

5 For the Appropriate Implementation and Early Adjustment of the “Special Zones for Structural Reform” System

[Awareness of the Issues]

The Council for Regulatory Reform established and issued the “Interim Report on the Prioritized Regulatory Reform Plans for Economic Vitalization ” in July 23, 2002. The Council explored and made several recommendations concerning “Special Zones for Structural Reform” in the report. The subsequent efforts of the government and its evaluations are as follows:

1 Summary of the “Interim Report on the Prioritized Regulatory Reform Plans for Economic Vitalization” formed by the Council for Regulatory Reform

Since April 2002, the “Working group for Special Zones for Structural Reform” of the Council has made forward-looking assessments on the “Special Zones for Structural Reform” system under which implementations will be carried out in line with the characteristics of each special zone. The system is expected to be a great inducement to foreseeable national implementation. The fruits of these discussions are contained in the “Interim Report on the Prioritized Regulatory Reform Plans for Economic Vitalization”, and recommendations made in the report are listed below.

(1) Fundamental concepts:

The concepts of the system are to

- Implement ideas and projects requested voluntarily by local authorities;
- Avoid conventional financial measures;
- Target all possible regulations over a wide variety of areas; and others.

(2) Direction of the system construction (legal framework)

- Legal procedures of applications, or approvals, etc. and the decision-making process will be integrated and handled solely by the Cabinet. Thus, the application of general rules and the appointment of special zones are initiated basically by the Cabinet, not by each competent ministry (to implement inter-regional and inter-ministerial reform schemes proposed by local authorities).
- Other major legal issues (including alternative measures, district selection

standards and restrictions), and others.

(3) Future promotion plans

- Human resources utilization by private business leaders and local public offices
- Acceptance of proposals and requests from the public
- The Council is prepared to offer an opinion to the promoting body when necessary, and to make concerted efforts for the selection of targeted restrictions, and others

(4) Examples of visions of special zones

2 Subsequent efforts made by the promoting body (the Headquarters for the Promotion of Special Zones for Structural Reform and the Office for the Promotion of Special Zones for Structural Reform)

The **Office for the Promotion of Special Zones for Structural Reform** (hereinafter referred to as Office for the Promotion of Special Zones) was established in the Cabinet Secretariat as a promoting body on July 5. At Cabinet level, the Headquarters for the Promotion of Special Zones for Structural Reform (hereinafter referred to as Headquarters for the Promotion of Special Zones), consisting of all ministers as members and the prime minister as its chairman, was established on July 26. Thus, combined efforts of the government have been generated.

(1) Human resources utilization by private business leaders and local public offices

The Council for Regulatory Reform recommended in its “Interim Report on the Prioritized Regulatory Reform Plans for Economic Vitalization ” that: “the way to utilize actively and positively the expertise and collective wisdom of private business leaders and local public employers must be discussed at the Headquarters for the Promotion of Special Zones which was established in the Cabinet Office recently to achieve the objectives of the Special Zone System.”

In response to this recommendation, the Office for the Promotion of Special Zones has employed 3 new members from the private sector and 4 new members from local authorities since August.

(2) Calling for proposals from local authorities and others

The Council for Regulatory Reform recommended in its “Interim Report on the

Prioritized Regulatory Reform Plans for Economic Vitalization ” that: “preceding the selection of targeted restrictions, private organizations and local authorities must be given an open and extensive opportunity to make proposals and requests. Particularly, local authorities must be well informed about the fairness of such opportunities. An opportunity for them to submit proposals and requests must be given periodically for a certain period” In response to this recommendation, the Office for the Promotion of Special Zones invited proposals regarding special zones for about a month during July and August (hereinafter referred to as the “First Proposal Campaign”). The result of this campaign was reported on September 6th, and the number of organizations that made proposals totaled 249 (231 public bodies and 18 private institutions). Plans on special zones numbered 426, and among them there were 903 individual specific reform items.

Many of these items are included in the “Examples of Visions of Special Zones” of the “Interim Report on the Prioritized Regulatory Reform Plans for Economic Vitalization ” issued by this council, and thus, it is fair to evaluate that this council has contributed to effective dialogue among local authorities and private institutions.

(3) Basic Policies and Programs for the Promotion of Special Zones for Structural Reform at Headquarters for the Promotion of Special Zones

As a result of the government’s concerted efforts, the following decisions were made at Headquarters for the Promotion of Special Zones concerning the Special Zone System:

“Basic Policies of Special Zones for Structural Reform”

The “Basic Policies of Special Zones for Structural Reform” were decided at the second meeting held at Headquarters for the Promotion of Special Zones on September 20.

