing shareholders. Therefore consideration should be made on establishing a system that allows credit associations maintaining their characteristics as a cooperative organization to legally terminate the membership of missing members.

(h) Effective use of real estate used for business purposes [Action to be taken in FY2006]

The Comprehensive Guidelines for Small to Medium-Sized and Regional Financial

Institutions was revised on June 30, 2005, and clearly specified the judgment standards financial institutions would follow when renting real estate for purposes. In order for regional financial institutions to effectively use real estate for business purposes, the revised content should be reported further to departments and agencies in charge.

B Securities

(a) Implementing a Report System for Large-Scale Ownership of Investment Securities [To be discussed in FY2005 and a conclusion reached in FY2006]

The Securities and Transaction Law obliges large-scale owners possessing stocks over 5% to submit a large-scale ownership report, and this allows investors to find out, during a certain period, information on matters such as the percentage of stock holdings of large-scale owners and their objectives for owning.

Yet the range of securities subject to this law does not include the investment securities of investment corporations.

Considering the restriction's significance in securing market fairness and visibility and protecting investors, including investment securities as subject of mass ownership report system would largely contribute to investor protection.

Therefore discussions should be conducted on including the investment securities of investment corporations as subject to the report system for large-scale ownership, and reach a conclusion.

C Insurance

(a) Allowing insurance companies to operate as bank agencies and the administrative support businesses of bank agencies [To be discussed during FY2006]

Insurance companies, under Article 100 of the Insurance Industry Law, are prohibited from operating businesses other than insurance businesses, related businesses and other businesses that are legally defined. Prohibiting the operation of different businesses prevents insured customers from bearing losses should the company incur losses operating other businesses thereby damage the financial foundation of the insurance business.

On the other hand, financial institutions must implement continuous change in order to improve the convenience of customers, and the walls around financial

businesses are rapidly becoming lower.

The Bank Code will soon be revised allowing various businesses other than banks to provide financial services through their bank agency businesses. If insurance companies are allowed to engage in bank agency businesses, a wider variety of financial services beyond the current businesses that substitute for the loaning of funds would be provided, and more efficient management would contribute to improved customer convenience.

Therefore, consideration should be made to allowing insurance companies to engage in bank agency businesses separate from businesses that loan funds. Consideration should also be made on allowing those insurance agencies that concurrently operate bank agencies to conduct administrative support businesses for bank agencies.

(b) Review of the abolition of approval for financial companies operating as agencies engaged in the loaning of funds or administrative agency work related to the loaning of funds [To be discussed in FY2006]

Insurance companies define the loaning of funds as their core business, and maintain a loan balance at a specific ratio to their total assets.

Yet when insurance companies conduct agency work in the loaning of funds or administrative substitution work as a side business, they require individual approval. This requirement hinders the fund procurement that banks conduct individually and the arrangement of funds that need to be conducted with mobility.

Therefore, consideration should be given concerning whether agency work for the loaning of funds or administrative substitution work related to the loaning of funds that insurance companies conduct should be exempt from individual approval upon determining the specific work content related to loaning.

(c) Allowing the central function of insurance companies to conduct business that corresponds to their businesses [To be discussed and a conclusion reached during FY2005]

Since insurance companies have established a client network through the sale of insurance products and insurance transactions with multiple companies, there is currently demand for them to expand beyond the simple sale of insurance products, such as recommending companies that provide consultation on various anticipated business risks.

Therefore, from the perspective of strengthening customer service and lubricating and invigorating economic activity, consideration should be made and a conclusion reached on allowing insurance companies to conduct, as their accompanying business, business corresponding to that which is already permitted for banks.

(d) Allowing the central function of insurance companies to engage in trust agency business or administrative relief [To be discussed in FY2005 and a conclusion reached in FY2006]

The business of life insurance companies have a relevance to and are close to trust businesses in areas such as work related to corporate pension and survivor coverage. Therefore, allowing the central function of insurance companies to conduct trust agency work or administrative relief is unlikely to be problematic when compared with banks that are already allowed trust agency work under the Law Governing Concurrent Trust Operations. Nevertheless, insurance companies are the only major financial institutions that are not allowed to engage in trust agency business. With the Trust Industry Law already revised to establish a trust contract agency system to expand customer service for trusts, there is widespread approval for agent work or mediation work on trust contracts.

Therefore, it is necessary to consider and reach a conclusion concerning allowing trust agency work or administrative relief to be included as an accompanying business for insurance companies, based on discussions on how the business should be conducted and whether to impose risk restrictions on insurance companies doing other work.

(e) Expanding the range of companies for which specific subsidiaries of insurance companies (venture capital subsidiaries) can invest in with over 10% ownership [Start discussions early FY2006]

Article 107 of the Insurance Industry Law prohibits subsidiaries of insurance companies to own over 10% of the voting rights in a general business corporation. This restriction prevents insurance companies from slipping past business domain restrictions. However, specific subsidiaries (venture capital subsidiaries) are allowed to own in excess of 10% of the voting rights for 10 years in a venture corporation that meets specific conditions.

Nevertheless, the range of specific conditions is limited, disabling wide investment possibilities in venture corporations, such as a newly established corporation that is

not a research or development type. If restrictions are relaxed, venture companies would find diversity in procuring funds.

Therefore, consideration should be given to expanding the range of venture companies that specific subsidiaries of insurance companies can invest in at over 10%, and also on allowing additional investment.

(f) Clarifying the client recommendation businesses of the core function of insurance companies to securities companies [To be discussed and a conclusion reached during FY2005]

In a similar manner to how banks are allowed to engage in the associated business of introducing customers to securities companies, if insurance companies are allowed to introduce securities companies to their customers' wide range of investment needs, it would be effective in improving customer convenience and use of insurance companies' excess capacity.

Therefore, consideration should be given to allowing insurance companies to introduce customers to securities companies, and a conclusion should be reached.

(g) Expanding concurrent operations to include subsidiaries of insurance companies that conduct agency work and administrative relief relating to insurance business [Discussions to start in FY2006]

Insurance companies　engage in agency work and administrative relief relating to insurance business, such as collecting premiums and paying insurance. However, the operations that their subsidiaries can concurrently engage in are limited to such work as investigation on insurance accidents. The reason for restricting concurrent business operations that is strongly relevant to insurance is to prevent different businesses from bringing in risks. Another factor is that subsidiaries are to conduct part of an insurance company's work unique to the business.

On the other hand, the recent business environment demands a high level of risk management including information security amongst others, and a certain company size is required to maintain a risk management system that is adequate for the demand. An effective means to do this is to integrate and restructure multiple subsidiaries that an insurance company owns and to acquire a certain size.

Also, subsidiaries other than agent/relief subsidiaries that are financial institutions are permitted concurrent operation of subordinate businesses starting April 2002. Should this expand further to include agent/relief subsidiaries, insurance companies

would find diverse alternatives to achieve more efficient management.

Considerations should be given to allowing subsidiaries of insurance companies (that conduct agency work and administrative relief relating to insurance business) to concurrently engage in subordinate businesses that are already approved to insurance company subsidiaries.

(2) Competition Policy

[Specific measures]

(1) Abolishing restrictions on gifts other than prizes based on the Act Against Unjustifiable Premiums and Misleading Representations [Discussion to be held successively through FY2006]

Attaching gifts other than prizes to products can be considered neutral and promoting competition as long as the method and scale is appropriate. This is because it is practically the same as selling a combined set of product being transacted and the free gift, and consumers would benefit more from receiving the free gift than from receiving only the normal transaction.

Therefore, restrictions concerning gifts other than prizes based on the Act Against Unjustifiable Premiums and Misleading Representations (Law No. 134, 1962) should be considered an appropriate means from the standpoint of securing optimum product selection for consumers, while also acknowledging the fact that there are requests to review the restriction.

(2) Competition Policy

[Specific Measures]

1. Abolition of premium and labeling regulations based on the Act against Unjustifiable Premiums and Misleading Representations [Study continuing during and after FY2006]

The sale of products with premiums by a means other than by lotteries is not actually different from the sale of a set of products to be traded and products to be used as premiums. This type of transaction is more advantageous to consumers than normal transactions as they receive premiums. Therefore, as long as the methods and level are appropriate, the sale of products with

premiums neutralizes or promotes competition. It should be recognized that some people have pointed out that premiums by a means other then lotteries based on the Act against Unjustifiable Premiums and Misleading Representations (Law No.134, 1962) should be reviewed, and at the same time, that appropriate measures should be studied to ensure that consumers select products in an appropriate manner.

2. Preparing a competitive environment in response to the integration of communication and broadcasting

[Issue Recognition]

The use of the Internet has been rapidly growing over recent years, and progress is being made in broadband services, with the number of Internet users reaching 79.48 million at the end of 2004, and 21.43 million broadband contracts at the end September 2005. It is also possible to deliver a large capacity of content through the communications infrastructure. In fact, the communications software market is still small, but it has been increasing, and has reached approximately 500 billion yen, an increase of approximately 200 billion yen over the past three years (Information Communications White Paper in 2005). If subscriptions for optical fibers, which currently number approximately four million (at the end of September 2005), continue to increase, the distribution of music software and video software will expand. For users, it will become meaningless to distinguish in terms of content between communications and broadcasting. For members of the public to enjoy the content they desire using the means they want anywhere at any time, it is essential to promote reform beyond the boundaries of the existing business categories and regulations.

Based on an awareness of the above facts, the Council has been mainly engaged in studying the broadcasting field that resembles the content industry. The aforementioned technological reform cannot be ignored in the broadcasting field. Last year, the money spent on Internet advertising exceeded the money spent on radio advertising for the first time. This year, the increase in the use of the Internet is having an ongoing affect on broadcasting, as indicated in the launch of the fully operational video delivery system using the Internet by broadcasters.

On the other hand, the broadcasting industry has been changing slowly in comparison with changes in the communications field over the twenty years since the liberalization of communications and the privatization of the Nippon Telegraph and Telephone Public Corporation. Basically, there has been no change in the systems where the subscription fee-based Japan Broadcasting Corporation, established in 1950 (NHK) coexists with commercial broadcasting corporations that operate according to advertising

revenue (commercial broadcasting). Certainly, as indicated in broadcasting using communications satellites (CS) and communications using cable television broadcasting (CATV) facilities, the integration of broadcasting and communications is occurring in the infrastructure. Over the ten years from FY1993 to FY2003, multimedia made steady progress as the size of the market for satellite broadcasting (BS, CS, commercial broadcasting) increased by a factor of 7.6, and expanding by a factor of 4.3 in the case of CATV. However, these developments did not have an impact that was significant enough to bring reform to coexistent systems. Digital broadcasting services commenced in 2000 for BS broadcasting, and in 2003 for terrestrial broadcasting services. The two media became positioned as semi-key forms of broadcasting, leaving the major players in broadcasting to face major environmental changes, making it inevitable that changes will occur in the dual system of NHK and the commercial broadcasting companies supporting it.

With the end of analog broadcasting services for both BS and terrestrial broadcasting in 2011, we will enter the fully digital age. The flow of technological reform called digitization will not only provide multiple channels of broadcasting, good picture quality and superior functionality, but also dramatically promote the integration of peripheral industries, including communications. The flow of technological reform will also have the potential to provide the services that are more responsive to the needs of the Japanese viewers. It is important to study the opening of the private sector to enter the market and the development of a fair, competitive environment, observing the structural changes of the broadcasting industry with the expanded use of the Internet and the progress in digitization.

It is essential to improve the broadband network environment, whether it uses landlines or wireless technology, to improve usability for users in the communications field. Wireless technology, in particular, has made rapid progress in recent years. The results should be promptly implemented. Also, the increasing importance of content with the spread of IP transmission and broadband services of networks has a significant impact on the business strategy of communications operators. It is necessary to ensure that the environment remains competitive and fair, especially because of the changes taking place.

Moreover, even if communications and broadcasting continue to become integrated in terminals and transmission lines, it is necessary to organize the licenses of video content concerning copyright so as to meet the needs. Therefore, the measures necessary for promoting contracts with the private sector should continue to be studied. As part of the initiatives, it is necessary to resolve the issue of the management of copyright, including whether multicasting using IP infrastructure, which applies to broadcasting using the telecommunications services, is applicable to cable broadcasting under the Copyright Law.

(1) NHK Reform Based on the Ideal Model of a Public Broadcaster

[Issue Recognition]

In 1950 when the Broadcasting Law stipulating NHK operations and organization was enacted, it was effective to place the obligation on entering into to a contract with NHK and the people who owned a television, irrespective of whether they viewed the programs, and to collect subscription fees as special costs to be borne for national broadcasting. These ideas were accepted by the people as well. However, more than 50 years later, the environment surrounding broadcasting has substantially changed in recent years. There is a strong demand for a review of the subscription fee system that lays at the foundation of NHK.

After the scandals last year, approximately 1.27 million incidents of refusal to pay or the withholding of subscription fees were reported as of the end of September 2005. Combined with 9.58 million households who have outstanding bills or who do not subscribe to the service, these households account for approximately 30% of contracted households. Revenue from subscription fees for FY2005 is expected to decrease by approximately 50 billion yen in comparison with the initial plan. This should not be regarded as a temporary phenomenon caused by the scandals. It should be rather thought of as the revelation of the inherent structural problems with the subscription fees that are billed to Japanese people irrespective of whether they view the programs. Many forms of media are available, and people have become more aware of their contribution. Moreover, as the NHK broadcasting programs are diverse, ranging from disaster news to sports and entertainment, the subscription fee systems restrict the user's freedom of choice. There is a problem with the systems, viewed in the light of ensuring fair and competitive conditions with commercial fee-based broadcasting and fee-based content delivery using communications infrastructure.

Taking into account the circumstances surrounding the media today, the subscription fee system needs to be substantially reviewed. To change from broadcasting services that are provided for viewers to broadcasting services that satisfy viewers, the present subscription system should be abolished and a contractual relationship based on the viewer's intentions should be established. Even if the systems are maintained temporarily, it is necessary to ensure that viewers have freedom of choice and that government-driven markets are deregulated for entry by the private sector, based on the concept that if the private sector can do the job, it should be left to them. In this way, a fair and competitive environment can be established with commercial fee-based broadcasting and fee-based content delivery. From this perspective, it is necessary to limit NHK’s scope to what is really necessary for public broadcasting that is funded by subscription fees. In the case of other operations, unnecessary operations should be abolished. For operations that need to be maintained, it is essential

to make a clear distinction between public broadcasting that is funded by subscription fees, and to remove as many content and management restrictions as possible. In this way, the viewer's needs can be met in a flexible manner.

The scandals have drawn people's attention to the ideal model of the organizational governance of NHK as a corporation having special status that provides public broadcasting services. Currently NHK is taking the initiative in revitalization and reform to restore the viewer's trust. It is necessary to wait and see how the public responds to the initiatives. However, it is questionable whether it is possible to provide a satisfactory explanation to people who will pay the subscription fees in the future and whether it is possible to establish effective governance as an organization while maintaining the present framework.

Either way, it is necessary to verify the scope of operations, including the present subsidiaries and affiliates, outsourcing and other transactions, from the standpoint of the social and cultural function of the organization as a public broadcaster. It is also necessary to deregulate the government-driven markets based on the concept that if the private sector can do the job, it should be left to them with the objective of streamlining the operations of a corporation having special status.

Specifically, the following measures should be undertaken.

[Specific Measures]

1. Integration and abolition of subsidiaries [Action to be taken during and after FY2006]

   The number of NHK subsidiaries has declined from 65 in 1998 to 34 as of November 1, 2005. It is necessary to proceed with further integration and abolition based on stringent financial circumstances, taking into account the operations that are really necessary for a public broadcaster that is funded by subscription fees. It is also essential to increase the efficiency of operations through the integration and abolition of NHK departments and sections as well as a reduction in the number of departments.

2. Increases in the ratio of competitive contracts for external transactions [Action to be taken in FY2006]

   According to the "Guidelines for Interpretation of Article 9-2 and 9-3 of the Broadcasting Law" (Guidelines Concerning the Scope of Subsidiaries of Japan Broadcasting Corporation, promulgated on March 8, 2002) after the "Reorganization and Streamlining Plan of Corporations Having a Special Status" (decided by the Headquarters for the Promotion of Reform Including Corporations Having a Special Status on December 18, 2001) was released, competitive contracts shall, in principle, be used for transactions with NHK subsidiaries and so on. In looking at NHK's external transactions in FY2004, however, competitive contracts represented 72.2 billion yen of the total of 190.8 billion

yen, or 37.9%. With reference to outsourcing program production, a total of 69.8 billion yen were optional contracts.

Therefore, in the future, the percentage of competitive contracts should be increased for external transactions other than outsourcing program production. In this case, it is necessary to delete the clause in NHK's Standards for Outsourcing Contracts that stipulates that the principles of competitive contracts do not apply where employees transferred due to efficiency increases are involved with the operations. Also, the Standards stipulate that cost calculation policies of accumulating expense items for implementing the outsourcing jobs shall be used for outsourcing fees, and that the market price system shall be used if the former method is not appropriate. It should be clearly indicated that the market price system should be used if possible.

Using optional contracts for all of outsourcing program production is attributed to the special feature that the specifications for production of broadcasting programs differ according to the program. On the other hand, it is reported that these contracts are concluded with NHK affiliates because program production is conducted based on the NHK editing standards when it is outsourced to an external production company, and that production is performed under the direction of NHK producers. However, it is not justifiable to use the affiliates to ensure that program production is based on the NHK editing standards. Therefore, the current practice should be corrected, and the procedures for planning and proposing programs should be transparent and clear for outsourcing program production.

3. Publication as to how subscription fees are spent [To be implemented in FY2006]

The breakdown of expenditures of subscription fees should be published to viewers and the public. Unlike currently published figures that are partial or approximate, the expenditures for each of NHK’s activities should be published in sufficient detail as to make them clear. Especially for program production, disclosed information includes only an outline of expenditures by program type, and some of the expenditures of individual programs. Initiatives for disclosing detailed information should be promoted.

4. A study of the ideal model of public broadcasting [To be discussed in FY2006, with a conclusion reached soon afterward]

It is essential to consider as a matter of urgency the ideal model for public broadcasting, including the future directions, in the light of changes in the environment surrounding public broadcasting, including digitization, the continuing progress in the integration of communications and broadcasting, and diversification of viewing patterns. Items to be reviewed

include the number of channels, scrambling for terrestrial digital broadcasts and the subscription fee system, as well as the scope of businesses. A conclusion should be reached in early FY2006.

