

2 Reforming Government-Made Markets through Increased Private Sector Participation

[Awareness of the Issues]

1 Reforming the Separation of Public and Private Sector Roles

As the economic and social environments have changed rapidly over recent years, consumers' needs for goods and services have diversified. In a sense, however, Japan's economic and social systems have failed to fully respond to these diversified needs. Such failure is apparently conspicuous in public services and markets where public sector involvement such as the restriction of market participants are deep (the so-called "government-made markets").

Traditionally, the government sector has provided both general and direct public services on its own. At a time when diversified services have developed in the private sector, however, we believe that public services should be transferred to the private sector as much as possible so that better and cheaper services can be provided to better meet diversified consumer needs.

Therefore, the government should reform the separation of public and private sector roles in public services in response to the current situation and aggressively promote the private sector's participation in public services.

In terms of administrative reform, the government in the past has reviewed the scope for its activities and involvement under the assumption that the government sector has continued to expand without responding fully to changes of the times. On December 16, 1996, the Administrative Reform Committee compiled a report on "Standards for Government Involvement." The basic principle of the standards was that the government should "transfer what the private sector can do to the sector," "conduct efficient administration giving priority to the people," and "achieve accountability." On accountability, for example, the comprehensive assessment of social benefits and costs was cited as one of the general standards. The standards for deciding whether the government should be involved in certain services included provision of public goods and services, externality, imperfection of markets, monopolistic power, natural (regional) monopoly, equity reservation and others regarding "market failure." Even if government involvement in certain sectors were ruled as necessary under these standards, however, the government should pay attention to the comparison of existing government services and their transfer to the private sector in costs and quality and to "government failure" considerations (including the reservation of incentives for

business efforts and efficiency, and the elimination of vested interests) in selecting means and forms of involvement, the report said.

We believe that these principles and standards are still reasonable for today's considerations concerning reformation of the separation of public and private sector roles in public services. In order to clarify the starting point for consideration (leaving the provision of goods and services to private sector market activity), however, we believe that we should adopt the basic idea that "the public sector should not do what the private sector can do."

Based on this idea, the government should generally promote private sector participation in traditional public services that are recognized as currently having no "market failure". Even if "market failure" is detected in certain services, the government should not necessarily undertake all operations for providing these services. Depending on the function of these services, conditions of the regions where these services are provided, and other matters, the government should promote private sector participation in these services while giving consideration to cost and the quality of services. The conceivable forms of private sector participation in public services are in privatization, the transfer of operations to the private sector, and the consignment of operations to the sector. Depending on details of specific operations and market conditions, the government should select appropriate forms. In this way, the private sector may be encouraged to expand its participation in public services where participation has already been allowed. It may also be prompted to diversely take part in public services where participation has not been allowed.

(Note)

Privatization: A government-funded corporation undertakes certain public services and the government's stake in the corporation is transferred to the private sector.

Transfer of operations to the private sector: Operations are transferred to private firms.

Consignment of operations to the private sector: Government sector operations are comprehensively or partially consigned to the private sector.

In promoting private sector participation in public services, the government should take necessary measures including those to ensure equity, fairness, neutrality, continuity, stability, confidentiality and to clarify role separation. At the same time, consideration should be given to the environment for competition between private firms. Some public services are accompanied by the exercise of public authority.

However the exercise of public authority alone should not be any reason for barring the private sector from certain services. In considering private sector participation in certain public services, the government should doubt "if public servants should exercise public authority on their own." Of operations that are conceived as an exercise of public authority, those where government sector discretion is relatively minor can be consigned positively to the private sector. For operations where government sector discretion is relatively large, rules and standards should be established to eliminate discretionary administration. If such rules and standards are specified, these operations may be consigned positively to the private sector.

The expansion of private sector participation in public services is designed primarily to allow the provision of better and cheaper services responding to diversified consumer needs. In addition, we believe that expansion can contribute to simplifying and streamlining administration and to creating new markets to vitalize the Japanese economy.

Based on these ideas, the Council has considered a wide range of government-undertaken public service operations including the following operations cited in the "Interim Report on Priority Regulatory Reform Measures to Promote Economic Vitalization" given on July 23, 2002. As a result, the Council has concluded that private sector participation should be promoted in the following operations cited for specific measures. The Council believes that operations for the promotion of private sector participation should not be limited to the following situations and that the government should review the separation of public and private sector roles in a wider range of areas and aggressively expand private sector participation in public services.