The policies include:

- Objectives of the Special Zone System (Establishment of the special zones to introduce preferential reform measures in accordance with characteristics of the localities based on the voluntary initiative of local authorities. Local authorities are expected to show initiative in the promotion and implementation of these measures.)
- Promotional effort policies include:
 - 1) Revitalization through competition of ideas and ingenuity among private organizations and local public authorities
 - 2) Respect for “Spirit of self-help and self-reliance”

- 3) Targeting all possible regulatory measures
- 4) Integration of procedures and decision making processes in the Cabinet to evaluate the effects of preferential measures) and others

These policies are all basically in line with the Council's fundamental concepts as stated in the "Interim Report on the Prioritized Regulatory Reform Plans for Economic Vitalization".

Promotion Programs of the Special Zones for Structural Reform

The third meeting at Headquarters for the Promotion of Special Zones was held on October 11th, and its report titled "Programs of Promotion of Special Zones for Structural Reform" (hereinafter referred to as the "Program") deals with the following issues:

- 1 Specific system framework
- 2 Regulations applicable to preferential measures and their application requirements
- 3 Future plans and schedules, and others

The evaluation of these programs is described below in Section 4 along with "The Bill on the Special Zones for Structural Reform" (hereinafter referred to as "the Bill on the Special Zones")

(4) Enactment of the Bill on the Special Zones

In response to the "Program", a full-scale enactment process of the Bill on the Special Zones began. The bill was submitted to the 155th extra-ordinary Diet session after Cabinet endorsement on November 5. The bill was deliberated for 12 days before being enacted as the "Law concerning Special Zones for Structural Reform" (hereinafter referred to as "the Law concerning Special Zones") on December 11. Complete enforcement of the law starts on April 1st, 2003 when the process of applications from local authorities begins.

3 Efforts of the Council including cooperation with the promoting body

Based on recommendations in the "Interim Report on the Prioritized Regulatory Reform Plans for Economic Vitalization" of the Council, "the promoting body must exchange opinions with the Council at the time of the bill's formation, and the Council will express its opinions when necessary so that the promoting body can proceed to the law making process in line with the Council's guidelines.

The Council has been actively involved in these processes and deliberations on

the following points:

(1) Exchange of opinions with competent authorities and organizations at the time of program formation

The list of applicable reform items to preferential measures was to be compiled in the Program. In order to expand the scope of these targeted regulations as widely as possible the Council exchanged various opinions with competent authorities and organizations in partnership with the Office for the Promotion of Special Zones during September and October.

The “Interim Report on the Prioritized Regulatory Reform Plans for Economic Vitalization ” states “at the time of selecting applicable regulations to preferential measures, the Council should ensure transparency of the selection process, and should be involved in the process for reform, not against it. Therefore, with regard to negotiations and adjustments with the competent authorities, the Council will provide maximum collaboration to the promoting body.” With that in mind, the Council revealed their opinions to the press, etc., and detailed proceedings of the exchanged opinions were also released.

(2) Opinion exchanges with competent authorities concerning the Law concerning Special Zones

With regard to the actual work process for the formation of the Law concerning Special Zones, while maintaining close coordination with the Office for the Promotion of Special Zones, the Council exchanged various opinions with the competent authorities concerned.

The Program states that based on “Economic management and Finance / Basic Policies for Structural Reform 2002” (Cabinet endorsement on June 25), it is necessary to keep close contact with the Council for comprehensive Structural Reform and respect its opinions to promote the process. The Council will continue to discuss the smooth enforcement of the special zones system and review necessary items, etc. in partnership with the Office for the Promotion of Special Zones.

4. Program Evaluation and the Law concerning Special Zones (Including reform items that were brought forward to nation-wide implementation during the process)

(1) Evaluation

The Law concerning Special Zones was prepared based on the Programs and it

stipulates for the integration of application and approval procedures in the Cabinet, the establishment of one law (the so-called general rule), selection of variety of regulations to be covered by the preferential measures, and periodical additions of reform items. Most of these measures follow suit with the recommendations made in the “Interim Report on the Prioritized Regulatory Reform Plans for Economic Vitalization ” of the Council.

Because the so-called “general rule” is streamlined, it is greatly and favorably anticipated that new requests will be added flexibly to the reform list under a fixed system as each local authority presents requests. It is essential to note that agreement at the time of the designation of special zones does not refer to a general discretion, but to a limited discretion where an agreement should be reached whenever a request meets the requirements. Therefore, it is necessary to clarify that the attributions of the ministerial agreement requirement do not denote actual veto power of the ministries.