In the case of scrambling for BS digital broadcasting, the revised Three-Year Plan for the Promotion of Regulatory Reform (Cabinet decision on March 25, 2005) indicates that the number of media possessed and the implementation of scrambling should be studied concerning NHK BS digital broadcasting, taking into consideration the role that NHK is expected to play, while securing fair and effective competition with other commercial broadcasting companies and a simultaneous broadcasting period of BS analog and BS digital broadcasting. Based on these considerations, the issue should be studied in line with the above cabinet decision, and a conclusion reached.

(2) Promotion of Competition in Terrestrial Broadcasting

[Issue Recognition]

For terrestrial broadcasting, it is possible to apply for licenses at the time of re-issuance of licenses every five years. However, it is difficult to enter the market in the present environment. For example, there has been no change for more than 40 years since the five-station system was established for wide-area broadcasting in the Kanto wide area in 1964. Moreover, a 6-MHz frequency bandwidth equivalent to three channels of standard television broadcasts will continue to be occupied on account of the provision of attractive broadcasting services, including high-definition broadcasting after digitization.

Unless new measures are undertaken, the top-down integrated business model for conducting all processes from content production to editing while securing the means of transmission at low cost will be maintained on an area basis, even after digitization is complete in July 2011. In addition, with the expansion of Internet use and the realization of the broadband environment, commercial broadcasters have already started program delivery via the Internet.

Based on the above factors, to strive to improve the quality of broadcasting content, it is necessary to take every possible measure, including the promotion of competition among broadcasting companies and programs. The following measures need to be undertaken for the time being.

The Council continues to discuss reform in response to the integration of communication and broadcasting, including area license systems and the external procurement of broadcasting programs.

[Specific Measures]

1. More stringent procedures for the re-issuance of licenses for terrestrial broadcasting stations

Unlike the case of renewal where the effective period of a license is extended, new operators may apply for licenses in the case of re-issuance of licenses for broadcasting stations. Also, the standards for screening applicants are publicized under laws such as the Radio Wave Law. Most recently, in 2003, licenses were re-issued for 228 stations of 193 commercial broadcasting corporations, but no new operators other than the existing operators applied for licenses at that time.

Taking into consideration the present situation, it is necessary to clarify the procedures for inviting new operators from the standpoint of the promotion of competition for terrestrial broadcasting. In other words, clear and transparent screening systems should be introduced under competitive application processes. For example, points are assigned for screening items, and a licensee will be determined based on the score. Also, the results of a decision should be publicized together with the circumstances of the screening. [Action to be taken in FY2006]

If there is a margin of bandwidth (channels) that enable the installation of new terrestrial digital stations when channel allocation for digital broadcasting stations is complete, and if the transition to digital broadcasting is finished, the possible use of these channels should be studied as soon as possible [To be discussed during and after FY2006, with a conclusion reached before the transition to digital broadcasting is complete]

2. Greater relaxation of the regulations controlling multiple stations [To be discussed and a conclusion reached in FY2006]

The Basic Plan for Disseminating Broadcasting (Notice of the Minister of Posts and Telecommunications No.660, 1988) stipulates the broadcasting areas centered on prefectural areas. Essential Standards for Establishing Broadcasting Stations (Rules of the Radio Regulatory Commission No. 21, 1950) stipulate the regulations concerning the control of multiple stations by a broadcaster. Prefecture-based broadcasting areas are designed for adding local features to media engaged in the dispatch of community-based information. However, as the media becomes more diverse with the expansion of the areas populated by people, as well as the spread of satellite broadcasting and the Internet, it is essential to review them based on actual circumstances. Also, business activities are conducted in limited areas within the prefecture, and therefore, the management basis of local commercial broadcasters is not solid. They tend to rely on key stations especially for programs.

Taking into account the above changes, it is necessary to study greater relaxation over the control of multiple stations in different areas and to reach a conclusion concerning strengthening the management basis of broadcasters, thereby ensuring that the broadcast content will be

improved.

3. Diversification of transmission lines for broadcasting

a) Review of the broadcasting systems using telecommunications services [Action to be taken in FY2006]

Under the present broadcasting systems using telecommunications services, terrestrial broadcasters cannot be independently registered as broadcasters using telecommunications services in the broadcasting service areas. However, it is preferable to enable viewers to view programs through desired transmission lines by relaxing the regulations on the entities of broadcasting through IP infrastructure.

Therefore, it is necessary to study specific needs as soon as possible, so that terrestrial broadcasters can be independently registered as broadcasters using telecommunications services. It is also necessary to reach a conclusion and take the necessary measures.

b) Clarification of the rules concerning re-transmission [To be discussed in FY2005, with a conclusion reached in FY2006]

Selection of transmission lines for terrestrial broadcasting is determined by broadcasters. If cable television broadcasters re-transmit the programs, it is necessary to obtain the consent of the broadcaster. If it is not possible to reach a conclusion, the parties may apply for arbitration by the Minister of Internal Affairs and Communications. As the methods of transmitting broadcast content, including IP infrastructure and satellites, are becoming diverse, it is necessary to expand the options of transmission lines for viewers, and to improve usability. From this perspective, it is essential to clarify the rules concerning consent for re-transmission so that new media can reliably obtain consent for re-transmission from broadcasters, as in the case of cable television broadcasting, and to study measures for rules, including arbitration systems, and reach a conclusion.

4. Review of bandwidth usage fees for broadcasters [Action to be taken when bandwidth usage fees are reviewed in 2008]

Under the Radio Wave Law revised in the 163rd session of the Diet, the system for calculating bandwidth usage fees considering the economic value of the bandwidth has been introduced. The expected revenue from broadcasters for bandwidth usage fees still averaged approximately 4.3 billion yen from FY2005 to FY2007, falling short of 10% of the total bandwidth usage fees. Approximately 3 billion yen of the fees is considered additional

bandwidth usage fees to be borne by FY 2010, which are to be allocated to the measures for changes in analog frequency. Therefore, bandwidth usage fees of broadcasters should be reviewed to match the used bandwidth and output.

5. The promotion of dissemination of terrestrial digital broadcasting and a transparent process for setting and implementing the bandwidth usage systems [A study is to be undertaken in FY2005, with action to be taken in FY2006]

For terrestrial digital broadcasting, the Copy Once restrictions when recording the programs are inconvenient for recording and viewing by viewers and the public. This is one of factors that impede the dissemination of digital broadcasting, and it has been pointed out that this should be reviewed. The restrictions not only apply to copying. In reality, they impose the compulsory condition of using the broadcasting system of the scrambling of digital broadcasting programs, and release by the B-CAS card.

In setting and implementing the bandwidth usage systems that have a major and general impact on the public, the administration should take appropriate action in a timely manner in order to provide the maximum benefits for the public. The setting of the B-CAS system and the imposing of the Copy-Once restrictions have been studied and implemented by commercial operators. It has been pointed out that excessive copy restrictions impede the dissemination of digital broadcasting. (References: The copy restrictions on digital broadcasting content in Japan do not comply with some international standards. They differ from the broadcast flag systems being studied in the United States and other countries.)

Therefore, it is essential to review the Copy-Once restrictions at a government level as soon as possible with a view to relaxing them, taking into consideration both usability for the viewers and the appropriate protection of copyright. When conducting the review, it is necessary to invite a wide range of stakeholders, including viewers, manufacturers and related operators. It is also necessary to strive to clarify the following questions while publicizing the discussion process: Which entity specifically claims the right to Copy Once? For example, if the aforementioned United States system is introduced, what problems will the entity encounter? How should a decision be made to disseminate digital broadcasting? Will the decision be accepted by viewers? Is a transparent and competitive process currently used to determine the standards and operations of the present broadcasting equipment and systems?

(3) Promotion of Development of a Network Infrastructure for Information Communications

[Specific Measures]

1. Expansion of the bandwidth used for communications facilities for high-speed power line transmission [To be discussed and a conclusion reached in FY2005. Action to be taken in FY2006]

   High-speed communications should be achieved by expanding the bandwidth (adding 2 to 30 MHz to the conventional 10 kHz to 450 kHz) for the use of power transmission and communications in the building, which enables outlets for both power sources and data communications.

2. Introduction of the UWB (Ultra Wide Band) [To be discussed and a conclusion reached in FY2005. Action to be taken in FY2006]

   To achieve a ubiquitous network society enabling users to access networks from anywhere, it is expected that UWB will be a practical solution for high-speed wireless communication.

   Therefore, it is important that international trends, such as ITU (International Telecommunication Union), as well as the means of promoting the practical use of UWB and the conditions for use with other existing wireless systems be fully considered and that the systems for introducing UWB be in place.

(4) NTT Issues

[Specific Measures]

Competition in broadband services is becoming increasingly intense in the telecommunications business, and there is an increasing convergence of services with IP. In response, more and more partnerships are being formed between operators. However, a constant feature is that NTT East and West own all the facilities that other telecommunications businesses require when providing their services. It is necessary to closely examine how recent developments will be affected by the structure, including NTT's response, based on the mid-term management strategy.

Taking into account the changes in the competition environment, including the progress of IP, it is essential to strive to take a range of comprehensive measures to ensure fair competition. These measures include open networks for subscriber fiber optics and the Dominant Carrier Regulation that stipulates prohibited activities. It is also necessary to closely observe the status of fair competition between the companies in the NTT Group as independent organizations. If competition does not

progress to fruition, the issues concerning NTT must be thoroughly reconsidered. For example, NTT East and West own a range of network facilities, some of which are necessary for other telecommunications businesses to provide their services. For these critical facilities, connection fees should be based on connection accounting to ensure that internal prices for use within the company or the group are consistent with the prices collected when they are rented to other telecommunications businesses, that is, external prices, specifically connection fees. It is necessary to verify that the current system of connection accounting responds to changes in the network structures, such as the increased importance of IP networks and transfer to the next generation of networks. It is also necessary to conduct a review and take action if necessary. [Continues to be monitored]

3. Streamlining of Regulations of the Four Safety Laws

[Specific Measures]

Safety regulations for chemical plants, including petrochemical complexes, fall within the jurisdiction of three ministries under four safety laws: the High Pressure Gas Safety Law under the jurisdiction of the Ministry of Economy, Trade and Industry, the Industrial Safety and Health Law under the jurisdiction of the Ministry of Health, Labor and Welfare, the Fire Law under the jurisdiction of the Ministry of Internal Affairs and Communications, and the Act on Prevention of Disaster in Petroleum Industrial Complexes and Other Petroleum Facilities under the jurisdiction of the Ministry of Internal Affairs and Communications and the Ministry of Economy, Trade and Industry.

To facilitate the streamlining of these safety regulations, the revised Three-Year Plan for the Promotion of Regulatory Reform (Cabinet decision on March 30, 1999) indicates the need to study the feasibility of streamlining and integration of the four safety laws. Therefore, the Panel to Study the Promotion of Streamlining and Integration of the Four Safety Laws Concerning Petroleum Complexes was formed in May 1999 and a study was launched. The panel consists of people of experience or academic standing, representatives of industrial organizations, labor organizations and related administrative organs, and staff members of related ministries and agencies. However, major streamlining and integration have yet to be achieved.

Also, operators who meet certain standards under the High Pressure Gas Safety Law, the Industrial Safety and Health Law and the Fire Law are certified, and streamlining measures are implemented for these operators. However, since details of the certification systems differ, it is difficult for the advantages of the streamlining measures to be felt, and the systems put limitations on the operations.

In particular, the following limitations are imposed:

1) For voluntary inspections in the certification systems, final inspections for changes and safety inspections may be voluntarily conducted under the High Pressure Gas Safety Law. However, voluntary inspections are not permitted under the Industrial Safety and Health Law and the Fire Law. Under the Fire Law, the results of voluntary inspections can be used for inspections of changes. However, ultimate approval or disapproval is determined by mayors and village officials, and voluntary inspections are not permitted as they are under the High Pressure Gas Safety Law.

2) The High Pressure Gas Safety Law stipulates the frequency of performance inspections for each unit of equipment based on the expected remaining lifespan. However, the Industrial Safety and Health Law stipulates that the frequency of inspections for equipment is a maximum of four years. The Fire Law extends the frequency of performance inspections for outdoor tanks. It has been pointed out that it is possible to set the frequency of performance inspections more appropriately if the expected remaining lifespan is utilized. Based on the assumption that safety needs to be guaranteed, the burden on operators should be reduced by reducing the suspension period for complexes and by reducing costs. From this perspective, it is important to study and promptly implement the simplification of permit procedures, the streamlining of inspection techniques, the introduction and promotion of voluntary inspections, and the setting of the frequency for performance inspections based on the expected remaining lifespan.

(1) Simplification of permit procedures and streamlining of inspection methods [Action to be taken during FY2006]

The simplification of permit procedures and the streamlining of inspection methods were studied in the Panel to Study the Promotion of Streamlining and Integration of the Four Safety Laws Concerning Petroleum Complexes. More extensive study for streamlining and simplification should be carried out in the Ministry of Economy, Trade and Industry, the Ministry of Health, Labor and Welfare and the Fire and Disaster Management Agency in cooperation with petroleum refinery representatives. It is necessary to reach a conclusion and thoroughly communicate it.

(2) Introduction of and promotion for voluntary inspections

1. High Pressure Gas Safety Law [Action to be taken during FY2006]

Final inspections for changes and safety inspections are voluntary in the present certification systems under the High Pressure Gas Safety Law. However, it is limited to operations involving small changes. If the currently operated facilities are expanded or

reconstructed, and if there is no problem with safety or management, the scope of voluntary inspections should be expanded in the future.

2. Industrial Safety and Health Law [To be discussed and a conclusion reached in FY2005. Action to be taken thereafter]

Voluntary inspections for boilers and Type 1 pressure containers are not permitted in the certification systems under the Industrial Safety and Health Law, unlike the High Pressure Gas Safety Law.

Therefore, certification systems and standards enabling voluntary inspections should be considered for operators who meet certain safety and management standards, based on the assumption that safety is guaranteed. If the certification systems and standards are in place, voluntary inspections should be permitted for operators who meet the standards of certification.

3. Fire Law [To be discussed and a conclusion reached in FY2005. Action to be taken thereafter]

Use of the results of voluntary inspections is also limited in the certification systems under the Fire Law, and voluntary inspections are not permitted, unlike the High Pressure Gas Safety Law. Therefore, to strengthen the voluntary safety activities for operators, the certification systems and standards enabling voluntary inspections should be studied for operators who meet certain safety and management standards, based on the assumptions that safety is guaranteed. If the certification systems and standards are in place, voluntary inspections should be permitted for operators who meet the standards of certification.

(3) Setting of the frequency of performance inspections based on the expected remaining lifespan

1. Industrial Safety and Health Law [Action to be taken during FY2007]

The law stipulates that the frequency of performance inspections for each piece of equipment is a maximum of four years. Consecutive operations exceeding four years should be permitted by modifying the limitations, and by setting the frequency of performance inspections based on the expected remaining lifespan.

2. Fire Law [To be discussed and a conclusion reached in FY2007. Action to be taken thereafter]

With reference to the frequency of performance inspections of outdoor tanks, data should be received from operators, and extending the frequency of performance inspections should be

examined.

4. Promoting Recycling by Reviewing Various Systems Regarding Waste

[Specific Measures]

Under the Basic Law for the Promotion of Formation of Recycling-Oriented Society (Law No. 110, 2000) (“the Basic Law for Recycling”), the current level of mass production, consumption and disposal in society was reviewed, and various efforts were made to promote recycling in society. These efforts include the creation of a society where waste is minimized. As part of these efforts, if products become recycling resources, they are properly reused, and if not, they should be properly disposed. In this way, the consumption of natural resources is restricted and the environmental impact minimized (Article 2). As indicated in the definition, top priority is placed on reducing the creation of waste, on reuse, and on appropriate disposal in an ideal recycling society. As long as the environmental impact is reduced, reuse should take precedence over appropriate disposal. However, there are many limitations concerning the handing of unused recycling resources. According to the regulations of environmental conservation based on the law concerning waste disposal and cleaning (Law No. 137, 1970) ("Waste Disposal Law"), priority is given to the appropriate disposal and the recycling of resources is conducted in a piecemeal fashion in many cases.

To overcome this situation and to facilitate the creation of a recycling society, it is not recommended that an approach in which remnants are considered as disposable items, the response is examined, and only the waste that can be used effectively is handled as an exception. It is important to consider remnants as able to be recycled under the Basic Law for Recycling, to use them as resources for recycling as much as possible, and to appropriately dispose unused resources that cannot be used effectively.

Therefore, various systems concerning the appropriate disposal of waste and promotion of recycling, including reviewing the separation into domestic and industrial waste, should be reconsidered.

(1) Review of the separation of waste [Action to be taken in FY2006]

If there are business type limitations for 20 items designated as industrial waste, and this waste is discharged by the operator of another business type, the items will be separated into domestic waste even if the waste has the same characteristics as industrial waste. Cities, towns and villages should be responsible for the disposal of domestic waste. The waste is not recycled even if the parties responsible for discharging the waste wish to recycle the waste. Consequently, if waste has

the same profile and it is classified as industrial waste, recycling is possible as intended by the parties discharging the waste. If the waste is classified as domestic waste, recycling may not be possible even if the parties discharging the waste wish to recycle it.

In particular, in the case of wooden pallets discarded by operators other than those of the business type designated as industrial waste, the pallets are separated into business-type domestic waste. However, it is difficult to handle them in cities, towns, and villages. There are many cases where recycling can be performed efficiently if the waste is disposed of as industrial waste.

Therefore, a means of changing the separation of discarded wooden pallets should be studied so they can be handled as industrial waste. Similarly, timber waste is separated into business-type domestic waste. The separation of wooden waste into domestic waste and industrial waste should be studied and reviewed taking into account the realities of how the waste is created and the opinions of operators who discharge the waste.

(2) Electronic documents and administrative procedures under the Waste Disposal Law [Action to be taken in FY2006]

Administrative procedures for operators can be substantially simplified through the sharing of information about permits under the Waste Disposal Law with local public organizations. Other means of simplification include making effective use of the permit information of other local public organizations and integrating application procedures in cases where permits need to be taken from several local public organizations. Therefore, it is essential to launch the initiatives for electronic documents, taking into account the opinions of operators and local public organizations.