Operations cited in the interim report are: analysis of economic trends and the like; opinion polls; preservation and utilization of official documents and other records; emergency aid; public gas utility and the like; economic condition surveys; prisons, juvenile prisons, detention houses and the like; securities production and printed matters; compilation, production and publication of government literature; school lunch; cultural facilities; schools; water services; hospitals; social welfare facilities for aged people; nursery schools; job placement; vocational training; management of state-owned forests; central wholesale markets; regional wholesale markets; agricultural disaster compensation systems; machinery credit insurance; trade insurance; industrial water service; exhibitions, expositions and the like; road management; development, management and other operations for ports and harbors;

city parks; sewerage service; housing and land provision and the like; land survey and map production; weather forecasts, warnings and communications; park management; general waste management; management of public facilities; various training courses; various statistics; licensing-related operations; education regarding driving licenses; car-parking lot certification procedures; operations against parking violations; pension payments to retired public servants and veterans; registration operations; auctions; authentication operations; immigration control; passport-related operations; tax collection; customs clearance procedures and customs collection, and the like; copyright and other registrations; national health insurance premium collection and benefit payment; government-managed health insurance premium collection and benefit payment; premium collection and benefit payment for national and employee pension plans; unemployment benefits payment and the like; quarantine and related hygiene inspections; seed registration (Seeds Law); plant quarantine; animal quarantine; patent issuance and the like; registration of network installation and utilization rights and the like; mining registration; trade control (export and import approval, etc.); vehicle registration

In order to aggressively promote private sector participation in government sector operations in general through privatization, and transfer and consignment of operations to the private sector from the above viewpoint, the government should promptly unify its promotion systems through the establishment of a promotion body in the Cabinet Secretariat for example, formulate promotion programs and implement them extensively and comprehensively. These efforts should be closely linked to and should cooperate with ongoing special and public corporation reform.

2 Implementing and expanding private stock companies' participation in public services based on consumer sovereignty

Private stock companies' participation is prohibited or restricted in the fields of medical services, welfare, education, agriculture and other areas where the public sector is involved deeply.

In respect to this problem, the interim report given on July 23 indicated the Council's views about private stock companies' participation in the fields of medical services, welfare, education and agriculture as follows:

[Council for Regulatory Reform "Interim Report on Priority Regulatory Reform Measures to Promote Economic Vitalization" (July 23, 2002)]

Implementing and expanding private stock companies' participation in public services based on consumer sovereignty

In the fields of medical services, welfare, education, agriculture and other areas where public sector involvement is large, individual acts and service providers are mostly regulated to restrict new service providers' participation and competition, based on the belief that "excessive commercialism could hurt user convenience and the public nature of services." If restrictions on the forms of service providers are eliminated to allow provision of goods and services by a diverse range of providers, however, the range of consumer choices will be expanded and contribute to the lowering of costs for and improving quality of goods and services provided to consumers. After the elimination of restrictions, it will be desirable to leave consumers to choose service providers.

Thorough information disclosure, third party assessment, ex-post-facto checks and other systems should be developed to further promote users' free selection of options. Since the minimum reasonable regulations of acts are sufficient for ensuring public nature, public utility and users' safety, ex-ante regulations including restrictions on service providers should be viewed as unnecessary.

The advantages of having private stock companies as management forms follow:

- 1) Private stock companies are economic units that pursue profit expansion and increases in corporate value through the improvement of investment and asset efficiency. Therefore, they can contribute to the thorough improvement of customer satisfaction and service, and to efficient management by eliminating unnecessary costs.
- 2) Boards of directors and auditors, and the like are excellent in governance and external checks by shareholders, bond holders and other creditors force private stock companies to pursue transparency and sound management. Particularly, large companies as designated in the Commercial Code (capitalized at ¥500 million or more, or liabilities at ¥20 billion or more) have mandatory external audits and outside auditors to check their business management. Listed companies are required to disclose information through the release of financial statements and are subject to business management checks by an unspecified number of shareholders. These requirements contribute to more transparent and sound management.
- 3) Diversified pay systems and other incentives to reward hard-working people (managers and employees) can contribute to increasing the appropriateness and

convenience of goods and services provided to customers.

- 4) Private stock companies have a diversity of fund-raising means including direct financing through the issuance of shares, bonds and other securities. They thus can easily raise funds for investment in equipment, systems and others. Dividends must be realized as fund-raising costs similar to interest rates on indirect financing.