Among reform items proposed by local authorities and private organizations during the First Proposal Campaign period, 93 items are listed as “Regulations Applicable to Preferential Measures in the Special Zones” (Schedule 1), and 111 items are listed as “Regulations Applicable to Preferential Measures on the National Scale” (Schedule 2) in the Program. This is highly appraised because it shows that more than 200 reform items were put forward in a short time period (less than 6 months). In addition, although not included in the Program, 311 reform items are listed as “Applicable Items under the Current Law”.

Under the Law concerning Special Zones, when applying for measures, anyone is entitled to ask the head of the competent administrative body about the interpretation of specific regulations on the business concerned, and the head of the administration has an obligation to answer.

(2) Remaining issues

There remains, however, as stated below, many reform items removed from the adoption of preferential measures due to opposition from the competent authorities, even though demands for the measures from private and local government organizations were quite strong. For example, the entry of incorporated people into medical services or school management was removed. Adopting preferential measures responding to the demands and requests from local authorities and improving the system are of great significance in order to revitalize the Japanese economy.

Among those requests and reform items from local authorities, etc., the following items are thought to have great potential for creating new demand and

employment. Thus, the Council urges prompt action to include them as reform items in the Special Zones.

The requests are to:

- Permit private companies to enter school management
- Fully liberalize the establishment of universities, departments, and curriculums (transfer from an approval system to a notification system)
- Apply discretionary labor systems to faculties of national universities
- Adopt a more flexible educational system in terms of curriculums, subjects, and government course guidelines including consistent education throughout elementary, junior, and high schools [to ensure that the operation of “structural reform on R&D school systems” (tentative name) will not be too restrictive]
- Permit the hiring of foreign personnel as departmental divisional managers at national universities
- Introduce an education voucher system to ensure equality of burden on students of state and independent schools
- Permit private companies to enter medical institution management
- Enlarge the range of employment agency services to permit them to provide employment services in the medical area (doctors, nurses, etc.)
- Permit so-called “mixed practices”
- Permit foreign doctors without Japanese medical qualifications to conduct medical services to foreign residents in Japan (even if it is not mainly for “clinical training”)
- Privatize the Public Employment Security Office (the so-called “Hello Work”)
- Entitle local municipalities to conduct discretionary exemptions of the minimum wage law for elderly or handicapped citizens
- Consolidate kindergartens and child-care centers (consolidation of qualification exams and the establishment of standards; abolition of the obligation to install kitchen facilities only for child-care centers)
- Relax requirements for the temporary employment of local government employees
- Shorten or abolish the restricted period (10 years) applied to the transfer of usage of publicly owned reclaimed areas
- Review the scope of ships and vessels requiring pilots
- Permit private companies to acquire agricultural land
- Permit foreign lawyers to provide services for foreign residents in Japan.

In addition, the views of the competent authorities on the above items appear in the Appendix of this volume.

[Specific Measures]

In response to awareness of the issues described above, greater effort must be made to promote further measures along with the guidelines stated below.

1 Appropriate enforcement of “the Law concerning Special Zones ”

The Commission will conduct a rigorous and close look on the following points in cooperation with the competent authorities in order to guarantee smooth operation of the Law from April 1 and onwards.

(1) Surveillance of the formulation of ordinances, notification, etc.

It is important to make sure that there will be no more requirements in the application process for measures other than the ones described in appendix 1 of the Program that describes the “conditions for the preference measures.” It is also necessary to make sure that governmental and ministerial ordinances and notification must be issued and implemented by the date of the actual enforcement of the Law concerning Special Zones.

The fundamental concept is that the Special Zones System must be initiated by the Cabinet, and the design of original plans for preferential measures requires a series of deliberations between ministries concerned and the Cabinet Secretariat. Keeping that firmly in mind, the Council is to express its opinions, and observe closely, and at the same time, extend further cooperation to the Office for the Promotion of Special Zones.

(2) Observation of the process of formulation of “Basic Policies”

Article 3 of the Law concerning Special Zones defines the “Basic Policies for the Special Zones for Structural Reform” (hereinafter referred to as the “Basic Policies”). These will be enacted by the Cabinet as soon as the Law concerning Special Zones is enforced. Descriptions of the proposals submitted during the First Proposal Campaign and the views of ministries on these items have many discordant points. Many people have raised concerns over the possibility that the requests might not be enforced as planned.

