

## QUESTIONS RELATING TO THE NOTIFICATIONS BY JAPAN (GPA/W/144, GPA/W/145 AND GPA/W/146)

### Communication from the United States

The following communication, dated 19 October 2001, has been received from the delegation of the United States with the request that it be circulated to the Committee on Government Procurement.

Following Japan's proposed modifications to its Appendix I (GPA/W/144, GPA/W/145, GPA/W/146) related to the Japan railway companies and the US objection thereto (GPA/W/151), as well as the helpful additional material that Japan provided on 20 September and 10 October 2001 (GPA/W/152 and Corr.1), the United States would appreciate Japan's responses to the questions set out below. Japan's responses will assist the United States in determining whether, pursuant to Article XXIV:6 of the Agreement on Government Procurement, the Japanese Government's "control or influence over [the three Honshu Companies] will be effectively eliminated" and whether "a balance of rights and obligations and a comparable level of mutually agreed coverage provided in this Agreement" will be maintained, after the Amendment to the Law concerning Passenger Railway Companies and Japan Freight Railway Company (Amendment Law) enters into effect:

1. The Supplemental Provisions to the Amendment Law, set out in GPA/W/152, describe the Guidelines that the Minister of Land, Infrastructure and Transport (MLIT) is required to issue regarding matters that the three Honshu Companies (JR East, JR West and JR Central) are to consider "for the time being in the conduct of their business". Please provide an English translation of the Guidelines as soon as they are prepared.
2. With regard to each of the three categories of items that the Guidelines will address, please indicate whether private railway companies are subject to the same guidance or direction that will be set out in the Guidelines. If so, please specify the type of guidance or regulation and the legal authority for it.
3. Does the Government's regulation of the rates and fares of the three Honshu Companies differ from its regulation of the rates and fares of private railway companies? If so, please describe the differences, including the differences in legal authority.
4. Will the rates and fares of the three Honshu Companies be set at the same rates and fares as the other four JR companies?
5. What is the role of the Transport Council with regard to the issuance by MLIT of a recommendation or order, under Article 4 of the Amendment Law?

6. Are there any representative directors or statutory auditors of the three Honshu Companies who are NOT former employees of either a JR company or the central Government? Please provide a list of the current representative directors and statutory auditors of the three Honshu Companies and their prior employment affiliations.
  7. Does the Japanese Government have any plans to privatize the Japan Railway Construction Public Corporation, which owns shares of the three Honshu Companies?
  8. Other than the Japan Railway Construction Public Corporation, are there any other governmental entities, including public corporations, that own shares of the three Honshu Companies?
  9. Japan indicated in GPA/W/152 that the Public Corporation plans to sell its shares in three Honshu Companies "on a step-by-step basis", taking into account market conditions. If possible, please elaborate upon those plans.
  10. Will the JR companies, including the three Honshu Companies, conduct any common procurement?
  11. Will the JR companies, including the three Honshu Companies, be subject to common specifications in their procurement?
  12. What is the central Government's authority over procurement by the JR companies?
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