Paying attention to these advantages of private stock companies, the government should try to open and expand the door to private stock companies' participation in the fields of medical services, welfare, education, agriculture and other areas that currently have restrictions on such participation and substantial market sizes expected to contribute to economic vitalization. Private stock companies that have achieved certain levels of information disclosure, external auditing and other systems should be encouraged more aggressively to participate in these areas.

(1) Private stock companies' participation in medical services

Advantages of private stock companies' participation in medical services include the diversification of fund-raising means, the improvement of patient satisfaction through the upgrading of patient services based on a thorough understanding of patient needs, the development of systems and environments to increase management efficiency, the demonstration of business thinking, and efficient management linked directly to patient needs through such means as the input of managerial and administrative staff and other necessary personnel.

On the other hand, problems include the following:

- 1) The requirements of medical services' strong public nature and private firms' dividend payments to shareholders can be conflicting.
- 2) As medical organizations pursue profit, patients' interests could be affected.
- 3) Medical expenses could rise generally.
- 4) There is no evidence indicating that private stock companies are more efficient than medical corporations and can contribute to improvements in the quality of medical services. Complaints exist against relevant problems in the United States.
- 5) Since medical services' feature of asymmetric information leaves service providers to decide on the quality and quantity of services, patients could fail to select appropriate services.

As previously mentioned, however, dividend payments are compensation to fund providers and natural costs that have nothing to do with the public nature of medical services, and even present stakeholder-owned medical corporations can

accumulate internal reserves and distribute them to stakeholders upon dissolution. Given these points, an argument that the public nature of medical services can conflict with profit dividends makes no sense. Fears of affected patient interests and rising medical expenses accompany even existing medical corporations that can try to increase revenue in response to financial institutions' pressures on them to repay borrowings. In order to eliminate these fears, it is important to develop a competitive environment through such measures as a thorough disclosure of medical and management information to ensure patients' free selection of services. As for the argument that private stock companies are not necessarily more efficient than non-profit corporations or contribute to an improvement in the quality of medical services in the United States, the problem is also attributable to the fact that U.S. non-profit corporations enjoy very favorable tax and fund-raising systems. The key point is that medical corporations or private stock companies failing to contribute to an improvement in the interests of patients are naturally eliminated. Such comparisons between medical corporations and private stock companies makes no sense. In a sufficiently competitive environment, both medical corporations and private stock companies must pursue the same efficiency goal. As for the fact that medical service providers are left to decide on the quality and quantity of services, there may be no problem if appropriate services are provided. It is unnecessary to discuss which group should manage medical organizations. In order to ensure appropriate services, information disclosure should be promoted through the relaxation of advertisement regulations, the enhancement of third party assessment and other measures to correct asymmetric information in medical services.

Given the above explanations, there is no positive reason for rejecting private stock companies' participation in medical services. Therefore, the government should allow private stock companies to take part in medical services, by repealing the relevant provisions including the statement in Article 7-5 of the Medical Service Law that "a hospital-opening permit may not be issued to a party that is about to open a hospital for commercial purposes" and a vice minister's notice in 1950 that declares "private stock companies' management of hospitals may not be approved."

(2) Promotion of private stock companies' welfare participation

1) Private stock companies' participation in the management of special elderly nursing homes

The advantages of private stock companies' participation in the management of special elderly nursing homes (hereinafter referred to as special nursing homes)

include the improvement of services through a better understanding of needs toward heightened customer satisfaction and cost reduction through the efficient management of assets and the like. Particularly, in cities where users are abundant, the supply of special nursing homes is expected to increase as private stock companies launch complexes covering special nursing homes, other nursing facilities, ordinary houses and the like.

On the other hand, the following problems are cited:

- 1) Users are aged people requiring nursing care who have difficulties lodging complaints against facilities.
- 2) Inappropriate services could cause specific damage to care-dependant aged people and such damage cannot be repaired by ex-post facto checks.
- 3) Outsiders have difficulties checking services that are provided at night and early in the morning as well as during the daytime.
- 4) Since nursing homes are generally the last homes of users, managers are required to continue providing services in a stable manner without walking away from their positions freely.