(3) Review of assessment methods concerning waste that is applicable to the recycling certification system [Action to be taken in FY2006]

Under the present recycling certification system, materials that are regulated under the Basel Convention and are prescribed in Article 2-1-1 b) of the law concerning the regulations of export and import of the designated toxic waste (Law No. 108, 1992) are not uniformly subject to the recycling certification system. It is, however, necessary to determine whether the system applies to each form of waste.

(4) Formation of the panel [Action to be taken in FY2006]

There are some cases where the present Waste Disposal Law impedes recycling by stringently regulating separation into domestic and industrial waste. To facilitate recycling by

combining different recycling resources and to collect recycling resources with the same general characteristics, it may be more efficient to implement cross-sectional recycling, instead of implementing it under individual recycling laws. It is necessary to strengthen the interface between individual recycling laws and the Waste Disposal Law, and between individual recycling laws.

It is therefore important to create a panel of stakeholders as a subordinate branch of the Central Environmental Council to communicate to the public the concepts surrounding waste more clearly and to reconstruct a social system where waste can be reused and recycled efficiently and effectively. It is also necessary to launch the study of operations of the Waste Disposal Law, including a review of the separation into domestic waste and industrial waste in cooperation with the related ministries and agencies.

5. Energy

[Issue Recognition]

To strengthen Japan's international competitiveness and improve the country's living standard, the high cost of Japan's energy industry should be reduced, and energy-related services should be made more diverse and their quality improved. A competitive environment must be established to motivate public utilities to increase their operational efficiency levels. On the other hand, attention should be directed toward energy security, the prevention of global warming and other administrative tasks. Liberalization has occurred gradually in the past in the area of power and gas utilities. The retail sale of power and gas has been partially deregulated. The existing power utility companies have been obliged to transmit power on commission via their transmission networks or pipes, and the so-called "pancake" (a term relating to the transmission charge) was abolished. The systems of power transmissions on commission were reviewed, including a review of the simultaneous, equal-volume rules. Neutral organizations and the market for wholesale power were put in place, and guidelines for appropriate transactions were developed. Measures were undertaken for the nuclear energy backend.

The obstacles to full liberalization should be examined, based on a consideration of the achievements to date and future research. Action should be taken to clear the obstacles, in the expectation that full liberalization will follow.

With the dissemination of new technology and services in the energy field, the boundaries of energy, such as electricity, gas and oil, have become obscure in terms of the needs of energy consumers. It is necessary to study the issue, taking into consideration the intensifying competition between energy operators irrespective of whether the fields are regulated or not regulated.

[Specific Measures]

(1) More extensive liberalization of power utilities

Retailing for electric power was expanded to all high-voltage consumers from April 2005, and research will start with a view to full liberalization, including domestic consumers, in 2007.
Due to the expanding scope of liberalization, the unit charge for power in Japan dropped by 17% to a level close to the power charges in some advanced Western countries for FY1994 to FY2004. Power charges in Japan, however, are still high by international standards. The wholesale power market was in place, and the systems of power transmissions on commission were reviewed starting in April 2005. The principle of competition should be introduced into the power market to push down power charges further. Power utility services should become diverse and the quality improved by providing an environment that enables the existing power utility companies and newcomers to exercise their ingenuity, thereby stimulating the power market.
In the future, the effect of expanding the scope of liberalization should be assessed each time it is expanded, and the assessment should be repeated until full liberalization is achieved. (Small-scale consumers including domestic power consumers will also be covered.) It is essential that the means of achieving the targets, such as the provision of a stable supply to consumers and the clearing of the hurdles placed by the Kyoto Protocol, also be considered.
Other issues to be monitored include transactions on the wholesale power market, the operations of neutral organizations, compliance with behavioral rules, the usage status after the systems of power transmission on commission have been reviewed, new entrants and competitive behavior between the power utility companies. In short, the realities of wide-area power distribution should be studied. The effects of practical reforms should be evaluated and disclosed to the public. Where a problem is found, a necessary review should be conducted. Problems may include urgent tasks for improving the line operations that may result in a division in the market as well as a lack of balances in the transfer that may hamper wide-area distribution. [To be discussed in FY2005. A conclusion to be reached and action to be taken in FY2006]

(2) More extensive liberalization for gas utilities

Gas retailing to consumers using 500,000 m^3 or more was permitted from April 2004, while gas retailing to consumers in the immediately lower bracket, 100,000 m^3 and upward, will be permitted in 2007. Concerning further expansion to cover consumers using less than 100,000 m^3, including domestic power consumers, the effects of expanding the scope of liberalization should be analyzed, and a timely conclusion should be reached, taking the effects and other factors into consideration.

As a result of the practical reforms carried out to date, various entities have planned wide-area pipeline networks, which represent one element in the gas supply infrastructure, and are now moving ahead with these plans. The average unit charge for gas has been declining over the last few years, but is still high by international standards. Also, with the expansion of the scope of liberalization, the necessary measures including measures to ensure that options are available to consumers should be undertaken. The liberalization of the gas market should be further extended by making suppliers compete between themselves.

The scope of liberalization was widened in April 2004, and a new system was introduced. Evaluations should be conducted regarding the entry of new starters, competition between utility companies, operation of the system of transmissions on commission, compliance with behavioral rules, the installation of new pipes and other aspects reflecting the effects of regulatory reform. The results of the evaluations should be disclosed to the public, and where a problem is found, the necessary review should be conducted. It is also necessary to study the provision of a stable supply to consumers, and safety that is compatible with the competitive environment. [Conclusion to be reached in FY2006]

A conclusion should be reached about how to expand the scope of liberalization to include small-scale consumers in the bracket of 100,000 m^3 and upward from FY2007. [Conclusion to be reached in FY2006]

Problems involved in full liberalization reaching right down to small-scale consumers in the bracket up to 100,000 m^3, among other issues, should also be investigated. With the expansion of the scope of liberalization to include small-scale consumers in the bracket of 100,000 m^3 and upward from FY2007, the effects of practical reforms should be promptly evaluated. [Issues are to be clarified in FY2006. Evaluation is to be started in FY2007.]

3. The Entry and Residence of Foreigners in Japan

[Issue Recognition]

The number of foreigners residing in Japan nearly doubled over the past ten years. Approximately 1.97 million foreigners were registered as of end 2004, and the figure accounted for 1.55% of the total population. According to an opinion survey conducted by the Cabinet Office on the admission of foreign workers in May 2004, the public expressed concerns about foreigners who were illegally employed and residing in Japan, and the crimes committed by them. More effective and efficient security measures and antiterrorism measures need to be undertaken. These measures include the exclusion of "entertainment" certificates issued by the foreign governments as a means of obtaining "entertainment" residency status by revising the ministerial ordinances that specify the criteria in Article 7-1-2 in the Immigration Control and Refugee Recognition Act (Ministerial Ordinance of the Ministry of Justice No.16, May 24, 1990), the imposition of sanctions against human trafficking by revising the criminal law (Law No.45, April 24, 1965), the introduction of the obligation to confirm residency status by revising the law concerning regulations, the proper operations of the entertainment and amusement trades (Law No. 122, July 10, 1948), and the establishment of immigration control systems that use biometrics.

As the duration of foreigners' residency in Japan becomes longer, and as they become more integrated in society, the local public organizations in areas where many South American people of Japanese descent live presume that there are foreigners whose employment and residency status are unknown and that their children do not go to school. However, the actual circumstances are not clear. If action is taken within the restriction of the present laws and systems of the ministries and agencies engaged in foreigners' policies, it will not be possible to guarantee rights, fulfill the obligations, or provide the necessary administrative services. It will not be possible for the health of the children of foreigners to develop, and it will cast a shadow over Japan's future. Foreigners are members of local communities as well. It is necessary to provide security measures, antiterrorism measures and measures against foreign workers, as well as the necessary administrative services in a timely manner. Their residence status, employment and education, and membership in social insurance should be identified. Support for learning Japanese should be provided. It is essential to promote the social integration policy*1 to encourage them to adjust to the Japanese society while these measures are being taken. Attention should be also directed toward foreigners that reside in Japan legally, so that they can make full use of their abilities.

*1 In this case, "social integration" means approving various rights to live in the socio-economic environment of a foreign country, taking into account human rights, and cultural and social backgrounds of the foreigners and their families, and at the same time, ensuring that they fulfill their obligations.

Meanwhile, with the globalization of the economy and society and the progress of industries, international competition for acquiring foreigners who possess professional skills and experience at an international level has been intensifying. In addition, while the number of young workers is rapidly declining and the number of so-called baby boomers born between 1947 and 1959 entering retirement starts to peak around 2008, the overall population of productive age will decrease in Japan. To maintain our international competitiveness, it is essential to clearly specify the basic rules for the entire process, starting with the cultivation of foreigners as human resources and to actively accept them. Japan should admit foreigners whose professional skills and knowledge other nations strive to acquire, known as leading human resources. In addition, these measures should be taken where these high-level human resources cannot be found amongst Japanese people only.

Research and study concerning many aspects of foreigner's entering and residing in Japan have been conducted, and suggestions have been presented to find a solution to a range of problems. The Council will present future courses by offering comprehensive laws and policies based on two policy pillars, namely, immigration control and foreigner admission policies under the government and a comprehensive range of social policies together with the coordination of administrative organs. The issues requiring attention include facilitating the employment of young Japanese people, older people and physically challenged people. Other issues requiring attention are the abolition of sexual discrimination in society, the advancement of the industrial structure and coexistence with multiple cultures. These issues should be examined in conjunction with the ideal state of Japan considering the declining birthrate and the aging society, so that a national consensus can be reached. It is important to consider the best practices of other nations and the range of current problems concerning foreigners entering Japan and other nations.

[Specific Measures]

1. Tightening of the system to check overseas residents in Japan subsequent to their admission into the country [Conclusion to be reached during FY2006]

The following methods are available as the means of understanding the circumstances of foreigners residing in Japan under the present laws: the procedures for changing the resident status, the renewal of the period of residence, the registration of foreign residents, reports of the employment of foreign workers and the census. However, none of these methods enable a timely and full understanding of the employment status of foreign workers. Also, these methods are not based on

consistent measures under the central government, local authorities and organizations receiving foreigners, such as companies and educational institutions.

The residence status after entering Japan, the employment status and school attendance, social security subscriptions, the protection of foreigners' rights in Japan and fulfillment of obligations should be understood in a cross-sectional manner, and integration into the society should be promoted. These measures will contribute to ensuring the safety and security of the nation and creating a safe and secure living environment, as proposed by the advisory council on economy and finance, Basic Policy Concerning Operations of Economy and Finance and Structural Reform 2005 (Cabinet decision, June 21, 2005), as well as the cabinet meeting for measures against crimes and the urban revitalization headquarters.

The present circumstances where residency is controlled individually by the competent authorities should be reviewed. In addition, and responsibility assumed by each organization should be clarified, and systems should be established in a comprehensive manner. Examples of other countries, including England, France and Germany, that have extensive experience in dealing with foreigners, need to be followed. A conclusion needs to be reached as to how the systems can be reconstructed and operated with minimum administrative costs and maximum efficiency.

The framework of the systems may result in the prompt identification of illegal foreigners and their efficient compulsory expulsion, but also relaxation of extensions to the residency period leading to greater convenience for foreigners. It is preferable to manage the systems while maintaining legal stability. It should also be noted that the systems are provided under a hierarchy of laws. In studying the mutual inquiries and the provision of information on foreigners as described below, a conclusion should be reached as to the necessary measures to protect privacy taking into account the purposes of the laws and ordinances related to personal information protection.

(1) Mutual inquiries and provision of information on foreigners resident in Japan

Related offices and ministries should collaborate to develop a database under the working group concerning the control of foreigners' residency at the ministerial level for measures against crimes, and to develop a mechanism for mutually inquiring about and providing information about foreigners' residency status.

In this case, mutual inquiries and the provision of necessary information based on the laws should be made possible in the information systems being used by the prefectural police, cities, wards, towns and villages, regional immigration control bureaus, consuls, embassies, labor standard control offices, public employment security offices and social insurance offices. For mutual inquiries and provision of information held in the systems of ministries and agencies, improvement in overall accuracy through data matching enables accurate understanding of foreigners' residency status. It is also important to implement proper residency control, and to increase efficiency in administrative procedures.

(2) Review of the alien registration systems

Foreigners who enter and reside in Japan are excluded from the Basic Resident Registration Law (Law No. 81, July 25, 1967). In reality, the offices of cities, towns and villages follow the procedures prescribed in the Alien Registration Law (Law No. 125, April 28, 1952), and receive the necessary administrative services.

However, the Alien Registration Law is designed for the fair and equitable management of foreigners residing in Japan, and it differs from the Basic Resident Registration Law, which is intended to improving convenience for residents. Some people claim that there is a problem with the provision of administrative services, although foreigners are residents under Article 10 of the Local Autonomy Law (Law No. 67, April 17, 1947). It has been pointed out that the alien registration system should be coordinated with the Basic Resident Registration system, and that the possibility of integrating the two systems in the long run. It has also been pointed out that the details of alien registration are inconsistent with the actual circumstances of residency.

Based on this, an accurate understanding of foreigners' residency status should be obtained by the central government and local public organizations. Therefore, related offices and ministries need to review and reach a conclusion concerning the alien registration systems used for confirming the social standing and residency of foreigners, taking into consideration the convenience of foreigners as well as the convenience of cities, wards, towns and villages that provide major administrative services for foreigners.

(3) Clarification of employer's responsibility

a) Harsh sanctions for employers who engage foreigners to perform illegal activities

Article 73-2-1 of the Immigration Control and Refugee Recognition Act (Government

Ordinance No. 319, October 4, 1951) stipulates that those who cause foreigners to become engaged in illegal business activities and those who place foreigners under their control in order to cause them to perform illegal activities shall be charged with the promotion of illegal employment. Since it is a crime of intent, it is difficult to successfully prosecute the charge if employers use the defense that they were not aware of the residency status of the foreigner. On the other hand, the labor laws do not oblige employers to verify the nationality of workers they employ. Verification of the residency status when employing foreign workers is specified as only one of the items that employers should consider under the administrative guidance concerning foreigners, Guidelines for Employment and Labor Conditions of Foreign Workers (Notice of the Ministry of Health, Labour and Welfare, *Kihatsu* No. 329, May 26, 1995, *Shokuhatu* No. 414, *Nohatsu* No. 128.)

It is important to stipulate directly the obligation to confirm the residency status for employers who employ illegal foreigners. Preparation of the related laws needs to be studied. For the present, measures should be undertaken under the Immigration Control and Refugee Recognition Act, taking into account the problem where employers can evade the sanctions for promoting illegal employment on the grounds that they did not know the residency status of the foreigners. The effectiveness of stringent sanctions for employers who engage illegal workers should be improved. It is imperative to reach a conclusion.

b) More extensive compulsory reporting on foreigners' employment status

The Employment Security Law (Law No.141, November 30, 1947) does not stipulate that employers should report the employment status of foreign workers. However, according to Article 53-2 of the law, the Minister of Health, Labor and Welfare may seek the cooperation of the Minister of Justice. In order to identify the employment status of foreigners, which requires seeking cooperation, Article 34 of the Enforcement Ordinance for the Employment Security Law (Law of the Ministry of Health, Labour and Welfare No.12, December 29, 1947) prescribes that the Minister of Health, Labour and Welfare may request cooperation from employers regarding reports of the employment status of foreigners.

This should not be limited to the case where the Minister of Health, Labour and Welfare requests the cooperation of the Minister of Justice. It has been pointed out that understanding the employment status of foreigners will contribute to the ability to incorporate the supply and demand of labor forces on the immigration control policy.

Therefore, it is effective in enabling the immigration control administration to control immigration, in enabling local public organizations to understand the working environment of foreign residents and in ensuring that subscriptions for social insurance are fulfilled.

Therefore, the Employment Security Law and related laws should be revised so that all employers who employ foreigners will be obliged to submit reports. In addition, a study should be conducted concerning the collection of other information that is currently not gathered, including names and residency status, and a conclusion should be reached. It is presumed that employers will report to job security offices, as before. It should be noted that labor administration should be linked with immigration control administration so that employers will not have a redundant obligation to report.

Currently reports must be submitted in June every year. The collection of information where foreign workers leave a job or their employment status changes should be studied. In addition, the necessary revisions concerning the sanctions for neglecting the obligation to report or submitting a false report should be studied. It is necessary to consider a balance between the objectives of this system and the effective use of information collected from many employers, and to reach a conclusion.

(4) Clarification of the responsibility of organizations other than employers in accepting foreigners

The Standards for Screening Foreigner's Entry and Residence in Japan (Notice of the Ministry of Justice No. 3260, July 26, 2005) requires that educational organizations voluntarily report the enrollment status of foreigners attending the organization, either part time or full time, to local immigration offices on a regular basis. For example, the standards should be upgraded to the regulations of the Immigration Control and Refugee Recognition Act to improve effectiveness. A study needs to be conducted into whether foreigners residing in Japan having the status of "training," "entertainment," or "investment and management" should be included in the report. When this issue is studies simultaneously with the revision of the report on the employment status of foreigners (mentioned in (3) above), it is necessary to coordinate the residence status applicable to the report.

If the obligation for reporting is imposed under the Immigration Control and Refugee Recognition Act, it is essential to study what measures should be taken if inappropriate cases

are identified. It is also necessary to consider the procedures for making inquiries at any time and responding to them, so that requests can be made regarding the status. A conclusion must be reached.

2. Making laws concerning the training, including training systems for practical skills, for foreigners

As 20 or more years have elapsed since the so-called technical trainees began to be accepted in 1982, and nearly ten years have elapsed since the establishment of the practical skill training systems in 1993, the operations of these systems have become well established in the economy and society. Even though action has been taken concerning the individual issues indicated by the Council last fiscal year, some issues remain to be rectified. These issues include measures to prevent the disappearance of trainees, including those being trained in practical skills.

Inappropriate cases can be found in this system. Therefore, the system should be reviewed to ensure that its original objectives are attained, namely that Japan contributes to the development of human resources in developing countries though the transfer of technology. The suitability of the system should be studied to improve the legal status of foreigners who enter and reside in Japan as trainees including those being trained in practical skills.

