

RESPONSES FROM JAPAN TO QUESTIONS FROM CANADA

Communication from Japan

Please find below Japan's responses to the question from Canada (GPA/W/212) regarding Japan's notification (GPA/W/144-146) relating to the East Japan Railway Company, the Central Japan Railway Company, and the West Japan Railway Company.

Question

Japan has indicated in footnote 2 on page 7 of GPA/W/152 that the Japan Railway Public Construction Corporation which is wholly-owned by the Government of Japan and which owns 39.6 per cent of the shares in the Central Japan Railway Company and 31.7 per cent of the shares in the West Japan Railway has "no intention of exercising effective control through stock ownership". Does Japan have any plans to put legal measures in place to ensure that Japan Public Construction Corporation and the Boards of Directors of the Central Japan Railway Company and the West Japan Railway Company do not exercise their rights?

Answer

1. Regarding Japan Railway Construction Public Corporation

Under the existing Japanese laws, the Japan Railway Construction Public Corporation (JRCPC) is not granted the right to exercise control or influence over the Central Japan Railway Company (JR Central) and the West Japan Railway Company (JR West) through its stock ownership of these companies. Therefore, it is not necessary to take further legal measures. The relevant stipulations are as follows:

- (1) The purpose of JRCPC's stock ownership is not to exercise control or influence over the JR Companies (including JR Central and JR West), but to dispose the shares in order to gain a source for payments for annuity liabilities for the former employees of the Japan National Railways, as provided in Article 13:1(1) and (2) of the Law Concerning the Disposal of Debts and Other Matters of the Japanese National Railways Settlement Corporation (hereinafter the "Disposal of Debts Law") (cf. Attachment).
- (2) The scope of JRCPC's activities is limited to matters explicitly referred to in Article 19 of the JRCPC Law and in Article 13 of the Disposal of Debts Law (cf. Attachment). To exercise control or influence over JR Central and JR West through its stock ownership does not fall into the scope of JRCPC's activities because it is not stipulated in the provisions of both laws mentioned above.
- (3) Consequently, JRCPC has, in fact, never made use of its shareholder's position to influence the decisions of JR Companies (including JR West and JR Central).

(Note: With regard to the shares of JR West, JRCPC has already selected two security companies as lead managers in April 2002. JRCPC is now observing stock market conditions in order to sell all its shares in JR West as soon as possible. With regard to the shares of JR Central, JRCPC is also planning to sell all its shares as soon as possible, taking into account the conditions of the stock market.)

2. Regarding the Boards of Directors

The Government of Japan has no authority to exercise control or influence over JR Central or JR West through the respective boards of directors. Therefore, it is not necessary to take further legal measures in this regard. The reasons are as follows:

- (1) The Government no longer has a right to approve the appointment or dismissal of representative directors and statutory auditors of JR Central and JR West after the Amendment to the Law Concerning Passenger Railway Companies and Japan Freight Railway Company became effective on 1 December 2001 (cf. GPA/W/152, p.8). With this amendment, the government has completely lost the authority to exercise control or influence over the board of directors of JR Central and JR West.
- (2) The Government is not able to control or influence the boards of directors through former government officials acting as directors in both companies. Regarding JR West, there is no former government official among the directors of JR West. Regarding JR Central, only one executive director is a former government official. Considering the fact that the board of directors of JR Central consists of 30 directors (as of June 2002), the ratio of former government officials is extremely low. Given the fact that there are six executive directors on the board and their rank is under chairman, president, two vice-presidents, and five senior executive directors, the said former government official acting as an executive director is not in a position to exert a decisive influence on decisions of the board.