However, there are many private stock companies that have experience and know-how regarding the management of fee charging nursing care homes for the aged and other facilities. There is no reason for private stock companies' services at special nursing homes to be seen as problematic. For both social welfare corporations and private stock companies, outside inspections, grievance organs, information disclosure and the like should be employed to prevent inappropriate services. We can cope with fears about managers' freely walking away from their positions by developing safety nets for continuous services, including other special nursing homes' acceptance of users. Therefore, not only social welfare corporations can eliminate such fears. A diversity of corporations should participate in special nursing home management in order to increase the range of services that can lead to the development of safety nets.

Therefore, relevant provisions including the first, third and fourth paragraphs of Article 15 of the Elderly Welfare Law that limit the founders and managers of special nursing homes to local governments and social welfare corporations should be revised to allow others to found special nursing homes, as is the case with care houses and the like as provided for in the fifth paragraph of the same article.

(3) Private stock companies' participation in education

The advantages of private stock companies' participation in the management of schools include the diversification of fund-raising means, better understanding of

growing needs for adult education, the expansion and improvement of educational services meeting customers needs, and efficient management linked directly to students' needs through input of managerial and administrative staff and other necessary personnel.

On the other hand, the following problems are cited:

- 1) Private stock companies cannot ensure reinvestment in education.
- 2) There is a danger of facile changes to education contents and the like in response to requests by shareholders.
- 3) Safety and continuity can not be ensured.

However, private stock companies accumulate surplus funds after paying out dividends amounting to interest payments in indirect financing in a bid to use them for future investment. Even if future investment is made in fields other than education, it may not lead to problems since existing school corporations are allowed to invest funds in fields other than education. There is no difference between school corporations and private stock companies in this respect. Since private stock companies usually try to improve customer satisfaction and increase their corporate value, they cannot be expected to make facile changes to education contents at shareholders request and to ignore students as customers. Stability and continuity problems are the same as those for existing school corporations and cannot be indigenous only to private stock companies. If necessary, safety nets may be developed to ensure the continuity of services.

Article 2 of the School Education Law, which limits the founders of schools to central and local governments and school corporations, should be revised to allow all corporations including private stock companies to found schools.

When private stock companies take part in school management, these firms as new participants should be subsidized, as is the case with school corporations. In this respect, legislation should allow such subsidization to be in line with the Constitution.

(4) Further promotion of private stock companies' participation in agriculture

In March 2001, the revised Agricultural Land Law was put into force to launch a new agricultural production corporation system including private stock companies under certain conditions. The expansion of the range of private stock companies allowed to acquire agricultural land has the advantage of diverse private stock companies' participation to diversify agriculture players and hence promote the enhancement of agricultural production structures and the like.

On the other hand, the following concerns are cited about the expansion of

private stock companies' participation in agriculture and there is a view that it is important to closely watch the establishment of the newly started new system before any further institutional reform:

- 1) Agricultural land acquisitions could be conducted for speculative or asset-holding purposes.
- 2) While agriculture is based on regional farmers' collective activities for water control, land utilization and other purposes, the expansion of private stock companies' participation is expected to affect the unity of such regional agricultural society.

However, Japan, whose agricultural production structure has long depended on small-scale, aged individual farmers, should accelerate agricultural structure reform to allow private stock companies and other corporate agricultural managers, as well as ambitious and capable farmers to dominate production in order to improve agricultural competitiveness as an industrial sector.

Under the agricultural production corporation system based on the revised law, some 25 private stock companies have participated in agriculture. Agriculture management has shifted to private stock companies in some cases, such as regional food firms and other players have founded agricultural production corporations as private stock companies. However, private stock companies in the field of agricultural production should be more aggressively founded as key agriculture players in order to accelerate the incorporation of agriculture.

Existing conditions for agricultural production corporations, including sales standard (more than half the total revenue is from agriculture and relevant operations), the board of directors requirement (more than half of the board members are farmers) and the capital subscription limit (one member's stake is limited to 10%), should be repealed to allow private stock companies' general participation in agriculture, particularly those companies that have advantages in fund-raising, research and development, labor management and other operations. If there is concern about the emergence of speculative agricultural land transactions and other unfavorable developments stemming from the expansion of participation by private stock companies in agricultural production, the government should also consider such separate measures as restrictions on the utilization of agricultural land for non-agricultural purposes and on the resale of such land.

Unlike medical, welfare, education and other sectors that purely provide services, the agriculture sector provides goods. Hence, distribution as well as production should be reformed. Therefore, a greater number of competition principles should be introduced for distribution and agriculture-supporting services to realize an

equal footing among players. To this end, agricultural cooperatives should be encouraged to reform themselves in response.