(1) Legal protection for foreign workers engaged in training in Japan [A conclusion to be reached by FY2006]

Foreign workers undergoing training in Japan are classified as non-workers under the Immigration Control and Refugee Recognition Act. Therefore, training allowances that are currently provided for foreign workers undergoing training merely cover the barest minimum of living expenses. It has been reported that some firms that accept foreign trainees abuse this condition and use them as a source of cheap labor. There is demand to resolve this problem both in Japan and in the countries that send the trainees. Therefore, it is necessary to ensure that trainees undergoing practical training, which is one of the activities under the “training” residence status, will not be treated as cheap labor, and that the transfer of skills that is one of the original purposes of the system is appropriately achieved and that training benefits are properly paid. Legal protection should be studied from a broad perspective in the process of reviewing the training programs and training systems for practical skills, and a conclusion must be reached.

(2) Establishment of residence status for foreigners undergoing practical skills training [To be discussed and a conclusion reached in FY2006]

The number of foreigners undergoing practical skills training in 2004 exceeded 20,000 people, making it nearly equivalent to the levels of most of residence statuses that enables foreigners to work. However, the residence status is considered a special activity. The activities are specified by the Minister of Justice for individual foreigners, and details are not clearly specified under the law.

This issue was indicated in the Second Basic Plan for Immigration Control (Notice of the Ministry of Justice No. 119, 2000.) A conclusion must be reached as soon as possible, so that a consistent legal status can be established for foreigners undergoing on practical skills training.

(3) Review of regulations based on restrictions other than laws [To be discussed and a conclusion reached in FY2006]

The regulations that are currently effective include the Guidelines for Handling Immigration Control Concerning the Practical Skills Training Systems (Notice of the Ministry of Justice, No.141, 1993), the Basic Policy of Operations for Promotion of the Practical Skills Training Systems (Notice of the Minister of Labor, April 5, 1993), and the Guides Concerning the Immigration Control of Trainees and Trainees on Practical Skills Training (Announcement of the Immigration Control Office of the Ministry of Justice, February 1999).

Under the above regulations, the management responsibility that organizations take in regard to foreign trainees and trainees undergoing practical skills training is legally obscure, and the measures for enforcing it are insufficient. Therefore, the details of the regulations should be clearly specified. In addition, upgrading the regulations to a ministerial ordinance related to the Immigration Control and Refugee Recognition Act should be studied and a conclusion reached.

In this case, measures should be studied to tighten the regulations, for example, by extending the period of suspension for accepting new foreigners to five years where an organization engages in inappropriate activities.

3. Clarification of operations for permanent residence permits and special residence permits

(1) Guidelines for the requirements for permanent residence permits [Action taken partially in FY 2004, and action to be taken in FY2005]

The status of "permanent resident" is the most stable legal status for foreigners granted under the Immigration Control and Refugee Recognition Act. Once granted, it is unnecessary to apply for an extension to the period of residence. This segment has the most significant impact on Japan's economy and society because it accounts for the largest percentage of alien registrations.

Under these circumstances, there is a requirement in the Three-Year Plan for the Promotion of Regulatory Reform (Cabinet decision on March 19, 2004) and the revised plan (Cabinet decision on March 25, 2005) to clearly specify the operations of Article 22 of the law. Consequently, the Ministry of Justice announced the Guidelines for Contributions to Japan on March 31, 2005. As indicated in the introduction to the guidelines, however, the level of detail at point is as high as possible.

Based on the following points, the revised guidelines containing the issues that have been subjected to further study should be announced as soon as possible. More detailed examples of where permanent residence is approved or disapproved should be developed, and the operation of the regulations should be clearly specified. The margin for discretion should be minimized.

a) In relation to people recognized for their contribution to Japan in the fields of diplomacy, society, economy and culture, collect opinions from various fields, including professionals, the intelligentsia and foreigners to improve the content.
b) Make an announcement in English and other foreign languages on the website to demonstrate that Japan actively accept foreigners who possess professional skills and expertise.

(2) Publication of examples where special residence and guidelines for special residence permits [To be discussed and a conclusion reached in FY2006]

As pointed out in the Third Basic Plan for Immigration Control (Notice of the Ministry of Justice No. 222, 2005), special residence permits prescribed in Article 50 of the Immigration Control and Refugee Recognition Act are determined by the Minister of Justice at his or her discretion, as in the case of permanent residence permits. To improve

transparency and fairness, examples are publicized on the website of the Ministry of Justice. The decision has a significant impact on the needs of humanitarian considerations and other foreigners staying illegally, and a decision is made on a case-by-case basis. Publication of examples of where special residence is not approved will make the results predictable, and thus it will prevent illegal residence in Japan.

Also, development of the guidelines for granting special residence should be studied in a comprehensive manner to improve transparency and fairness, and a conclusion must be reached.

[Future tasks]

The Council's opinions are given below. However, a consensus could not be reached with the related ministries. Therefore, these tasks are to be studied in the next fiscal year and thereafter.

(1) Review of the requirements and the scope of foreign workers in the professional and technical fields

The panel formed under the advisory committee on economy and finance envisioned society in 2030 as Japan's Vision for the 21st Century. The society envisioned is one where Japanese and foreigners respect other cultures and values, and live in harmony based on common rules as well as workplace and regional systems. In April 2005, the panel suggested that foreigners who hold licenses and have general skills, and who have a good command of Japanese in the workplace and in their everyday life are allowed to work in Japan. In the national land planning scheduled to be completed by 2007 by the Ministry of Land, Infrastructure and Transport, it is expected that the percentage of foreigners in the total population in 2030 will be higher than it is today.

The above points and the impact on industry and people's lives should be taken into consideration, as pointed out in the Basic Policy Concerning Operations of Economy and Finance and Structural Reform 2005 and the Third Basic Plan for Immigration Control. From these comprehensive standpoints, the following measures should be studied:

1) Relaxation of employment restrictions for foreign care workers

Foreign care workers are not allowed to seek employment in Japan, even when they have acquired qualifications under the Japanese system pf accreditation.

Care workers can be considered as workers in the professional and technical fields under the present government policy. Therefore, the granting of the residence status enabling foreigners to work in Japan should be studied if foreigners graduate from the training facilities designated by the Minister of Health, Labour and Welfare during the period in which activities are conducted under the residence status of "foreign students" or "students of Japanese language schools" and acquire the license of care workers in Japan. In this case, the framework for accepting care workers, which is already roughly agreed upon in the negotiations with the Philippines and Thailand under the EPA (Economic Partnership Agreement), should be taken into consideration.

2) Acceptance of foreign workers in fields other than professional and technical fields

To revitalize the Japanese economy and society, a study should be conducted concerning the acceptance of foreign workers that are not within the scope of the present residence status and the landing permission criteria. Issues to be considered include the granting of residence status to foreigners as legally residing workers if they meet the following requirements before they enter Japan, provided they are familiar with the Japanese environment, they are expected to exhibit their ability fairly soon after arriving, and are integrated socially.

a) Japanese high school graduates or equivalent

b) People who have passed the second grade of the Test of Practical Japanese or higher

c) Certain practical experience in applicable fields

d) Mutual approval of licenses and testing by foreign governments and Japan

e) Completion of practical skill training (have passed the third grade of the skills examination or higher)

Foreign students who acquire a Japanese bachelor's degree or postgraduate degree have been allowed to work in Japan by changing the residence status and to acquire practical experience. This measure plays an important role in promoting the development and rotation of human resources in Asian regions. In studying the requirements for completing practical skills training, the issue should be examined from the same standpoint. It is also essential to verify that foreigners who complete the practical skills training programs under the present systems can exhibit the full scope of the abilities they obtained in Japan after returning to their countries.

With reference to the transfer of people in the EPA negotiations with East Asian countries,

foreign workers should be actively accepted in fields deemed to be professional and technical. Strategies for the comprehensive development and transfer of human resources in the regions should also be studied. At the same time, an agreement should be entered into between the two countries in a flexible manner, and legal action for protecting the rights of foreign workers and fulfillment of the obligations should be studied as well.

In addition, the mechanism for appropriately reflecting the supply and demand of labor in Japan and the circumstances of regional unemployment, including emergency evacuation measures in case a greater number of foreigners move to Japan, should be studied. A mechanism should be studied for complementing policies for foreigners while ensuring employment opportunities for Japanese.

IV. Reform of Priority Areas

1. Medical care

[Issue recognition]

Realization of patient-oriented medical care requires a system in which medical care is built around the users, namely patients, where the national government, medical institutions and insurers are able to do everything possible for the benefit of the patients and the insured. Also important are the disclosure of information about medical institutions and a commitment to ongoing dialog and partnerships with healthcare providers. They are important for the purpose of creating opportunities for people and the patients to be actively involved in medical care.

The national government develops the public health insurance system as part of social security. Medical institutions provide medical services and offer advice to enable patients to make independent decisions in choosing the best forms of treatment. Insurers are public corporations that belong to the public insurance system and are supposed to run the system in an appropriate and efficient manner. At the same time, insurers act as agents of the insured and provide support in healthcare services. Patients use the information provided by medical institutions and the support provided by insurers to choose medical institutions and treatment procedures. In this way, patients deepen their involvement in medical care and provide themselves with reassurance.

In other words, the national government sets the stage for health insurance. The actors that perform on the stage are patients, the public or the insured, as well as medical institutions and insurers. They cooperate with each other, appropriately share roles, recite their scripts and build partnerships. In this way, the health insurance system is able to function more effectively.

However, the relationship has not been established so far. In fact, Japan's healthcare has favored medical institutions and other providers under a philosophy of paternalism. As in advertisements, the disclosure of information concerning medical institutions has been provided by the institutions on a voluntary basis. Some of the information that is critical for patients has not been divulged, although this restriction on disclosure has gradually been eased. Patients' need for information concerning medical institutions has remained unsatisfied. Patients have been deprived of valuable opportunities to become involved in healthcare. Patients are supposed to be the star on the stage of health insurance. On the contrary, however, they have ended up playing secondary roles. Insurers are also considered the agents through which the national government runs public health insurance. Their presence as stakeholder has dwindled and their autonomy, as prescribed by the Health Insurance Law, has been limited. For this reason, insurers have operated unsatisfactorily as the agent of the

insured.

Undeniably, the administrative organs and healthcare providers have contributed greatly to the growth of healthcare in Japan. In the future, patients need to have their predominance restored[1] (increasing their authority on the assumption that it will facilitate their involvement) and the presence of the insurers needs to be restored as a stakeholder. We are facing the urgent need to create the environment to enable both patients and insurers to actively participate in achieving better medical care.

(1) Compulsory disclosure of information concerning medical institutions and facilitation of the disclosure of medical information

Patient-oriented medical care cannot be achieved without the disclosure of information about medical institutions and medical care.

The disclosure of information concerning equipment, facilities, the number of doctors, the types of treatment administered and other information concerning medical institutions has been treated in combination, just like a collection of advertisements made at the discretion of the medical institution. However, the information may concern something that is essential to a patient's ability to decide the most suitable medical institution or form of treatment. The manner in which medical institutions handle this information in the manner of advertising needs to be drastically reconsidered from the viewpoint of creating patient-oriented medical care and encouraging patients' involvement. One of the missions of medical institutions is to take responsibility in disclosing reliable information and making sure that patients can be treated properly. Medical institutions are obliged to act in this manner for the benefit of patients. Instead of continuing to treat their information like advertisements, that is, disclosing their information at their discretion, medical institutions need to be under a greater obligation to disclose information that may concern patients' decisions concerning these institutions. Therefore, we face an urgent need to lay the foundations for patient-oriented medical care and for the greater involvement of patients in it[2].

Medical institutions would also benefit from the disclosure of their information. They would successfully and more clearly inform the people of the institutions' roles in the community's healthcare. Furthermore, enabling the patients to make an evaluation of the medical institution and compare it with others would provide the medical institution with the opportunity to improve the quality of its service. By using the disclosed information in consultations with patients, doctors would make a more accurate judgment and respect the patients. As a consequence, patients would be guided into choosing medical institutions and procedures that are most suitable for them. This, in combination with partnerships with other medical

institutions, is also beneficial to the integrated commitment of the whole community to medical care.

The disclosure by medical institutions of their medical information to patients has remained unsatisfactory. The Personal Information Protection Act (the law regarding the protection of personal information, Law No. 57, 2003) comes into full effect this April. This involves an improvement in the Guideline for the Appropriate Handling of Personal Information by Medical and Nursing Care Providers (December 24, 2004) and the obligation to disclose information, such as medical records and receipts, upon patients' requests. The commitment to improvement in disclosure is now taking effect. However, it is often pointed out that the disclosure of medical records and other medical information has remained unsatisfactory concerning obtaining informed consent and providing second opinions. This area needs to be improved while consideration should also be given to the protection of personal information.

[Specific measures]

1. The obligation to disclose information concerning medical institutions

(1) The obligation to disclose information concerning medical institutions [Action to be taken in the reform of the medical service system in FY2006]

Japan's system of medical care advocates the rights of patients, such as free access. However, it remains a fact that patients have been provided with information in a less satisfactory manner, impeding their ability to make the right decision on medical institutions and suchlike. They still find it difficult to keep themselves accurately informed.

This is why medical institutions need to be placed under an obligation to submit reports to the prefectural government concerning issues that may be essential or useful for patients in choosing medical institutions. The prefectural government should gather the information and institutionalize a framework for providing the useful information to patients and other stakeholders. For example, the issues listed in the appendix may be discussed and dealt with.

(2) Disclosure of outcomes [started early in FY2006 and be phased in]

In particular, medical institutions may have to deal with the needs of patients and the public for information concerning outcomes, such as records of treatment. This calls for immediate action by the institutions to phase in the disclosure of information concerning outcomes, such an information concerning mortality, average hospitalization period, percentages of rehospitalization and nosocomial infection, and postoperative complications.

The amount of information patients that patients receive must not differ between regions.

This commitment requires discussions on the means of properly disclosing data. Hospitals should provide a record of medical care and facilitate the objective evaluation of information concerning outcomes such as the institutions' unique features, the influence of differences in severity and the methods of correcting them. This needs to coincide with the development of a mechanism to improve the quality of medical care and the reliability of the information concerning outcomes.

(3) Establish rules of information disclosure [Action to be taken in the reform of the medical service system in FY2006]

It is important to specify methods of providing the information that medical institutions are obliged to disclose. The information should also be accurately summarized and disclosed in its entirety. This needs to enable patients and other healthcare providers to view, obtain and use the information easily and without restrictions.

(4) Improvement in support for patients making better use of the information [Action to be taken in the reform of the medical service system in FY2006]

All of the disclosed information, including information concerning outcomes, that relate to the medical institutions must be accurately understood and used by patients. To make sure the patients accurately understand and use the disclosed information, the administrative organs and medical institutions should take any actions that may be necessary to support the patients. The actions may include institutionalizing a system to provide appropriate advice and provide patients with useful information whenever necessary.

2. Greater emphasis on issues concerning advertising for medical institutions [Action to be taken in the reform of the medical service system in FY2006]

There also needs to be a shift in the issues that medical institutions are allowed to arbitrarily advertise. Currently, these issues are listed individually. Instead, they should be comprehensively itemized. Objective facts may be allowed to be advertised. However, to protect patients and help them choose good alternatives of treatment, the advertisements should be restricted to the minimum extent. Needless to say, the disclosure of false, exaggerated and/or misleading information must be prohibited.

3. Obligation concerning the issuance of receipts indicating every detail of medical costs [To be discussed and a conclusion reached during FY2005. Action to be taken in FY2006]

Notices have been sent to medical institutions encouraging them to issue a receipt to clearly indicate the details of medical expenses. Many receipts fail to indicate which part of the medical cost the patient pays at the counter. This problem needs to be addressed from the standpoint of patient-oriented medical care.

The types of information to be included in a receipt and the methods of filling it in should be standardized while insurance medical institutions should be obliged to issue receipts indicating every detail of the medical care given and the expenses incurred for it.

Prevention of lifestyle-related diseases and medical accidents has become one of today's most important issues in healthcare policy. Patients' experiences of receiving medical care and their viewpoints need to be incorporated in the improvements made to medical practices. Healthcare providers and medical institutions should consider their patients as partners and do as much as they can to deepen mutual understanding. They should also do everything possible to remove any factors that may impede patients from becoming involved in their medical care.

Appendix

Examples of issues that may be essential or useful for patients in choosing medical institutions and procedures

Basic information concerning facilities, equipment, doctors and nursing system

- Organization management such as philosophies or basic policies of the medical institution and its role in the community
- History of the medical institution
- The name of the department and medical institution, the phone number, address, date and time of hospital care, transportation and other issues concerning the patients' accessibility to the hospital
- Number of full-time and part-time doctors, nurses and other staff members and a classification of their jobs
- Certification and standard licensing of specifically approved insurance medical institutions
- Facility- and equipment-related issues, such as availability of hospitalization equipment, single room, number of beds and machinery used for examinations
- Availability of specialists in specific areas to see outpatients
- Second opinions
- Introduction of package payment systems such as Diagnosis Procedure Combination (DPC)
- Information on the introduction of electronic medical records and receipt processing system
- Barrier-free access
- History of the disclosure of medical records
- Practices of informed consent and the methods of obtaining it

In-hospital management system

- Establishment of a risk management committee or histological case study group and commitment to qualitative improvement of medical care, such as training and education systems
- Measures to prevent nosocomial infection
- Commitment to the protection of personal information and management of medical information
- Availability of a person or department to handle patients' inquiries about treatment
- Availability of a person or department to handle complaints and the disclosure of information related to the person/department
- History of the implementation of hospitalization plans and critical paths

Past achievements and policy of medical institutions

- Departmental specialties and care policies
- Procedures for on-going medical care including advanced treatment
- Procedures and the number of cases of feasible tests and image diagnoses
- Characteristics of the medical institution, such as its specialization in medical care or surgery

Information about doctors' careers and medical care

- Sex, career, certifications and specialties of all doctors and dentists involved in medical care

Hospitalization/outpatient information

- Number of outpatients
- Average waiting time
- Number of surgical procedures by inpatients, outpatients, general/regional anesthesia, diseases, stages and procedures
- Average period of hospitalization by major disease
- Equipment, meals, visiting hours and other issues of the hospital environment concerning amenities and the protection of privacy
- Expenses that are not covered by insurance, such as those included in hospital room charges
- Interpreters and languages available
- Nighttime and after-hours service and admissions and duty system
- Home care and visiting care

Partnerships with other medical institutions

- Reference to specialized medical institutions or other facilities
- Availability of partnerships with other medical institutions

Treatment results, outcomes and evaluation

- Mortality, percentages of cases of recovery, postoperative survival rate and other results of treatment
- Availability of research on patients' satisfaction and results of the research, if conducted
- Certification by Japan Council for Quality Health Care and summary of assessment results

(2) Improvement in insurers' functions

Insurers providing employee insurance are supposed to take the place of the national government in running public health insurance. To begin with, however, they run autonomous medical insurance[3]. The policies that have been taken out concerning the insurers have often regarded insurers more as an agent performing the business of the national government. The autonomy and independence of insurers have handled superficially. Some people have pointed out a disparity between the authority that the insurers are legally and originally entitled to have and the authority that they can exercise. Therefore, the regulations governing insurers need to be reviewed while their role as a business agent of public health insurance is maintained so that the insurers' original authority in making assessments and payments can be restored. A commitment is also needed to help the insurers fulfill their roles as an agent acting on behalf of patients and the insured. This would strengthen the presence of the insurers as a stakeholder and empower them to a greater extent. Insurers would contribute to realization of good and efficient medical care.