With regard to the governmental and ministerial ordinances, notification, etc, stated above (1), the Law concerning Special Zones stated that the regulations covered by the preferential measures are limited to laws and governmental or ministerial ordinances. According to Article 3 of the provision of the Law concerning Special Zones, charges and notifications are to be treated “pursuant to the law”

Considering these facts, Basic Policies must clearly state whether or not the requests from local authorities or private organizations are to be met on all the reform items adopted this time while securing the consistency of these items. Also, the same scheme must be applied to charges and notification as other laws and governmental or ministerial ordinances.

In addition, the Law concerning Special Zones states that the agreement of the competent authorities is required when proposals from local authorities are approved by the prime minister. Reflecting the fundamental concept of the special zones, heads of each administrative authority must agree to the proposals as long as they meet the requirements. Unless a clear and serious problem is foreseeable, the proposals are to be accepted. Thus limited, not general discretion, binds the administrative authorities. This point must be clearly and precisely expressed.

The Council will continue to express its opinions on the points described above while rigorously observing and enhancing cooperation with the Office for the Promotion of Special Zones.

(3) Precise evaluation of preferential measures against regulations conducted in the special zones.

After a certain period of time, a precise evaluation must be conducted of preferential measures against regulations in the special zones. This will pave the way for large-scale national implementation of the measures. The Program states that the evaluation system must be established within a year from enforcement of the Law concerning Special Zones to examine the effects and influence of the measures against regulations. Accordingly, the formation of such evaluation systems and methods must be established promptly and urgently as part of the Basic Policies. By doing so, it is significant to have an evaluation system from third parties who are well equipped with data collecting and investigation facilities. The national scale projects will be accelerated based on these data and their evaluations. The functional framework is of great importance, in which the prime minister, as a chairman of the Headquarters for the Promotion of Special Zones for Structural Reform, can exercise their leadership in deliberations with the heads of the competent authorities. The Council intends to give

its maximum contribution towards the establishment of such a firm fundamental evaluation system.

2 Further promotion of regulation reform including the use of the special zones system

(1) Further consideration of reform items that are listed for “nation-wide implementation”, etc.

Initially, there were some concerns that a strategy to promote reform using special zones might delay overall nation-wide reform because too much attention would be paid to results in such zones. In reality, however, the proposals of special zones worked as a trigger and nation-wide reform was promoted to a great degree.

The Program states that reform items to be implemented on a nation-wide scale along with the promotion of special zones (only those zones with clear implementation dates and contents) totaled 111 items and they are listed in Appendix 2. These items will be deliberated at the second Report Regarding Promotion of Regulatory Reform.

For these reform items, efforts are made in this Council to enhance further discussion, and they are listed in the appendix at the end of the volume.

This Council will continue to watch closely the proceedings of the promotion and further discussion will be put forwards. We will consider the feasibility of those items that are not listed as reform items either in the special zones or on a national scale.

(2) Publicity of the items “feasible under the current systems”

The items listed as “feasible under the current laws (311 items)” are listed in the first report of the Reform Council. Many local authorities are not aware of these items mainly because of the lack of publicity. Therefore, the competent authorities must promptly issue notification. They will acknowledge that these items can be implemented without a complicated amendment of laws or regulations. Additionally, the Council will keep a close watch on this matter.

Based on the seventh clause of Article 4 of the Law concerning Special Zones, if there are any inquires from local authorities about interpretation of the laws concerning proposals, the competent authorities must respond to them in writing within 30 days, and this information must be written in the Basic Policies.

3 Addition of regulations that are to be adopted in the special zones system and the

second proposal campaign

Among the proposals from the first campaign that are not listed to be covered by either Special Zones or on a national scale this time (141 items), there are some thought to have great potential for creating new demand and employment opportunities as well as activating the economy. The competent authorities must continue discussion in cooperation with the Council to include them as reform items.

By so doing, detailed consideration must also be given to the results of “the second proposal campaign” asking for proposals and requests from private and municipal organizations, whose deadline is January 15, 2003.

For those reform items that are thought to have urgent need in special zones, the Basic Policies must be amended promptly to add them to the list and if the law needs to be amended, the amendment of the Law concerning Special Zones must be considered in the next ordinary session of the Diet.

Conducting sufficient publicity through local municipalities and private institutions, the third and fourth campaigns must be carried out periodically. The successive process from campaigns to revision of Basic Policies and the amendment of laws must be clearly stated in the Basic Policies.

In order to accelerate movement of the reform policies, the Office for the Promotion of Special Zones must enhance their function of providing proper consultancy and information facilities to local and private organizations.