Based on the above thoughts, the Council has examined and considered the issue of private sector participation in public services on a sector-by-sector basis since September 2002. As a result, the Council has concluded that while certain progress has been seen in some sectors (see sector-by-sector descriptions for progress details), actual developments have so far been removed from the Council's recommendations.

Therefore, the Council is willing to tackle the issue as one of the top priority regulatory reform issues in the next fiscal year, obtain people's understanding including stakeholders and achieve relevant goals.

[Specific Measures]

Reforming separation of public and private sector roles

(1) Private sector's participation in public services

In order to aggressively promote private sector participation in public services, the following measures (to) should be implemented:

Management of "public facilities"

The Local Autonomy Law (Law 67, 1947) provides that local governments may establish facilities (public facilities) to be used for promoting residents welfare and to consign their management only to local government-invested corporations, public organizations or quasi-public organizations. This provision means only that the determination and collection of fees for using these facilities cannot be consigned to the private sector. The central government should urgently inform local governments that other management operations can be widely consigned to the private sector. **[Measures to be taken within FY 2002]**

The present system should be revised to allow local governments to consign management operations, including fee determination under certain conditions, to private entities as well as local government-invested corporations **[Submission of a relevant bill during the next ordinary Diet session]**

Water services [Measures to be taken within FY 2002]

Efforts should be made to allow local governments to decide to privatize their

water services, or transfer or consign them to the private sector as much and as far as possible. In order to ensure diverse managers' participation in the services, the government should immediately inform local governments that the possession of water service facilities is not a condition for water service utilities under the Water Works Law (Law 177, 1957).

Although a revision to the Water Works Law in 2001 allowed local governments to consign technical services regarding water services management to the private sector, the government should promote comprehensive private sector consignment of water service operations including involvement in rate determination.

Sewage services [Measures to be taken within FY 2002]

As for sewage services, operations other than the exercise of official authority regarding the elimination of maliciously emitted sewage, the mandatory use of sewage services in drainage zones, and the like have mostly been consigned to private businesses even under the present Sewage Service Law (Law 79, 1958). In order to take advantage of private businesses' creative ingenuity for improving service efficiency, however, the government should promote comprehensive private sector consignment of sewage service operations including the maintenance and repair of facilities and involvement in fee determination.

General waste management

As for general waste management, garbage collection operations have increasingly been consigned to private businesses and authorized entities. Over recent years, private businesses have taken advantage of private finance initiatives to construct and manage general waste treatment facilities in some cases.

In view of such developments, the government should develop an environment for the consignment of general waste management operations and the introduction of PFIs, while ensuring that municipalities can fulfill their mandatory responsibilities for general waste management. **[Gradual implementation]**

As for conditions for the authorization of general waste management service providers, the government should specify a desirable interpretation of the provision that "relevant municipalities have difficulties in undertaking waste management on their own." **[Measures to be taken within FY 2002]**

Hospitals

National hospitals, excluding those to be dissolved and privatized, will be transformed into independent administrative agencies from FY 2004. When the first medium-term regulatory reform period after the transformation ends, at the latest, the government should promptly consider the abolition, privatization or any other measure for individual facilities in respect to the need for continued operations and desirable organizations, reach a conclusion and take necessary measures. **[Prompt consideration and conclusion upon the end of the first medium-term regulatory reform period after the transformation]**

As for social insurance and employee pension hospitals, the government has constructed facilities and consigned their management to public-interest corporations and the like. Regarding hospitals where the need has apparently declined for government construction of facilities, the government should examine their present situation and take streamlining and other necessary measures including their transfer to private medical corporations. **[Gradual implementation in and after FY 2002]**

Industrial injury hospitals, excluding those to be dissolved and privatized, will be transformed into independent administrative agencies from FY 2004. When the first medium-term regulatory reform period after the transformation ends, at the latest, the government should promptly consider the abolition, privatization or any other measure for individual facilities in respect to the need for continued operations and desirable organizations, reach a conclusion and take necessary measures. **[Prompt consideration and conclusion upon the end of the first medium-term regulatory reform period after the transformation]**

