

RESPONSES FROM JAPAN TO QUESTIONS FROM THE UNITED STATES RELATING TO JAPAN RAILWAY COMPANIES

Communication from Japan

Please find below Japan's responses to questions from the United States (GPA/W/204) regarding Japan's notification (GPA/W144-146) relating to the East Japan Railway Company, the Central Japan Railway Company and the West Japan Railway Company.

1. *In its response to an earlier US question (GPA/W/180), Japan noted that private railway companies are not subject to the Guidelines Regarding Matters that New Companies Should Consider for the Time Being in the Conduct of their Business (Guidelines), but rather to similar requirements in other laws. If private companies are subject to provisions similar to the Guidelines, please explain why the separate Guidelines are necessary for the Japan Railway Companies.*

Part I (Purposes) of the Guidelines provides a detailed explanation about the background and reasons for the enactment of the Guidelines (cf. GPA/W/179). The main points are as follows (cf. detailed explanations of the Guidelines given in previous papers (GPA/W/152 and GPA/W/180)):

- The three Honshu Companies (JR East, JR Central and JR West) were established through the Reform of the Japanese National Railways (JNR) in 1987 and they have since then constituted the nationwide railway network, together with the other three JR Passenger Companies and JR Freight Company.
- As a result, the interconnectivity of their railway networks and the close linkage with respect to their facilities and business operations has been maintained.
- Therefore, for the purpose of securing the convenience of the customers and maintaining appropriate conditions for their use, and securing the foundation for the sound development of the economy and communities of the regions in which the three Honshu Companies conduct their business, it is still necessary, for the time being, for the Honshu Companies to conduct their business operations, taking into account the process of the JNR Reform.

The Guidelines are not necessary for other private railway companies because:

- (1) they have no relationship to the JNR Reform; and
- (2) they operate their own railway network developed independently of others and have no close linkage with other companies as the JR Companies have with respect to railway facilities and business operations.

2. *Since the completion of the Government of Japan's sale of its shares in JR East, is JR East still subject to the Guidelines? If so, please explain why it is not treated like other private railway companies that are not subject to the Guidelines. Does Japan have any plans to remove JR East from the authority of the Guidelines?*

In June 2002, the Japan Railway Construction Public Corporation (JRCPC) completed the sale of its shares in JR East. The Guidelines were established for the reasons stated in the response to question 1 above, but not due to JRCPC's shareholdings in the three Honshu Companies. Therefore, the Guidelines remain applicable, for the time being, to JR East after the completion of the sale.

3. *How does the Government's authority and oversight over JR East differ from its authority and oversight over JR West and JR Central, in which it continues to hold shares?*

As stated above, the Guidelines were not established with regard to JRCPC's shareholdings. Accordingly, after JRCPC's sale of shares of JR East, JR East is not treated differently from JR West and JR Central for the purpose of the application of the provisions in the Guidelines.

4. *If JR East were removed from Appendix I, would it continue to coordinate common procurement for other Japan Railway Companies? If so, would such procurement be conducted in accordance with the Agreement on Government Procurement?*

As already stated in Japan's previous communication (GPA/W/180), JR East has coordinated common procurement only for rails of other Japan Railways Companies. Since the notification regarding the deletion of JR East from Japan's Appendix I (GPA/W/144) has not yet become effective, it has not been decided whether JR East will continue to conduct common procurement of rails after it is removed from Japan's Appendix I.

(In this context, Japan wishes to note that the Government of Japan has never requested or advised JR East to coordinate common procurement of rails. Under the Amendment Law (cf. GPA/W/152) the Government of Japan has no right to control or influence the procurement conducted by the three Honshu Companies. Since the JR Passenger Companies conduct the joint procurement of rails on a purely voluntary basis in order to reduce the costs (cf. GPA/W/180, p.7), Japan sees no relevance of this issue to government control or influence over the entity under Article XXIV:6(b). With a view to expediting the consultations, Japan requests the US to state specific concerns as well as the reasons why this issue is relevant under this Article if it wishes further clarification.)