It is difficult for the national government to the control details of public health insurance. The difficulty may adversely affect the implementation of the system. Insurers should strengthen their presence as a stakeholder and deepen their involvement in public health insurance. As a result, public health insurance should depart from its tendency to behave like social insurance and operate in a more functional manner. In this way, the public health insurance system needs to be run more efficiently and properly.

Therefore, the following measures need to be taken to strengthen the insurers' presence as a stakeholder and to empower them to a greater extent.

[Specific measures]

1. Relaxation of requirements on direct assessment and payment[4] of medical and prescription receipts by insurers

Assessment and the payment of receipts is acceptable only with insurers who are authorized to do it under Clause 4, Article 76 of the Health Insurance Law (Law No. 70 of 1922)[5]. Insurers can decide for or against direct assessment and payment, and can choose medical institutions to which assessment/payment applies. Payment of fees for medical care by health insurance societies (issued on August 21, 1948 from the Director-General of the Health Insurance Bureau, issue No. 42) requires the receipts to be assessed and paid through social insurance payment funds. For this reason, insurers have remained unable to make direct assessments and payments for many years.

The notification (issued on December 25, 2002 from the Director-General of the Health Insurance Bureau, the Ministry of Health, Labor and Welfare to the directors-general of health insurance societies, issue No. 1225001) regarding administrative procedures concerning the assessment and payment of fees for medical care by health insurance societies and the notification (issued on March 30, 2005 from the Director-General of Health Insurance Bureau, the Ministry of Health, Labor and Welfare to the directors-general of health insurance societies, issue No. 1225001) regarding administrative procedures concerning the assessment and payment of prescription fees by health insurance societies had enabled insurers to directly assess and pay medical and prescription receipts. However, the abovementioned notification is still said to regard insurers only as an agent and to limit the original authority of the insurers.

(1) The coming reform of the health insurance system and the regulatory reform will require some businesses to be handled by organizations making assessment and/or payment. To facilitate the insurers' functions, details of these businesses as well as shared roles between the organizations and their commission system should be reviewed and specific procedures should be discussed. The following issues of the abovementioned notification should be discussed and reviewed in accordance with the Health Insurance Law and other laws and regulations that provide that insurers make assessments and payments. [To be discussed and a conclusion reached during 2006]

- Direct assessment and payment of receipts should be preceded by the abolition of requirements for the agreement of medical institutions or pharmacies. For the time being, policies that do not require agreement should be specified. If an insurer notifies a specific medical institution or pharmacy of the insurer's intention to make direct assessment and payment, including assignments to a third party assessment organization, the medical institution or pharmacy that receives the notification shall make sure that every staff member is fully informed of the destination of the receipts and charging procedures.
- Direct assessment and payment may be applicable to all receipts of insurers who are treated at a medical institution or have their prescriptions filled at a pharmacy to which direct assessment/payment applies. It is difficult for medical insurance institutions to decide to which medical departments to submit bills in cases of direct assessment or payment like that mentioned above. Insurers should assess all receipts. The stakeholders should be fully informed that reassessment can be assigned to assessment/payment organizations including funds. In this way, the insurers' direct assessment and payment should be improved.

・Insurers are required to state in their partnership agreement the names of medical institutions and pharmacies to which direct assessment and payment applies. This requirement should be abolished.

(2) Based on the requests of insurers and pharmacies to proceed with the commitment, the notification should be reviewed as follows. [To be discussed and a conclusion reached in early FY2006 to ensure the commission system remains consistent. Action to follow promptly]

・Insurers' direct assessment and the payment of prescription receipts to pharmacies are legally separate from indemnification claimed against medical institutions for medical receipts after the insurers conduct a check and inspection. The medical institution that issues the prescriptions is not concerned with the assessments and payments of prescription receipts. Insurers should be allowed to assess and pay for prescription receipts as a matter between the insurer and the pharmacy, except in the case of indemnification involving medical receipts that follows inspection and concerns the medical institution, without having to obtain the consent of the medical institution issuing the prescription. Requirements for consent of the medical institution issuing the prescription should be deleted from the abovementioned notification concerning the assessments and payments of prescription receipts.

2. Clarification of rules for handling disputes concerning the assessment and payment of medical and prescription receipts

[To be discussed and a conclusion reached during FY2006]

The Social Insurance Medical Fee Payment Fund handles disputes between insurers and medical institutions that include businesses concerning assessment and payment and decisions on indemnification claims that result from prescriptions issued by a medical institution. However, the mechanism does not allow dispute handling alone to be assigned by insurers. For this reason, it is important to establish a mechanism in which dispute handling can solely be assigned in accordance with the actions involving prescription receipts as prescribed in 1.

The stakeholders should be encouraged to work together in independently establishing rules for the handling of disputes concerning medical and prescription receipts assigned to funds, national health insurance associations and other third party organizations.

3. Building an environment for organizations engaged in assessment and payment to compete with

each other [To be discussed and a conclusion reached in the reform of the medical service system scheduled in FY2006]

Each of the insurers engaged in health insurance and national health insurance is allowed to make independent assessments and payments concerning receipts. However, the assignment of assessments and payments to the Social Insurance Medical Fee Payment Fund or the prefecture's national health insurance association should be acceptable. This would facilitate competition between the assessment/payment organizations and improve efficiency in conducting assessments and payments.

Insurers' decisions to change a person or organization in making assessments and payments or to assign these businesses to require specific actions to be taken, such as making sure that notifications to medical institutions or pharmacies are adequate to complete the personnel change. Similar actions are also needed with regard to assignments to a third party assessment/payment organization other than funds or the national health insurance association.

4. Relaxation of requirements concerning direct contracts between medical institutions/pharmacies and insurers [To be discussed and a conclusion reached as soon as possible]

The notification (issued on May 20, 2003 from the Director-General of the Health Insurance Bureau, the Ministry of Health, Labor and Welfare to directors-general of health insurance societies, issue No. 05200001) regarding contract approval criteria stipulated under Article 76-3 of the Health Insurance Law and the notification (issued on March 30, 2005 from the Director-General of the Health Insurance Bureau, the Ministry of Health, Labor and Welfare to directors-general of health insurance societies, issue No. 03300002) regarding the approval criteria for insurance pharmacies stipulated under Article 76-3 of the Health Insurance Law have authorized direct contracts between insurers and medical institutions or pharmacies. However, no contract has been signed at this point. The collateral condition imposed by the notification is said to be too strict.

Under the Three-Year Plan for the Promotion of Regulatory Reform, which was revised by the Cabinet on March 25, 2005, a decision has been taken to discuss relaxation of the terms of the contract with consideration of the insurers' opinions about whether the current terms of the contract contain excessive requirements that would impede the signing of direct contracts between insurers and medical institutions [the discussion will continue]. Based on the decision, insurers' requests should be carefully listened to before reaching conclusions on the following issues concerning reconsideration of requirements of the abovementioned notification.

・Insurers are required to state in their partnership agreements the names of medical institutions

and pharmacies with whom they sign direct contracts. The requirements should be abolished.

- In filing approval applications, insurers are required to submit documents that objectively demonstrate the absence of impediments to free access. The information contained in the documents should be simplified [already mentioned in the Three-Year Plan for the Promotion of Regulatory Reform (revised by the Cabinet on March 25, 2005)].
- Clarify that, except where insurers are liable, an increase in the number of patients covered by the insurance provided by the contracted insurance association does not fall under the contracted medical institution's impediments to patients' free access, which is considered one of the post-approval supervisory issues. Post-contract reports should also be simplified [already mentioned in the plan].
- Delete from the post-approval reports submitted to a local welfare bureau or branch any information that the insurer cannot obtain or would have difficulty in obtaining. The information may include the amount of remuneration and the number of receipts concerning the treatment of patients outside the insurance association of the relevant medical institution.
- In relaxing the requirements, a guarantee should be provided that contract-based pricing within the scope of the remuneration points can become freer if an agreement is reached between the organizations that are parties to the contract.
- If approval has been cancelled, recovery actions may be taken to enable insurers and those who are covered by an insurance association to keep their opportunities to receive medical care for a certain period, provided that the stakeholders have agreed on it [already mentioned in the plan].

5. Institutionalizing the notification of the rule changes made by health insurance associations [To be discussed and a conclusion reached during FY2006]

The opinions of insurers about the issues to be switched from certification by the Minister of Health, Labor and Welfare to ex post facto notification should be considered in promptly deciding for or against changes to rules of the health insurance association. This would extend the scope of notification.

6. Improvement in agent functions such as sending information to patients [Continued]

Improvement in insurers' agent functions, such as sending information to the insured, requires notification of the following issues whenever necessary.

- Commitment to support the insured in making choices: actions to make it easier for insurers to collect information concerning medical institutions, insurers' disclosure of the information,

assimilation of the evaluation of the insured, and the use of the information to recommend to the insured good medical institutions

- Commitment to support insurers in executing their rights: problems of excessive payment by patients subject to assessed diminution should be eliminated by fully informing the concerned parties that the insurer, as an agent of the insured, can claim refunds against medical institutions concerning some of the expenses that are borne by the insured and that correspond to the assessed diminution. For example, insurers should be entitled to receive the money refunded to the insured and send it back to the insured.

7. Insurers' involvement in the medical care of seniors [To be discussed and a conclusion reached during FY2005. Action to be taken in the reform of the medical service system scheduled in FY2006]

Seniors' health insurance has been based on assessments and has been separated those who provide benefits in the municipalities from the insurers and other people who shoulder the employees' insurance money. It has been pointed out that the difference between those who provide benefits and those who manage the funds has resulted in the failure to fulfill the principles of revenue and expenditure and to ensure proper insurance financing. An objective of the FY2006 reform of the medical service system is to establish an independent healthcare system for seniors in FY2008. Therefore, management of the healthcare system for seniors requires the opportunities for larger prefectural associations covering all municipalities and medical care insurers to exchange opinions.

8. Improvement of preventative healthcare and commitment for the prevention of severe diseases [To be discussed and a conclusion reached during FY2005. Action to be taken in the reform of the medical service system scheduled in FY2006]

Improvements to insurance financing require viewpoints from the medium to long term. Based on considerations of cost benefits, a system should be established to improve the business of healthcare and facilitate the prevention of lifestyle diseases and other types of illness.

(3) Accelerated progress of information technology in medical care

The introduction of information technology to medical care is essential in realizing data-based policies to meet society's growing and diversifying demands for medical care and to ensure efficiency, safety and superior quality in medical care.

The United States plan for Electronic Health Record (EHR) and Korea's online receipt

charging are just a few examples of overseas commitment to the substantial progress of IT in medical care. Despite these initiatives, the progress of IT in Japanese medical care has remained at the level of discussion and implementation by administrative departments. It lacks the function and organization to make far-reaching discussions based on future strategies and management of the budget processes[7]. Procedures for using databases of medical information have also remained unclear. It is necessary to manage unintended use and prepare other aspects of the infrastructure.

Online requests for electronic receipt and facilitation of electronic medical records can be expected to produce the following results:

○ Improved efficiency and promptness in assessment/payment and cost reductions

Online charging of electronic receipts helps medical institutions, insurers and assessment/payment organizations perform the assessment/payment more quickly and efficiently and reduce costs[6]. This saves insurers from having to retype data on paper and from allotting space and spending money for storing the documents. Insurers can also benefit from improvements in work efficiency and cost reductions. As a result, insurers can keep manage their finance well and fund a variety of commitments. Furthermore, the online charging reduces the share of insurance money paid by the insured and patients. Currently, assessment/payment organizations have to handle more than 1.4 billion receipts a year. The need to focus on expensive receipts causes many other receipts to remain unassessed. Electronic receipts are expected to resolve this problem and make assessment/payment, such as inspections in the first assessment and assisted assessment, quicker and more efficient. Medical institutions would considerably benefit from electronic receipts, which would save them from having to sort tons of receipts, thereby enabling cost reduction. In addition, the terms of payment can be shortened.

○ Use of electronic data to provide new commitment

The use of electronic data to exchange and use medical records and other data keeps patients well informed, enables medical institutions to share the data and facilitate cooperation, eliminates wastes through the unnecessary repetition of tests, improves safety in medical practices and makes works quicker and more efficient.

Electronic data can be accumulated more easily. A national database of all receipt data can easily be developed and can be the base of research and analyses. This is expected to be the first national database to consistently provide the details of Japanese medical care as a whole.

○ Analyses of medical database to improve technologies and quality of medical care

Accumulated electronic data for analyses and other secondary purposes are applicable to a wide variety of areas such as preventive medicine, disease control, health insurance, development of standard medical procedures, the introduction of the Diagnosis Related Group – Prospective Payment System (DRG-PPS) and other types of well-grounded drafting of medical policies.

○ Facilitation of the use of insurers' inherent authority

The online charging of electronic receipts makes it technologically easy for insurers to make direct assessments and payments, especially in executing their authority. It would also facilitate data analyses for discussions concerning effective health policies and would help insurers to execute their inherent authority.

The introduction and advancement of information technology into medical care, such as online charging of electronic receipts, are important issues and will be the starting point of medical care reform.

[Specific measures]

1. Electronic receipts facilitate online charging [To be swiftly commenced. All charges will be available online from the beginning of FY2011 at the latest]

Online charging of receipts should start in FY2006. From the beginning of 2011 at the latest, medical care organizations such as medical institutions and pharmacies, assessment/payment organizations and insurers should be basically required to send and receive all receipts online, except when the system fails or when the number of charges is very small. This should also be stipulated in laws and regulations.

The data format of the electronic receipts to be exchanged should permit secondary use such as the analyses of the medical care provided.

After the online charging becomes obligatory, disincentives should be applied to the submission of any receipts charged offline. Examples of disincentives may include additional charges or an extended due date for those who do not accept the charge or for those who cannot be charged online.

2. Encouragement of electronification of medical records and other medical care information [Continued. Diffusion of standards will be started during FY2006]

The use of online information improves the safety, quality and efficiency of medical care. The

electronification also enables medical institutions to share patient data, thereby preventing the unnecessary repetition of tests and eliminating waste from medical care. The accumulation and secondary use of online information make evidence-based health policies feasible. Currently, however, there are no integrated standards for medical institutions to share patient data. For this reason, medical institutions and system developers have endured considerable financial burden and investment risk.

Incentives to move to online medical records requires the government to, with the aim of developing information technology in medical care, solve technological problems such as the compatibility and standardization of medical records and the development of codes for connection between receipts and medical records, and to stipulate the plans and means.

3. Development of a receipt database and its availability [Continued. Action to be taken by the end of FY2010]

At this point, the practical use of administrative studies into medical care has been far from satisfactory. Receipt data is valuable for making decisions and verifying future policies of medical care. However, no database has yet been developed that gathers in all receipt data.

The development of a national database should aim to use and analyze receipt data for secondary medical policies and epidemic studies. The national government takes the responsibility for accumulating and summarizing all receipt data and for promoting the use of electronic receipts in recording charges and making studies. Rules and regulations that are unduly strict may limit the private availability of the database. To prevent this from happening, qualifications and procedures for the use and analysis of the data need to be determined considering the protection of personal information.

4. Reconsideration of information provided on the insurance certificate [To be discussed and a conclusion reached during FY2005. Action to be taken during FY2006]

Claims of health insurance require that the insurance certificate indicates the name and address of the business office simply because it is necessary in confirming accident compensation insurance, which is irrelevant to health insurance. That means that an insured person needs to provide the name and address of his or her office rewritten and have the health insurance certificate reissued by the insurer every time he/she is transferred. It has been pointed out that the inconvenience discourages the use of cards and could delay the development of basic IT in medical care, an unachievable goal without facilitating the use of cards. The cards only need have the information updated and do not have to be reissued. The advantage cannot be utilized if the abovementioned inconvenience is nit addressed. Repeated re-issuance would

also be costly. The facilitation of card use will be a part of the IT infrastructure to be developed in medical care. So the current rules and regulations concerning the information provided on the health insurance certificate need to be reconsidered. In particular, the name and address of the person's company calls for immediate discussions and actions from the standpoint of eliminating inconvenience such as reissuance.

(4) Correction of the price disparities of medical devices between Japan and overseas

Major disparities in domestic and overseas prices of catheters and other medical devices have been reported. For example, devices are more than twice as expensive in Japan as in the United States. Some corrective actions have been taken in accordance with the revision of Three-Year Plan for the Promotion of Regulatory Reform (March 29, 2002). However, price disparities are still reported. It is also said that the delays in assessment and approval and the complexity of the application and assessment procedures increase development costs and cause the wholesale costs in the Japanese market to soar.

[Specific measures]

With the aim of rectifying the price disparity between Japan and overseas, the issues listed below need to be urgently investigated and discussed and the necessary actions need to be taken. This calls for comprehensive views to be expressed concerning the effects of the new medical devices, such as the reduction of medical costs, and concerning the incentives the insurance redemption prices give to developers and suppliers.