Job placement and vocational training

As for job placement, job restrictions for paid private sector services have been repealed in principle. In order to ensure better quality of free job placement services for both job seekers and job-offering companies, public employment security offices should open their job offer and other data to the private sector and consign the placement of managerial, special and some other jobs to the private sector. They should thus be allowed to take greater advantage of private sector know-how for job placement services. **[Gradual implementation in and after FY 2002]**

As for vocational training, the Employment and Human Resources Development Organization of Japan will be transformed into an independent

administrative agency in March 2004. The organization should develop private vocational training entities by stepping up private sector consignment of its services. When the first medium-term regulatory reform period after the transformation ends, at the latest, the government should promptly consider the need for continued operations and desirable organizations, reach a conclusion and take necessary measures. **[Prompt consideration and conclusion upon the end of the first medium-term regulatory reform period after the transformation]**

Public gas utilities and other regional public service corporations [Gradual Implementation]

Public gas services have been being transferred and consigned to the private sector through progress in administrative and fiscal reform and the like. Based on the fact that there have already been a large number of private businesses undertaking such services, greater effort should be made to promote privatization, and private sector transfer and consignment.

Privatization, and private sector transfer and consignment should also be stepped up for public bus transportation, hospital and other regional public services.

Operations against parking violations and for car-parking lot certification

It is important to solve parking violation problems for the purpose of easing urban traffic congestion and achieving efficient economic activity. Operations against parking violations should be consigned to the private sector to improve their efficiency. Under the present system, operations for private sector consignment are limited, dealing only with such issues as warnings to illegally parked cars. In future, the government should consider a desirable legal system against parking violations and relevant matters, based on a wide range of opinions, in a bid to allow a wider range of on-site operations against parking violations to be consigned to the private sector. **[Conclusion within FY 2003]**

As for car-parking lot certification operations that contribute to preventing parking violations, on-site inspections and data input have already been consigned to the private sector. The consignment should be promoted further. **[Measures to be taken within FY 2003]**

Local tax payments [Measures to be taken within FY 2003]

Local tax payments can now be made at private financial institutions. In order

to improve taxpayer convenience, however, customers should be allowed to pay local tax at convenience stores and the like.

Prisons [Measures to be taken within FY 2003]

The government should specify prison-related operations that can be consigned to the private sector and should promote such consignment through PFIs and other measures.

State tax payments [Measures to be taken within FY 2003]

State tax payments can now be made at private financial institutions serving as agents and the like of the Bank of Japan. In order to improve taxpayer convenience, however, customers should be allowed to make tax payments using automatic teller machines, personal computers and mobile phones in addition to account transfers that have already been available for such payments.

Schools

National universities have undertaken advanced academic research and contributed to the realization of equal opportunities for higher education. In future, however, they should further upgrade their education and research functions to become internationally competitive universities. By FY 2004 the government plans to begin transforming national universities into corporations and exempting their teachers and administrative staff from being public servants. The government should now assess their education and research results and compare their management operations with those of private school corporations. When the first medium-term regulatory reform period after the transformation ends, at the latest, the government should promptly consider the need for the continuation of relevant operations and desirable organizations, reach a conclusion and take necessary measures based on the conclusion. **[Prompt consideration and conclusion after the end of the first medium-term regulatory reform period after transformation]**

In order to promote private sector participation in schools including national, public, elementary, junior high, high schools and universities, the government should further use PFIs, the public establishment and private management of schools, and other measures, and should expand and specify a range of operations for private sector consignment. **[Measures to be taken in FY 2003]**

National pension premium payments

National pension premium payments can now be made at private financial

institutions. In order to improve convenience, however, customers should be allowed to make such premium payments at convenience stores. **[Measures to be taken within FY 2003]**

People should also be allowed to use automatic teller machines, personal computers and mobile phones in addition to account transfers that have already been available for such payments. **[Measures to be taken in early FY 2004]**

Registration operations for network installation and utilization rights and the like [Measures to be taken within FY 2003]

Public-interest corporations have already been designated to undertake network installation registration and utilization rights. As provided in the “Action Plan for Reforming Administrative Involvement in Public-Interest Corporations” (as decided on by the Cabinet on March 29, 2002), the government should allow these operations to be undertaken by “fair and neutral third-party organizations that meet certain conditions as specified in law and the like and are registered by the government in a manner to eliminate administrative discretions.” In this way, the government should expand private sector participation in the operations.