1. Factors that increase the costs, such as the time the Japanese Pharmaceutical Affairs Law requires approval assessments to take and factors concerning the distribution of medical devices need to be identified. Accurate information about overseas prices is also needed. In this way, the overseas average price adjustment can be used appropriately and unreasonable price gaps between countries can be eliminated. [Continues]

2. The following actions need to be taken to improve the medical device assessment system and to facilitate its use. [Action to be taken during FY2005 and continues thereafter]

・Improvement of the approval and assessment system. This may include greater efficiency in assessments by the Pharmaceuticals and Medical Devices Agency, increasing the scope of medical devices that fall under the third-party certification system, better utilization of

external specialists, improvement of specialties of medical engineers and other specialists in making assessments and so forth.

・Facilitating the availability of overseas data, such as the results of clinical studies of the same product. The procedures for data acceptance should be clearly specified and fully reported.

・Facilitation of good clinical practice (GCP)

・Development of objective standards that can be shared between developers and assessors. The standards should be fully reported.

3. Characteristically, medical devices have a shorter life cycle than that of medical drugs and are updated on a regular basis. The characteristics need to be considered in creating the assessment criteria and facilitating their use. This requires the following action to be taken. [Discussion starts during FY2005 and a conclusion will be reached by the end of FY2006. Action will then be implemented. Issues involving international consistency call for consideration of trends of revisions of international standards.]

・Discussions and maintenance of international consistency in the criteria for evaluating the need for clinical studies,

・Facilitation of procedures for altering applications, and

・Improved dialog, such as the pre-application advice on clinical studies.

4. Japanese medical institutions are widely dispersed. Japan's unique system of medical care has induced a lack of specialized hospitals and increases low-volume deliveries that result from the small number of patients per hospital. It has been pointed out that these problems have caused price increases. Therefore, the ongoing commitment to functional division in medical institutions, the concentration of patients and communities' partnerships need to be strengthened. [Continues]

(5) Review of drug prices

Drug prices are revised every two years. Reforms have been implemented and include the elimination of disparities in drug prices, transparency in the standards and rules for calculating drug prices and the introduction of rules of average foreign price adjustment. However, the prices of new drugs are controlled and reduced every time a revision is made. This has reportedly reduced the incentives for the development of new drugs as well. The problem is combined with delays in approval assessment. As a result, domestic and overseas pharmaceutical companies are beginning to stay away from domestic studies and move their bases for conducting studies and development to other countries. The so-called

deindustrialization is said to have delayed the introduction of new drugs into Japan and the availability of the drugs to Japanese patients.

The safety of the public should be considered in facilitating the use of approval criteria and in promptly enabling the public to benefit from new drugs. The drug pricing system also needs to be reconsidered. In this way, the problems of medical costs should be addressed.

[Specific measures]

1. To ensure proper evaluation, revisions to the criteria for calculating drug prices should encourage more efficient and safer development of revolutionary new drugs. This may involve relaxing the requirements for the addition of revolutionary or useful drugs and increasing the rate of addition. [Action to be taken during FY2005]

2. The form of prescriptions needs to be changed to facilitate the use of generic drugs. Prescription drugs should be promptly switched to over-the-counter (OTC) drugs if possible. [Action to be taken during FY2005 and continued thereafter]

3. Specific measure 2 in "(4) Correction of price gaps of medical devices between Japan and overseas" concerns the approval and assessment of medical devices. This also applies to accelerating approval and assessment, improving advice concerning clinical studies provided by the Pharmaceuticals and Medical Devices Agency and other issues associated with establishing the pharmaceutical approval system. Improvements in approval and assessment requires a consideration of drug safety, a better approval/assessment system, clinical evaluation guidelines according to efficacy, greater availability of data on overseas clinical studies, development of objective assessment guidelines to be shared by developers and assessors and so on. [Action to be partly taken during FY2005 and continued in FY2006 and after]

(6) Review of the Central Social Insurance Medical Council (CSIMC)

Decisions on medical remuneration points virtually influence the allocation of national medical costs, which exceed 30 trillion yen annually. The decisions should be made by deserving organizations that are fair, neutral and open. On December 17, 2004, the Minister of Health, Labor and Welfare and the Minister for Regulatory Reform under the Chief Cabinet Secretary reached a basic agreement on the review of CSIMC. The agreement set out the direction of CSIMC reform and was followed by the establishment of the Intelligence Council for the Parameters Defining the Role of CSIMC, which discussed specific plans. On July 20,

the Intelligence Council published the report discussing the new goals of the Central Social Insurance Medical Council.

The report advocates the same direction of reform as that of the Intelligence Meeting. A policy to limit CSIMC's functions is specified. However, serious problems influencing the basis of the reform remain. For example, the operation of CSIMC could render its policies unclear with the group recommendation system remaining. Furthermore, the number of doctors that represent the hospitals' opinions does not reflect some facts, such as the shares of medical services provided. On December 1, 2005, the Government and Ruling Party Medical Reform Conference published an outline of the reform of the medical service system and stipulated reform plans, such as the abolition of the group recommendation of CSIMC members. The plans should be implemented to strengthen the reform, so that the CSIMC can gain the people's trust. Fairness, neutrality and transparency in the organization's operations need to be monitored and reviewed whenever necessary.

[Specific measures]

The function and organization of CSIMC need to be reformed as listed below. This should also be consistently monitored and reviewed. [Action to be taken promptly. Related bills to be introduced during FY2005. The actions continue to be monitored and reviewed whenever necessary.]

1. Discussions on basic policies involving the revision of medical remuneration, except the rate of revision, should be assigned to the Social Insurance Agency, which prescribes a basic policy concerning the revision of medical remuneration. CSIMC follows the basic policy in discussing the setting of remuneration points.

2. The group recommendations of CSIMC members should be abolished.

   This should be followed by establishing the rules for appointing members to reflect the opinions of the stakeholders in the community's medical care.

3. In CSIMC, the number of public welfare committee members (6), the number of payment committee members (7) and the number of medical service committee members (7) should be nearly equal. The leading roles of the public welfare committee members concerning the CSIMC operation should be provided accordingly.

4. Decisions concerning the ratio of the number of payment committee members to medical service committee members should be based on clear ideas and reflect a comprehensive consideration of indices such as the share of medical costs and the number of facilities, employees or patients.

5. Public welfare committee members should refer to objective data to make sure that the CSIMC has revised remuneration in accordance with the basic policies discussed and decided outside CSIMC.

(7) Strict observation of the lifting of so-called combined medical care services

On December 15, 2004, the Minister of Health, Labor and Welfare and the Minister for Regulatory Reform under the Chief Cabinet Secretary reached the so-called basic agreement on combined medical care services. They agreed to establish a system during FY2004 to ensure the implementation of clinical trials of domestically unapproved medicine and to institutionally make sure that the medicine can consistently be used in combination with medical care that is covered by insurance. The agreement also aims to complete a technological mechanism by this summer. Under the mechanism, (1) the certain level of requirements that medical institutions are supposed to meet in all technological areas would be decided and (2) the combined use with medical care that is covered by insurance would be allowed after the relevant medical institution files a notice in advance.

Based on the agreement, the Commission for Yet-to-Be-Approve Medicine was established this January. The commission has already decided to include the prices of some anticancer drugs that are undergoing a clinical trial. The Conference of Specialists in Advanced Medical Care, established this May, prescribes that new medical technologies should undergo scientific evaluation and that requirements of insurance medical institutions should be specified. Notifications of advanced medical care have been accepted since July that just passed. The combined use of advanced medical care with medical care that is covered by insurance has already been allowed in three of the notifications.

The conference will keep an eye on all activities that are directed at implementing the Three-Year Plan for the Promotion of Regulatory Reform, which was decided by the Cabinet on March 25, 2005 in accordance with the abovementioned agreement. The conference will remain focused on the awareness that enabled the reform to start, and will make any suggestions and advice necessary to achieve the optimum combination of medical care services.

(8) Other issues

The conference has discussed and made suggestions on stock corporations' involvement in the management of medical institutions, comprehensive payment systems such as Diagnosis Related Group - Prospective Payment System (DRG-PPS), review of drug marketing systems or medical care plans and introduction of doctor's licensing. The conference will keep an eye on related trends and make suggestions and/or provide advice whenever necessary.

The following represents the conference's current views on some issues that need particular attention.

1. Two suggestions on the management of medical institutions have been made and include the involvement of listed companies in the management of medical institutions, limited to special districts and is subject to strict requirements, and the thoroughgoing practice of not-for-profit administration and public interest. The former requires a substantial relaxation of requirements. The latter concerns the primary aim of the reform and should be clearly focused on medical care corporations with greater public interest and corporations that carefully adhere to not-for-profit administration without allocating surplus money or residual property, even when an employee resigns from a company or the corporation is wound up.

2. DRG-PPS, a common system overseas, should be expanded and introduced. This requires the following succession of commitments to be made.

   - The current commitment to Diagnosis Procedure Combination (DPC) in acute-phase medical care should be expanded to all hospitals and improved. This should be shifted to Diagnosis-Related Group – Prospective Payment System (DRG-PPS) at specific timing.
   - The Condition-Related Group – Prospective Payment System such as RUG in chronic-phase medical care should be promptly discussed and introduced.

3. Clinical practices should require certifications for medical care in addition to a medical license acquired through the national examination. The certifications should be updated on a regular basis. In this way, the doctors' licensing system should be consistently reviewed with the aim of ensuring the safety of people receiving medical care and improving the quality of doctors.

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[1] A caring world: the new social policy agenda (OECD, 1999) defines equity, empowerment, efficiency and effectiveness as a new framework of healthcare policies. It says the simultaneous pursuit of the four objectives will be a goal to be achieved in the future.

[2] Based on the Three-Year Plan for the Promotion of Regulatory Reform revised at the end of last year, which was decided by the Cabinet

on March 25, 2005, the Social Insurance Agency's medical care section has separated the obligatory information medical institutions are required to provide, from its advertising components that have been used to attract customers. This is currently under discussion.

[3] The autonomy of insurers is acknowledged in Article 4 and 6 and Clause 4 and 5, Article 76 of the Health Insurance Law.

[4] Basically, insurers are supposed to make assessments and payments directly. The phrase "indirect payment" should be used as an exception to describe the method of payment that is intermediated by funds. This document uses the phrase "direct assessment and payment" to represent direct assessments and payments that are directly made by insurers without the intermediation of the Social Insurance Medical Fee Payment Fund.

[5] Clause 4, Article 76 of the Health Insurance Law states that insurers shall refer to Clause 1, Article 70 and Clause 1, Article 72 of the ordinance of the Ministry of Health, Labor and Welfare and the preceding two clauses in assessing the charges for medical care benefits made by insurance medical institutions or insurance pharmacies, before the insurers pay the money. Clause 5 of the same article states that insurers are entitled to assign the procedures provided in the preceding clause concerning assessments and payments to the Social Insurance Medical Fee Payment Fund (simply referred to as "the Fund" in Clause 11, Article 88) provided in the Law of Social Insurance Medical Fee Payment Fund (Law No. 129, 1948).

[6] According to calculations made in FY2000 on the assumption that the annual number of circulating receipts is 1.4 billion, the use of online receipt charges for the settlement of medical remuneration is estimated to provide for the whole of society a financial improvement that is worth more than 200 billion yen annually. [An experiment to develop and verify IT-based remuneration charge and settlement system (the FY2000 project of the Information-Technology Promotion Agency, Japan)]

[7] The Investigation Assemblies for the Health and Medical Care Information System, established by the Ministry of Health, Labor and Welfare, proposed a "grand design for the computerization of the health and medical care field (December 2001) with the aim of spreading the use of electronic medical records for each hospital at least in every secondary healthcare area by FY2004, and to penetrate the system of online patients' medical records into 60% or more of doctor surgeries and 60% or more of hospitals with 400 or more beds throughout Japan by FY2006. The grand design also aims to introduce the online receipt handling system by applying it to at least 50% of all hospital receipts by the end of FY2004 and at least 70% by the end of FY2006. The IT Policy Package 2005, determined by the IT Strategic Headquarters on February 24, 2005, is aimed at bringing online all receipts submitted from medical institutions to assessment/payment organizations, and to make it completely available online. The package will be commenced by the end of FY2004.

2. Education

[Issue recognition]

Viewed as the starting point and the basis of education, compulsory education has failed to provide pupils with equal opportunities to receive educational services that meet their abilities and aptitude. Some regions have already allowed pupils and their parents to choose a public school. However, the freedom of choice is not guaranteed yet. Schools should consider the abilities and aptitude of each pupil in an appropriate manner and flexibly improve their curricula. In fact, however, the ideal has been restricted by the tendency of the national standards toward uniformity. What is worse, the right to appoint public schoolteachers basically belongs to the prefectural board of education, which is isolated from educational practices. The decisions of the board of education rarely reflect the opinions of pupils and their parents who are supposed to benefit from the educational services. Priority should be given to the demand and views of pupils and their parents. But the current system makes light of it and fails to provide schools and teachers the authority and responsibility to make final decisions. This makes it unrealistic to expect school education to be oriented toward users, namely pupils and their parents. Students who are less scholarly able are left behind. Poor academic performers would quickly be discouraged from learning. However, it is this group of students who require more careful tuition.

The Cabinet Office of Japan published a questionnaire for parents on the school system on October 6 of this year. Of the parents who responded, 43.2% were dissatisfied with the current school education while only 13.0% were satisfied. This lack of satisfaction needs to be addressed with any legal, budgetary and administrative actions necessary to achieve a user-oriented education and to drastically reform the current Japanese education system.

(1) Reforms in the licensing, employment and evaluation system that aim for the qualitative improvement of teachers

1. Licensing and employment reform: employment and utilization of diverse talents, including the talents of those who have a corporate career

[Issue recognition]

Today, the employment of teachers is virtually limited to those who have completed the

teacher-training course at university and acquired a teacher's license. A teacher's aptitude is cultivated through practical experience as well as through training courses. Therefore, it is important to open the door to a wide variety of people in addition to licensees, such as those who have considerable job experience and those who are skilled in specific fields. As the mass retirement of baby-boom teachers approaches, many candidate teachers may find a job. Based on a consideration of the smaller population of children and the teachers' ages, maintaining and improving the quality of teachers faces the urgent task of equilibrating the number of employed teachers between generations. According to the abovementioned questionnaire conducted by the Cabinet Office, 88.8% of the parents are in favor of employing teachers who have experience in other jobs.

On December 5, the Cabinet Office published the questionnaire with boards of education, school corporations and teachers. One of its questions concerned the reason for apparent lag in using the special licensing system with a disappointing number of new licensees. The license is appointed by prefectural boards of education. However, 31.9% of the respondents who were board members pointed out the lack of cleanliness user-friendliness of the licensing criteria specified by the Ministry of Education, Culture, Sports, Science and Technology. The questionnaire also asked for opinions concerning the suspected partiality in the employment of public schoolteachers, namely the difference between candidates who have a family member or a relative who is affiliated in some way with the board of education or the school. None of the respondents from the prefectural boards of education, nor the owner of the employment authority, said the kinship connection with the industry would represent an advantage in employment to any extent. Despite this denial, 5.9% of the respondents from the municipal boards of education and 58.9% of teachers agreed there was an advantage. The further the respondents are removed from the employment authority, the more they doubt the impartiality in the employment of teachers.

Prefectural boards of education adopt a special licensing system and a special part-time teachers' system with the aim of increasing and diversifying the choice of talent. They have also implemented a special selection process to properly evaluate the candidates' personality and job experience and to relax or abolish the age limit in employment. Ten percent of successful candidates for teaching positions in recent years had a career in private enterprise. This commitment needs to be continued and the aim of the special licensing system should be fully understood so that a greater variety of candidate teachers can be employed. The disclosure of information concerning the selection process also needs to continue. The following are measures that should be implemented for the time being. Based on an understanding of these facts, the conference will offer suggestions on additional actions

whenever necessary.

[Specific measures]

Basic Policies for Economic and Fiscal Management and Structural Reform2005, which was decided by the Cabinet on June 21, 2005, stress the importance of securing and training talented teachers by encouraging the employment of a variety of candidates who have an extensive career or are skilled in specific areas. The basic policies also aim to drastically review and improve the training, licensing and employment system for teachers. These objectives require the following Action to be taken immediately. Needless to say, all of the actions need to be applied to all levels of private schools that receive public subsidies.

The employment and handling of people who have completed the graduate college for the teaching profession have been discussed and will be institutionalized on the overriding assumption that the candidates are equipped with teaching skills that exceed a certain level. Institutionally, it is not appropriate to take different actions from those for university graduates and other people who have completed general graduate colleges. Prefectural boards of education should consider the candidates' performance and ensure fairness in the selection process.

(1) Opening a larger door to non-licensees

Opening the door to the variety of talent, including former company employees, is important for the diversification and rejuvenation of school education. The number of people who work in private companies and have a teacher's license is estimated to be more than twice the current number of teachers. The search for this talent and the utilization of the special license for non-licensees need to be encouraged. In this way the selection of candidate teachers should be expanded.

As of FY2005, only 12 prefectures allow non-licensees to apply for teachers' examinations and certify successful candidates with a temporary or special license. However, no elementary school has hired non-licensees. Junior and senior high schools have hired these candidates only for some specialized subjects such as industry, commerce, agriculture and nursing.

As the mass retirement of baby-boom teachers approaches, elementary schools in urban areas are beginning to hire many teachers. The competition between candidates is quickly declining. This may suggest the need for improvements in the teacher selection process to enable elementary schools to retain a wide variety of skilled individuals.

Based on a consideration of these facts, the prefectural boards of education and school corporations should be urged to take action to retain a variety of talent. The actions should be aimed an providing more opportunities on a national scale to non-licensees who are experienced or skilled in their specialties, who have gained the confidence of society and who have the enthusiasm and knowledge that teachers need to fulfill their jobs, irrespective of the school level, irrespective of whether the school is private or public and irrespective of the subject. In addition, successful candidates should be certified with a special license. This initiative requires that the special licensing system be thoroughly and widely understood. As part of the commitment, people and organizations that have the authority to appoint teachers should make the selection process, including the exceptional handlings of non-licensees, more transparent to the public.

Prefectural boards of education should make sure that the applicants are informed of the acceptance of non-licensees. [Action to be taken during FY2005]

(2) Encouragement of the use of special licenses

The use of special licenses is intended to diversify the choice of teachers with the use of a non-license-based selection process. The special license was institutionalized in 1988 for the purpose of providing a teacher's license to candidates who have not completed a teachers' training course at university. In the 16 years up to FY2004, however, only 149 candidates have been awarded a special license. The number remains very small in comparison with the 320,000 candidate teachers employed in the same period.

For this reason, the special licensing system needs to be focused on interviews to objectively ensure that the selected candidates satisfy the minimum requirement in terms of skills and aptitude. Currently, a candidate needs the recommendation of the person making the appointment or employer to have an examination for the special license. The prefectural boards of education, school corporations and other parties making the appointment as well as employers should remain enthusiastic and informed about education and committed to finding and opening the door to candidates who have an established career in a company and who have a high level of specialty and skill. This would enable the right people to be promptly and properly selected and employed when a school needs a teacher who is skilled or experienced in a specific area. The use of the special license may involve a third party's recommendation to the person making the appointment or the employer. The third party must be able to certify the candidate's aptitude and must be a person other than the person making the appointment or the employer, including the principal of the school that the candidate is applying to work in. To handle the third party's recommendation better, people making the

appointment and the employers need to cooperate in simplifying and streamlining the related procedures by establishing the rules for documentation and the questions to be asked to learned experts. Consideration should be given to ensure that an application for a special license will not put the non-licensee at a disadvantage in applying for a job at a private school. Teachers' examinations are advised to treat in a flexible manner the applicants who have had a special license issued in another prefecture. This may involve a simplified examination system considering the applicant's practical career. Prefectural boards of education should be encouraged to disclose their employment criteria with the aim of keeping the public clearly informed of the teachers' examination system. For example, opinions may be solicited from experts in school education.

Elementary schools should also use the special license system to retain a variety of skilled individuals. It should be publicized that the special license would be applicable to two or more subjects, such as Japanese, mathematics, science and social studies, if the relevant candidate satisfies the requirements. In this way, elementary school teachers should be encouraged to acquire the special license. [Action to be taken during FY2005]

(3) Utilization of temporary employment

Retaining and utilizing diverse talent requires improvement in the employment procedure and in post-employment mobility. Law No. 48 (May 29, 2002) concerns the employment of temporary general work in local public organizations. The law provides the terms of appointment for local civil servants. But only a few teachers have found a job because of the law.

By making an ordinance, local public organizations should publicize information indicating that the people making the appointments are entitled to make decisions on the temporary employment of public school teachers. The experience skilled teachers may be considered in deciding temporary employment. [Action to be taken during FY2005]

(4) Fairness in the employment of teachers

Some people suspect that candidates with a family member or a relative who has a connection with the board of education, school or local government may enjoy greater advantage in finding a job. The teachers' selection process needs to be kept transparent and objective and should constantly focus on interviews and personality. The prefectural boards of education, in managing the selection process, are required to keep the selection criteria objective and fair by clearly indicating the types of teachers they want and by making the exam questions, selection procedure and criteria publicly known. Interviewers need to be

capable of impartially asking a variety of questions. The selection process must be kept open and objective and must be designed to eliminate any possible intervention by interested parties. The selection process must be strict and fair enough to gain the trust of the public. [Action to be taken during FY2005]

2. Reforms in appointment, evaluation and treatment of teachers: reflecting the intentions of pupils and their parents in the evaluation of teachers

[Issue recognition]

A teacher's aptitude can only be acquired through practical experience. Therefore, it is essential to establish a mechanism to regularly evaluate the teachers' performance at school. Teachers cannot be evaluated properly without the involvement of pupils and their parents, as these people are most susceptible to the influence of the teachers' leadership.

The evaluation would identify in some less skilled teachers a lack of leadership and the inability to fulfill a teacher's responsibility. Allowing these teachers to remain in the school is very problematic for the recipients, namely the pupils and their parents. However, schools would rarely report to the boards of education the dismissal of a teacher who has been hired for one year, as the interval is too short to evaluate a teacher's aptitude. The abovementioned questionnaires conducted by the Cabinet Office asked the boards of education, school corporations and teachers whether the temporary employment system was functioning effectively. Of the respondents from prefectural boards of education, 38.3% said the current system failed to function effectively. Prefectural boards of education are responsible for making appointments and officially run the system. Nearly 40% of the respondents from the boards do not think the system is functioning effectively. This fact is an impetus for increasing the pace of reform.

Teachers are civil servants whose position is firmly guaranteed. This makes it difficult to treat less skilled teachers in a manner that reflects their ability, especially in public schools, once they are officially employed. The guaranteed position of teachers needs to be reviewed and may involve depriving the public school teachers of their status as civil servants.

Differences would still exist between teachers with at least decent skills. Accurately reflecting the differences in their treatment is important in the improvement of teachers' skills and of the quality of school education.

Countries like Britain, the Netherlands and Sweden are advanced in terns of the transfer of authority to schools. In these countries, personnel affairs, including teacher evaluation, are under

the control of the principal or board of directors. Principals give pupils and their parents opportunities to evaluate teachers on a regular basis so that the teachers can be evaluated more objectively. It is very important that the users' evaluation of the teachers is reported directly to the personnel staff.

In the Cabinet Office's questionnaire, 65.5% of the parents are in favor of changing the treatment of teachers according to their skills. Concerning decisions on treatment such as pay, the most common criterion was evaluation by parents, at 59.5%.

[Specific measures]

Based on the understanding of these facts the following measures as a minimum need to be immediately implemented. Needless to say, each of the measures needs to be applied to private schools irrespective of the school level, with the exception of some systems that are unique to civil servants.

(1) Reflecting the intentions of pupils and their parents in the evaluation of teachers and schools

The success of school education is significantly attributable to the aptitude and enthusiasm of the teachers. Therefore, it is important to help teachers improve and fully exhibit their skills. This requires the ability and performance of each teacher to be properly evaluated. As of FY2005, 55 boards of education have started participating in the system for evaluating teachers' skills and performance. The results of the system need to be reflected in the teachers' assignment, treatment and training.

It is the board of education that organizes and runs schools. The board should be encouraged to strengthen its consultation system and accept the opinions of pupils and their parents concerning teachers. The opinions should also be considered in evaluating the teachers. Pupils and their parents should be given the opportunity to anonymously evaluate classes, class management and teachers' guidance. The results of the evaluation should be published on the website without disclosing personal information. The principal should report the evaluation results to the municipal or prefectural board of education so that the board can properly utilize the information in evaluating and training teachers to improve school education. The board of education is supposed to design the system. The national government should include in its school education guidelines the views of pupils and their parents about school activities, such as classes, class management and teachers' guidance. [Action to be taken during FY2005]

(2) Establishment of a system to evaluate school principals

In addition to (1) above, a mechanism needs to be promptly established for the person making appointments to objectively evaluate the ability and performance of the principal, in terms of management skills, by identifying the degree of satisfaction of pupils and their parents with the school, improvement in the average scholastic level in the school, an increase in the number of pupils after the introduction of school selection system and the appropriateness of guidance. [Action to be taken during FY2005]

(3) Strict application of temporary employment

Based on a consideration of the evaluation mentioned in (1) above, a document should be prepared to encourage the strict application of the temporary employment system and to make sure that only skilled and deserving candidates are chosen. [Action to be taken during FY2005]

(4) Establishment of a mechanism to remove unskilled teachers

Sixty-five teachers were certified in FY2000. The figure has grown each year and reached 566 in FY2004. The treatment of civil servants in education involves difficulties. All prefectures and designated cities as of FY2004 should be urged to discuss a mechanism to treat unskilled teachers accordingly. The commitment has remained unsatisfactory in some areas. Therefore, the mechanism needs to be strictly implemented. Based on a consideration of the evaluation mentioned in (1) above and the evaluation based on the existing system to manage unskilled teachers, people making appointments should promptly specify plans to accurately evaluating the skills of the teachers. The national government should provide appropriate information about the treatment of unskilled teachers. [Action to be taken during FY2005]

(2) Thoroughgoing freedom of choice in facilitating qualitative improvement of schools

[Issue recognition]

Pupils and their parents need more opportunities to freely choose high-quality education from a range of alternatives. They should also be able to enjoy the educational services they really need in accordance with their physical, mental and scholastic development. In this way, the schools should be encouraged to improve in quality. Article 32 of the Enforcement Regulation of the School Education Law (Ordinance No. 11, May 23, 1947) was revised in FY2003. The article legally empowers municipal boards of education to solicit the opinions of preschoolers' parents before specifying a school for the children. However, only 8.8% of elementary schools and 11.1% of junior high schools, nearly 10% on average, have introduced the school selection system based on the abovementioned

law. According to the questionnaire conducted by the Cabinet Office, 64.2% of the parents are in favor of the school selection system, which far exceeds the percentage of those who are opposed to the system (10.1%).

Basic Policies for Economic and Fiscal Management and Structural Reform 2005, decided by the Cabinet on June 21, 2005, provides that the school choice system should be introduced in accordance with regional requirements and should proliferate nationwide. Specific actions need to be taken to help the school selection system take root.

The municipal boards of education decide on or against the adoption of the school selection system. There are opinions that the national government should not make the school selection system compulsory. The most important thing about the system is, however, protecting the right of each person to learn, instead of taking the view of a supplier regarding pupils and their parents as an object of educational administration. Assigning the adoption of the school selection system to municipal boards of education or empowering the national government to uniformly make a decision is not the issue. The problem is the fact that pupils and their parents are not given the right to make a choice that they are supposed to make.

It should be taken for granted that parents' views are heard and respected even if the existing system remains, in other words, if the municipal board of education specifies schools for preschoolers. The solicitation of the opinions of parents before they receive school notification should be included in the rules as a minimum.

In that regard, the following measures may still be unsatisfactory. But hopefully these actions will lead to more regions to introduce the school selection system and more opinions of pupils and their parents to be heard and incorporated. The conference will continue to discuss a mechanism by which the opinions of pupils and their parents are solicited before school notifications are sent.

[Specific measures]

A summary of good examples of the school selection system will be distributed around the country. The purpose is to inform municipal boards of education of the procedures and the effects of the school selection system and to help the boards consider the intentions of pupils, their parents and other members of the community in positively discussing the introduction of the system. Similarly, the national government should fully consider the intentions of pupils, their parents and other members of the community in requiring the boards of education to discuss the introduction of the school selection system.

An institutional change should be made to partly revise the Enforcement Regulations of the School Education Law so that changing a school can be requested after the relevant student receives school notification.

The national government should lead by example in requiring municipal boards of education to specify and disclose the acceptable reasons for changing schools, such as bullying, geographical reasons like commuting convenience and extracurricular activities. [Action to be taken during FY2005]

(3) Thoroughgoing disclosure and assessment of school information, including the national scholastic survey

[Issue recognition]

Disclosure of school information and a mechanism of objective evaluation are important in enabling pupils and their parents to make a confident choice of school from the range of choices. Today, schools are required to conduct a self-evaluation and disclose the results. More schools have introduced external evaluation and disclosed the results. Due to the absence of standardized items and procedures of evaluation, however, there are disparities between schools in their disclosure procedures.

The national governments of countries like Britain, the Netherlands and Sweden only specify an outline of the curriculum and the standard scholastic level. The teaching methods and time allocation of subjects are at the discretion of the schools. The national governments in these countries inspect schools on a regular basis and widely publicize the results in a standardized procedure. It is suggestive that, in addition to the external inspections conducted by administrative organs, schools and their boards of directors independently survey the satisfaction of pupils and their parents and disclose the results. Japan has a lot to learn from these countries.

A class may undergo an improvement or drop in the students' understanding of a specific subject in one year after a teacher changes. Basically, this is solely attributable to the new teacher. Since class education is basically not teamwork, it is undoubtedly easy to rate the performance of a teacher than it would be with any types of the so-called service industries, including those related to administration. However, the educational administrative organs have avoided disclosing the performance of teachers. This is for no other reason than the failure to fulfill the responsibility to provide a satisfactory explanation to pupils and their parents who receive the service and to the people that pay the teachers' salaries. The implementation of a national survey of scholastic level is currently under discussion. To obtain the benefits of teacher

evaluation, the survey needs to be conducted in all schools, each of which should, as a part of school information disclosure, inform the public of the survey results.

As long as the schools are publicly funded and enjoy the benefits of regulations and preferential tax treatment, it is not necessary to mention that the plans for information disclosure and evaluation concerning schools should apply irrespective of the school level, irrespective of whether the schools are public or private and irrespective of the type of management.

[Specific measures]

The Basic Policies for Economic and Fiscal Management and Structural Reform 2005, decided by the Cabinet on June 21, 2005, provide that the compulsory education guidelines for the implementation of external evaluation of schools and publication of the results should be made during FY2005. The basic policies also state that appropriate measures, such as a national scholastic survey, should be promptly discussed and implemented. The policies urge that the following actions to be taken as a minimum.

1. Thoroughgoing disclosure of school information

Examples of the information that schools should disclose will be included in the school evaluation guidelines that are designed in accordance with the Basic Policies for Economic and Fiscal Management and Structural Reform 2005. This should reflect a consideration of Appendix 1 as well as the protection of personal information and the safety of pupils. Schools should take action to keep the large population, including pupils and their parents, sufficiently informed. [Action to be taken during FY2005]

2. National scholastic survey

The national scholastic survey will be conducted in FY2007 for all sixth-grade elementary schoolchildren and third-grade junior high school students. The results of the survey should be used to facilitate the efforts of teachers and the schools to better guide their students. The survey should also aim to motivate children to study. [Discussed in FY2005. Action to be taken promptly in FY2006]

(4) Realization of the voucher concept

[Issue recognition]

Today, the allocation of public education subsidies is based on the number of classes and teachers. This makes it difficult to represent the quality of educational services provided at school and the opinions of pupils and their parents. Schools also see fewer incentives to address the problems. National and public schools receive much publicly funding per pupil than private schools. The difference is also obvious in tuition. In educationally advanced nations, such as Britain, the Netherlands and Sweden, the allocation of public education subsidies is based on the number of pupils. These countries have successfully maintained and improved the quality of education. This can be a good model for reform in Japan where the mass retirement of baby-boom teachers is approaching and the population of children has dwindled in recent years. It is an urgent task for the Japanese educational system to be converted into a budget allotment system based on the number of students. This also requires consideration of the possibility of the experimental introduction of the budget allotment system.

[Specific measures]

The Basic Policies for Economic and Fiscal Management and Structural Reform 2005 was decided by the Cabinet on June 21, 2005. The policies provide that the educational voucher system should be discussed from a variety of viewpoints, such as its effectiveness and an analysis of problems, and that a conclusion should be reached during the priority reinforcement period with consideration of the realities of Japanese society and related educational systems. This may also involve discussions of overseas examples. Studies and discussions of the educational voucher system should continue more actively and should be supported by the understanding of the realities of Japanese society and related educational systems. This may call for diverse views, which may concern overseas examples as well as analyses of the importance and problems associated with the examples. [To be discussed and a conclusion reached during FY2006]

Appendix 1 A list of information items that schools should disclose

School management

- Educational goals and management policies
- Characteristics and problems
- Information of a school management conference and the involvement of parents and pupils in the conference
- The minutes of the teachers' meetings
- Details of school events
- Details of extracurricular activities

Subjects and textbooks

- Teaching plan, class hours, schedule, overall learning
- Textbooks and supplementary material

Teachers

- Assignment of teachers to classes, subjects and school affairs
- The curriculum vitae of the principal, vice-principal and teachers
- Intramural training of teachers

Students

- Absence
- Admission to and information of higher schooling

Evaluation

- Results of class evaluation by parents and pupils. Results of the satisfaction survey
- Self-evaluation of the school. Results of external evaluation

Accounting

- Financial statement of the school, status of budget allotment

Entrance and transfer

- Procedure and criteria for the selection of students
- Details of student selection criteria used when the fixed number is exceeded

- The number of transferred students

School issues

- Problems of student guidance. The school's handling of these problems
- Complaints and proposals for improvement that the school receives

Crisis management

- Health safety, crime prevention and disaster measures

3. Agriculture, housing and land

[Issue recognition]

(1) Agriculture

With the increase in the number of aged people and fewer children, the Japanese population is going to get even smaller. Economic growth and improvement in people's quality of life require existing rules and institutions to be constantly reviewed and matched with changes in the social and economic state of affairs. Competition should be encouraged through new entrants. It is also important to enable high-quality services to be distributed in the market at reasonable prices.

From this perspective, many Japanese farms are also involved in smaller businesses. The number of farmers has been consistently declining. Farmers have been getting older without many young people to replace them. Farms have also decreased each year. This has significantly weakened the production structure. However, these farms have received support in the form of protection and the support of domestic farmers. The protection of farmers has delayed the introduction of drastic measures. Today, Japanese agriculture has significantly lagged behind that in other countries and other industries in the progress of structural reform.

The Basic Food, Agriculture and Farming Village Plan ("the new Basic Plan") was decided by the Cabinet on March 25. The plan specifies the directions of structural reform of agriculture over the next decade. Good farms should be allocated to motivated and skilled farmers. This facilitates the efficient use of limited farming areas. Competition needs to be encouraged to enable farm products and related materials to be distributed more reasonably and efficiently. In this way, Japanese agriculture must overcome its current crisis, drastically improve productivity and restore and strengthen its industrial competitiveness. As farmers are getting older, the survival of Japanese agriculture is critically dependent on the abovementioned drastic reforms to be completed in few years.

The specific measures listed below have already been agreed upon. In addition to these measures, the conference will continue investigation and discussion so that specific and effective actions can be swiftly taken with consideration of the facts mentioned below.

1. Efficient use of farms

The limitation on the rights of farmland is based on the assumption that farmers possess and cultivate their farmland. The current farmland system limits new entrants by motivated and skilled farmers, including publicly listed corporations. Japanese agriculture is still far from

efficiency-oriented, which can be achieved through competition between producers, including new entrants.

The Agricultural Land Law (Law No. 229, 1952) stipulates requirements for the acquisition of farmland property. The requirements include good cultivation of farmland, engagement in the necessary farm work, efficient cultivation of farmland and cultivation of at least 50 acres (two hectares in Hokkaido). Property and the lease of farmland should be liberalized for any administrative bodies, including publicly listed corporations, that are deemed to satisfy the abovementioned requirements. This would allow only motivated and administratively skilled individuals or organizations to be involved in agricultural production. However, the current system only allows agricultural corporations to enter the market. Furthermore, a corporation has to satisfy strict requirements concerning staff and officials. This has discouraged publicly listed corporations and other organizations from entering the market.