Operations regarding industrial property rights

In order to improve Japan’s international competitiveness, the government should develop systems to ensure the appropriate protection and effective utilization of rights on inventions and the like that can produce new values. Meanwhile, there is concern that prolonged examination time and other problems regarding industrial property rights could affect the appropriate protection and effective utilization of rights on inventions and the like that can produce new values.

In order to promote prompt and accurate examinations and the like for faster registration of such rights, the government has assigned designated corporations to surveys on domestic patent literature. However, the government should further expand a range of operations for private sector consignment by allowing designated corporations to undertake surveys on domestic non-patent and foreign patent literature as well. **[Measures to be taken within FY 2003]**

Auctions [Consideration and conclusion within FY 2003]

As for auction procedures, the assessment of goods for auction and information provisions have been consigned to the private sector. In order to ensure that the

consignment is implemented appropriately, the government should conduct a fact-finding survey and take necessary measures (including requests) for improving the consignment.

Registration of program works [Consideration and conclusion within FY 2003]

Public-interest corporations have already been designated to generally undertake registration of program works. However, the government should review the desirable implementers of registration operations. For example, the government should consider allowing the operations to be undertaken by designated corporations other than public-interest corporations.

Pension payments to retired public servants and veterans [Prompt consideration and conclusion by FY 2004]

Pension payments to retired public servants and veterans are now made at post offices. In order to improve pensioner convenience, however, the government should consider allowing private financial institutions to handle pension payments on condition that they provide smooth over-the-counter counseling and credit management services that accompany pension payments.

Production, etc. of stamps, postal cards, securities, government literature and the like [Prompt consideration and conclusion after the first medium-term regulatory reform period after the establishment of an independent administrative agency]

Printing services will be assigned to an independent administrative agency from April 2003. Private entities as rivals of the planned agency have already been implementing preparation, printing, etc. of stamps, postal cards, securities, government literature and the like out of the planned agency's operations. Based on this fact, when the first medium-term regulatory reform period after the inauguration of the agency ends, the government should promptly consider these operations' abolition or private sector transfer, the need for continuation of these operations, and desirable organizations for these operations, reach a conclusion and take necessary measures based on the conclusion.

As for government operations other than those listed above (~), privatization, and transfer and private sector consignment should be positively promoted. Therefore, each government agency should systematically and positively

promote privatization, and the transfer and private sector consignment of its operations, based on the “Administrative Reform Outline” (as decided on by the Cabinet on December 1, 2000). **[Gradual implementation in and from FY 2002]**

On the other hand, the Ministry of Public Management, Home Affairs, Posts and Telecommunications should specify privatization progress, and transfer and private sector consignment in its follow-up to the “Administrative Reform Outline.” **[Gradual implementation in and from FY 2002]**

Central government agencies should request local governments to apply the (~) measures to local government operations, while respecting the viewpoint of local autonomy. **[Gradual implementation in and from FY 2002]**

The Ministry of Management, Home Affairs, Posts and Telecommunications should inform local governments of outstanding models for private sector participation in their operations and appropriately grasp local governments’ relevant publication efforts. **[Gradual implementation in and from FY 2002]**

(2) Measures to promote the expansion of private sector participation in public operations

Facilitating the transfer of management to private entities [Measures to be taken within FY 2002]

The government should make it clear that if the management of facilities constructed with subsidies is transferred (for example, from local governments to private entities) and if such a transfer leads to no effective change in such facilities’ services for local residents and meets subsidization purposes, the treatment of subsidies may not have to be altered.

The government should fully inform local governments that if local governments change managers of facilities constructed with proceeds from local bond issues through such measures as leasing from local governments to private entities, local governments should comprehensively examine whether the facilities would continue to be available cheaply for a wide range of residents, and that if the facilities turn out to be as public as those run by local governments, local bonds may not have to be redeemed ahead of schedule.

Promoting PFI-based projects [Measures to be taken within FY 2002]

In order to make effective use of the PFI method, the government should allow the private sector to maximize their creative ingenuity.

To this end, the government should provide orderers with specific matters for

which the following changes are allowed under present law:

- (a) In order to specify risk-sharing and other contract terms before bidding, the central or local government closely communicates with bidders and makes changes as necessary to a draft contract after notifying all bidders of such changes.
- (b) Depending on project details, an orderer conducts multi-phase selection of bidders, including initial simple checks on project proposals, in the examination of bidders' qualifications prior to bidding.
- (c) Upon contract conclusion after bidding, changes are made to the draft contract in order to specify risk-sharing terms that had not been fixed before bidding.