The part revision of the Law to Promote the Strengthening of the Farm Management Base led to the commencement of the lease enterprise for specified corporations (nationwide expansion of the lease district system) this September. The enterprise is intended for publicly listed corporations and equivalent organizations to directly enter the industry of agriculture independently of a farm produce corporation. However, the enterprise is only targeted at the farmland that the municipality deems as having a deficiency of farmers, in other words, the farmland that includes a considerable area of abandoned farmland. Therefore, the enterprise has remained nothing more than an exceptional measure. Municipalities select farms on the assumption that they are well informed of which farmers are able to perform their job efficiently. This is not about selecting the right farmers from competition that includes new market entrants.

The rejuvenation of agriculture in the future requires a mechanism to encourage individuals and publicly listed corporations to enter the industry and to decide real farmers, namely efficient producers, through fair competition between farm producers.

The reduction in farmland needs to be prevented and good farmland needs to be maintained. This requires prevention of the arbitrary diversion of good farmland that should not be diverted. An agricultural committee expresses opinions when the governor permits diversion of any specific farmland. However, the committee mainly consists of local farmers who may also be applicants for the diversion. In fact, these farmers judge other farmers' applications and express opinions about them. Furthermore, the farmland that should not be diverted cannot be classified without an application for diversion, with the exception of some farmland located in a farming area. This could result in a trend against the maintenance of good farmland.

Effective prevention of the arbitrary diversion of farmland requires the improvement of neutral inspectors to discuss the validity of diversions based on a consideration of overall utilization of the relevant region.

2. Rationalization and streamlining of agriculture-related distribution

The reform of Japan Agriculture (JA) is essential for the purposes of encouraging competition between a variety of service providers, including JA, and the rationalization and streamlining of distribution. [Basic Policies for Economic and Fiscal Management and Structural Reform 2005, decided by the Cabinet on June 21, 2005]

As a cooperative association, JA entitles every member to vote in the decisions made. For this reason, the benefits of a number of small-scale, part-time farmers are reflected more than those of large-scale farmers. As a result, JA has not always functioned for the benefit of motivated and skilled farmers. Economic businesses of JA, such as the purchase of production material and the marketing of farm products, have not always led to cost reduction in farm management or to the sales of farm products with high added value that meets the demands of the market. In fact, the industry of agriculture has continued to run a deficit and remains dependent on other enterprises, such as credit associations and mutual aid, to cover expenses.

Even under these conditions, farmers' independent choices and the self-support of JA should be trusted if competition is to effectively function in the agriculture-related trading market. However, JA and its association have generally enjoyed special status in comparison with other companies. For example, they are supposed to support the mutual aid of smaller farmers and are exempted from the application of the Antitrust Law (Law No. 54, 1947). The advantage may affect competition against non-JA enterprises concerned with farm distribution and may end up slowing the rationalization of JA as a whole.

The Agricultural Cooperative Association Law (Law No. 132, 1947) provides that JA runs credit associations, mutual aid and other financial or economic businesses. This may distort competition in farm-related distribution because (1) the use of credit associations or mutual aid to make up for the loss of a deficit business may delay the rationalization of economically viable businesses and (2), as reported in the past, unfair dealings may be fostered.

Considering these facts, it should be taken for granted that JA has to disclose its management information more than general enterprises and financial institutions. JA also faces an urgent task to accurately represent the current status of its economic business and take actions of instigate reform. Needless to say, JA must prevent unfair dealings from being repeated.

(2) Housing and land

Today's society and economy have witnessed the rapid concentration of population and operations in urban areas, which have increasingly proliferated in a disorderly manner. Under this background, current city plans have been aimed at the appropriate dispersing of people and operations. The population is declining and society is getting older while we have fewer children. Life in urban areas is inevitably accompanied by the battle against space limitations. Our society is expected to grow further and will attach more importance to high-quality spaces and environments, improvements in anti-disaster measures, barrier-free access and good views. These priorities will require that land be allotted appropriately in accordance with the demands of specific regions and communities.

In particular, city planning is the basis of land use and should be oriented toward the demands of specific regions and communities. However, the use of some areas is designated passively by merely rubber stamping the status quo. The current system may be unsatisfactory in terms of aiming to achieve the appropriate allotment of use and the creation of a desirable city. The diversification of values has significantly changed people's residential living conditions, work and other aspects of life. The diversification will extend over land use. In the future, the use of central urban areas and suburban residential areas concentrated with middle or low-income families should be guided into the specific demands of the community. It is imperative to discuss the more rational application of land use regulation policies.

Old and/or non-conforming buildings should immediately be renewed in order to develop disaster-proof cities that can withstand vertical earthquakes and suchlike. Furthermore, the approach of the full-blown decline in population will leave more houses deserted and greater areas of land idle. The trend may adversely affect the environment of neighboring areas. Action concerning this type of unused land should also be discussed.

Concerning the limitations on floor area, a time-delayed charging system should be introduced for railways and roads. The objective is to standardize the demands and address the problem of traffic jams by setting relatively high charges in rush hours and lower charges in less congested times. The application of time-delayed charging for roads will also be discussed and may lead to a drastic review of the limitation of floor areas that restricts land use. Discussion is also needed to find analytic procedures and mechanisms to avoid the imposition of excessive restrictions concerning the scenery on urban areas.

In addition to the above, map information in particular needs to be opened more to the public. This is intended to ensure that a variety of private people and enterprises can easily obtain basic survey data created by the Geographical Survey Institute and public surveys by local public organizations, the basis of the current spread of GIS. The map information will contribute to the expansion of the businesses of private enterprises.

[Specific measures]

(1) Efficient utilization of farmland by motivated and skilled farmers

1. The embodiment of the direct payment system [A bill to be introduced during FY2005]

The new Basic Plan defines farmers as the recipients of direct payment. For farmland to be kept and centralized, the definition of farmers needs to be clearly narrowed into entities with at least a certain business scale. Requirements for farmers have been defined by the ruling party of the government in the Revenue Insurance Plan on October 27. A publicly listed corporation or other corporate body that is not an agricultural production corporation may enter the agricultural industry in compliance with the Law Promoting the Strengthening of the Farm Management Base. The direct payment system should be applicable to these types of corporations if they meet the requirements. The requirements should also be revised upward on a regular basis.

2. Thoroughgoing information activities on the agricultural corporation system to encourage new entrants [Conclusion to be reached during FY2005. Action to be taken during FY2006]

Encouraging motivated and skilled persons to enter the agricultural industry should involve thoroughgoing and clear information activities, such as online explanation of legal definitions of mechanisms. For example, the definition of "agricultural engagement" by executive officers may include planning and management or sales activities.

(2) Rationalization and improved efficiency of farm-related distribution

1. Reform of JA's economic business

(1) Reform of the economic business of Zen-Noh and other JA organizations [Action to continue from FY2005]

After a series of reported scandals involving the National Federation of Agricultural Co-operative Associations ("Zen-Noh"), the Ministry of Agriculture, Forestry and Fisheries of Japan has reviewed the way Zen-Noh, including its subsidiaries, should conduct business and organize itself. After the seventh order for reform was issued this October, Zen-Noh is required to submit a reform plan with the aim of defining the JA units as the primary entity of economic business and to improve cost efficiency by eliminating commissions that were paid

in many different phases. The reform plan is intended to provide a deadline and numerical goals concerning the economic reform of Zen-Noh. Progress of the plan should be reported externally. The Ministry of Agriculture, Forestry and Fisheries of Japan should be responsible in following and checking the results of the plan.

(2) Disclosure of departmental profit and loss [Conclusion to be reached during FY2005. Action to be taken during FY2006]

To help the official member of the association clearly understand the facts concerning the businesses, the departmental profit and loss statement should state the details of the profits and losses of JA businesses, such as credit associations, mutual aid and agriculture-related projects. The details should focus on personnel expenses that account for nearly 70% of the costs of management. JA's administrative information may also be disclosed externally. These kinds of voluntary commitments need to be encouraged.

(3) Improvements to the third-party function of Zenchu inspections [Discussions to continue from FY2005]

After the revision of the Agricultural Cooperative Association Law in 2004, the Central Union of Agricultural Co-Operatives ("Zenchu") is solely assigned with the responsibility of conducting JA inspections. To keep the inspection fair and transparent, however, the third-party function of Zenchu inspections needs to be improved and discussed.

2. Reinforcement of handling of JA's unfair dealings [Conclusion to be reached during FY2005. Action to be taken during FY2006]

Some JA-related unfair dealings have reportedly led to decisions and warnings issued under the Antitrust Law. In some cases, a farmer who was an associate was financed on the condition that the farmer would purchase machinery from the financier. Guidelines on the Antitrust Law are needed and should specify the activities of JA that the law categorizes as unfair dealings.

Actions are also needed to make sure that the JA organizations comply with the rules. In particular, Zenchu is under the supervision of JA, while Zen-Noh handles projects. These organizations should follow the abovementioned guidelines in each of their business activities.

On some occasions, the Antitrust Law now in force may not be adequate to crack down on the unfair dealings of JA. Administrative organs should take action to make sure that these undesirable affairs are not repeated. The administrative actions may concern the Agricultural Cooperative Association Law.

3. An information system concerning agricultural subsidies [Conclusion to be reached during FY2005. Action to be taken during FY2006]

The present system does not limit the destination of agricultural subsidies to JA. Nevertheless, subsidies often end up being paid through JA. A widely accessible system needs to be established to send subsidy information to any person concerned with agriculture. The system may involve use of a one-stop service on the Internet.

4. Exchanges of information about new entries [Conclusion to be reached during FY2005. Action to be taken during FY2006]

The Ministry of Agriculture, Forestry and Fisheries of Japan established the Agricultural Reform Box to collect information about JA-related scandals. Illegal activities should be handled in close cooperation, including the exchange of information, between related administrative bodies. In this way, any possible obstacles preventing new entrants to JA's businesses must be eliminated.

(3) Housing and land

1. Review of prescribed purpose of building use

Appendix 2 of Article 48 of the Construction Standards Law (Law No. 201, 1950) specifies by areas the scope of buildings that can or cannot be constructed. In fact, however, these regulations are autonomously controlled in accordance with types of business and criteria relating to appearance. Land use regulations should be discussed to enable the flexible handling of changes in the social and economic circumstances. Environmental standards to be followed in any specific areas need to be clearly specified in accordance with the size and functions of the city. They are examples of possible discussions to make the land use regulations more rational based on performance requirements such as the degree of influence on neighboring areas.

Today, power has been increasingly decentralized. Local public organizations need to reflect the intentions of residents, the people working in their community and business entities in making and introducing city plans. A mechanism is also needed to consider and discuss the role a specific community plans in the country and a general ideal of a city. Some organizations have too narrow a view to accurately interpret the primary aim of the land use regulations. Therefore, it is important that a lot of information is provided with the intention of enabling local public organizations to implement the city plans based on proper motivation by the national government. A broader scope of arrangements needs to be systematically

facilitated.

This requires the following actions to be taken.

(1) Discussions of the aim of land use regulations [Discussions to start in FY2005]

Land use regulations need to be fairer and more rational through identification of the environmental factors that need to be protected in individual areas. Land use regulations should be based more on the degree of influence on the neighboring environment that is suitable for a specific area. Any related studies and discussions should be intended for that purpose.

The more flexible application of land use regulations should also be discussed by mutually counterbalancing the positive and negative effects on places outside the premises.

(2) Encouragement of the reconstruction of old buildings in densely populated areas [Discussions to start in FY2005. Conclusion to be reached during FY2006]

Many densely populated areas have lagged behind in the reconstruction of old buildings such as existing non-compliant buildings and those illegally adjacent to the road. The communities' environment and disaster prevention activities have significantly suffered due to the lag. A plan is needed to encourage the reconstruction of old buildings. Based on community consensus, a certain level of contribution to the community may be rewarded in the form of deregulation. This should be included in the discussion concerning a mechanism of reconstruction commitments.

2. The proper control of the location of large-scale shops [Action to be taken during FY2006]

A new legal mechanism, including city plans and construction regulations, is planned to control the location of large-scale shops in suburban areas. The plan should not end up a mere regulation of demand and supply or the protection of vested rights, as represented by the restriction of existing competition. The application of the new mechanism should aim at controlling the external functions of land use. The external functions may include environmental deterioration, escalation in traffic jams, a decline in the availability of basic facilities and increased convenience based on the accumulation of services. Measures to deal with unused and derelict properties in central urban areas also need to be discussed.

3. Three-dimensional availability of roads and buildings [Discussions continue from FY2005]

Some districts in central urban areas are so small that the whole area, in addition to neighboring areas, needs to be redeveloped. This may involve the three-dimensional use of

space above or under roads while the functions of existing roads are maintained.

Based on examples and concepts, improvements in the private usage system and the handling of road areas should be consistently discussed and should aim at contributing to environmental improvement of the entire area and its surrounding areas without impairing the range of functions of existing roads.

4. Introduction of time-delayed fares to commuters' railways [Discussions continue from FY2005]

Time-delayed fares encourage off-peak commuting and disperse the demand in peak hours. This reduces rush-hour congestion and makes commuting more comfortable. If the time-delay fare system leads to less expensive off-peak fares, transportation to metropolitan commercial districts would be more convenient. Time-delayed fares would also rejuvenate metropolitan areas and contribute to the better utilization of social capital.

Concerning the introduction of the time-delay fare system, questionnaires, interviews and overseas case studies have continued since FY2002. Many issues still need to be addressed.

Discussions of time-delayed fares should continue and may concern institutional problems, processes, strategic importance, technical challenges (such as availability of IC card technology) and the feasibility of introduction on a trial basis.

5. The aim of appearance regulations [Conclusion to be partly reached and action to follow in FY2006]

A limit to the floor-area ratio is basically intended to control the amount of load on the infrastructure and to maintain a favorable city environment. The purpose of appearance regulations is to preserve the scenery. It concerns the shape, design and height of buildings. A limit to the floor-area ratio should not result in excessive limitations on urban spaces, which are not very large. Discussions should continue on the analysis of good appearance and the loss of benefits that may result from the protection of good appearance. After a certain volume of results is obtained, the usage of the results needs to be reported to the relevant local government.

6. Improvements to the rented house system [Continued from FY2005]

Subject to the requests of concerned parties, any information about a review of the fixed-term rental system should be accurately and promptly provided. This should be based on the following suggestions: a) residential buildings are allowed to switch their rights to fixed-term house rental rights after an agreement is reached between the concerned parties; b) the compulsory written explanation of the fixed-term rental contract is abolished; c) the cancellation of the fixed-term house rental contract should be voluntary; and d) the term of the renewable

rental contract can be prolonged if the renewal procedure has been conducted and the landlord and the tenant reach an agreement.

Suggestions concerning the review of legitimate requirements provided by the Land and House Lease Law (Law No. 90, 1991) include a) the purpose of the building, the reconstruction and the redevelopment, and the changes in the availability of neighboring land are properly and objectively incorporated, and b) compensation for eviction is considered one of the legitimate requirements and objective criteria for calculating compensation for eviction are clearly specified. Any information concerning these issues should be accurately and promptly provided upon request from concerned parties.

7. Private disclosure of map data

The Survey Law (Law No. 188, 1949) now in force was drafted when maps were mostly provided in paper form. The availability of maps should be reviewed and made to correspond to society today in which digital maps are widespread. The private use of basic survey data (this is the basis of all surveys and is obtained and determined by the Geographical Survey Institute) or public survey data (partly or entirely funded or subsidized by the national government or public organizations) requires applications for reproduction (Articles 29 and 43 of the Survey Law) and use (Articles 30 and 44 of the Survey Law) to be filed with the head of the Geographical Survey Institute and the head of the survey organization. It has been pointed out that the complexity of these procedures stands in stark contrast with the progress of today's information technology.

Opportunities for business involving maps should be more open to private enterprises. Irrespective of the difference between profit-generating and not-for-profit enterprises, the availability of maps and their reproductions needs to be simplified and better facilitated. In this regard, the following discussions are needed.

(1) The availability of maps corresponds to today's widespread use of digital maps. Legal issues also need to be addressed to make maps more accessible to users, including surveys by private enterprises of map or map data. [Discussions to start in FY2005. Conclusion to be reached during FY2006]

(2) Procedures for obtaining approval to reproduce and use the maps are simplified by partly exempting the applicants from having to obtain approval. Plans to facilitate the private use of basic survey data and public survey data are discussed. [Discussions to start in FY2005. Conclusion to be reached during FY2006]

(3) More efficient methods of controlling price and availability are discussed to facilitate the distribution of basic survey data and public survey data. For example, reproduction for profit may be accepted if an appropriate amount of money is paid. Concerning public survey data, the establishment of guidelines to inform public organizations of (2) and (3) is discussed. [Discussions to start in FY2005. Conclusion to be reached during FY2006]

(4) A one-stop service for information concerning survey data should be available on the Internet. The Geographical Survey Institute will inform a wide range of companies and individuals of both the basic survey data and public survey data. This may involve the development of a digital data system to increase the scope of application of the survey data, which may be downloaded onto electronic media. [Discussions continue from FY2005]

(5) Duplication of survey data needs to be eliminated so that maps can be updated more efficiently. This requires more of the survey data obtained by private or public organizations other than the Geographical Survey Institute to be used to update basic survey data and public survey data. [Discussions to start in FY2005. Conclusion to be reached during FY2006]

8. A mechanism of post-purchase relief against defective houses [Discussions continue from FY2005]

Inadequacies in the check functions of public and private inspection organizations concerning compliance with the conformity to the Construction Standards Law have been indicated in the recent scandal involving the falsification of construction calculations. Few house purchasers have expertise in housing. This makes it easier for the identification of house defects to be preceded by purchase. The Housing Quality Assurance Act (Law No. 81, 1999) requires sellers to provide purchasers a guarantee against defects in new houses for ten years. However, it is too difficult and unreasonable for honest purchasers to shoulder all expenses associated with their defective house when a large amount of compensation has caused the seller to become bankrupt. A mechanism for relief to house purchasers who suffer from these inadequacies needs to be urgently discussed and a conclusion needs to be promptly reached.

The funds vary widely between the concerned parties. But it is unacceptable to leave someone without relief when managing the difficulties of living in a defective house. This problem requires many issues to be discussed.