ATTACHMENT*

(Tentative Translation)

JAPAN RAILWAY CONSTRUCTION PUBLIC CORPORATION LAW (EXCERPT)

(Law No. 3 of 29 February 1964)

Article 19

1. For the purpose stipulated in Article 1, the Corporation¹ shall conduct the following activities:

- (1) construct railway infrastructure regarding the Shinkansen lines in accordance with the Nationwide Shinkansen Railway Development Law (Law No.71 of 1970);
- (1bis) conduct surveys relating to the construction of railway infrastructure of the Shinkansen lines in accordance with the provisions of the Nationwide Shinkansen Railway Development Law;
- (2) lease or transfer the railway infrastructure to entities which operate Shinkansen lines constructed in accordance with subparagraph (1);
- (3) undertake disaster restoration works relating to the railway infrastructure that the Corporation has leased in accordance with subparagraph (2) or (5);
- (4) construct railway or track infrastructure relating to railway or track lines (except for Shinkansen lines) compatible with the standards specified in the relevant ordinances of the Ministry of Land, Infrastructure and Transport, and to undertake large-scale improvement works specified in the relevant cabinet orders;
- (5) lease or transfer the railway or track infrastructure that the Corporation has constructed or on which it has undertaken large-scale improvement works in accordance with the preceding subparagraph, to entities which the aforementioned railway or track infrastructure;
- (6) conduct activities incidental to the activities stipulated in subparagraph (1) through (5) above.

2. Unless it prevents the Corporation from carrying out the activities provided in paragraph 1, the Corporation may, with the approval of the Minister of Land, Infrastructure and Transport, conduct the following activities:

- (1) construct and manage offices, warehouses, stores or other infrastructure specified in the relevant cabinet order, where construction together with elevated railway infrastructure is appropriate, on the land which the Corporation has purchased for the construction of the railway infrastructure under subparagraph (1) or (4) of the preceding paragraph;
- (2) undertake, on commission, railway works as well as surveys, measurements, designs, inspections and research relating to railway works.

* In English only.

¹ The Japan Railway Construction Public Corporation.

3. The Corporation shall be subject to the standards specified in the relevant cabinet orders if it conducts the activities stipulated in subparagraph (1) of the preceding paragraph.

**LAW CONCERNING THE DISPOSAL OF DEBTS AND OTHER MATTERS OF THE
JAPANESE NATIONAL RAILWAYS SETTLEMENT CORPORATION (EXCERPT)**

(Law No. 136 of 19 October 1998)

Article 13

1. In addition to the activities stipulated in paragraphs 1 and 2 of Article 19 of the Japan Railway Construction Public Corporation Law (Law No.3 of 1964, hereinafter referred to as the "Corporation Law"), the Corporation² shall conduct, for the time being, the following activities:

- (1) pay the expenses or other liabilities that the Corporation shall bear in accordance with Article 7 through 11³;
- (2) dispose the lands or other assets that the Corporation is to assume in accordance with paragraph 1 of Article 2 of the Supplementary Provisions in order to earn necessary sources to conduct the activities stipulated in the preceding subparagraph or other activities;
- (3) develop housing sites from the lands which the Corporation is to succeed in accordance with paragraph 1 of Article 2 of the Supplementary Provisions, to develop facilities relating to those sites, and to manage and transfer those sites and facilities, with a view to effectively conduct the activity stipulated in the preceding subparagraph;
- (4) conduct activities other than those stipulated in the preceding three subparagraphs which are necessary to exercise the rights and discharge the obligations that the Corporation is to assume in accordance with paragraph 1 of Article 2 of the Supplementary Provisions;
- (5) conduct activities incidental to those activities stipulated in each preceding subparagraph.

2. In addition to the activities stipulated in paragraphs 1 and 2 of Article 19 of the Corporation Law as well as in the preceding paragraph, the Corporation may lend funds in accordance with the relevant cabinet orders when it is especially necessary to effectively promote the activities stipulated in subparagraph (2) of the preceding paragraph, as long as the Corporation conducts the activities stipulated in the preceding paragraph.

3. In addition to the activities stipulated in paragraphs 1 and 2 of Article 19 and in the preceding two paragraphs, the Corporation may, on commission, develop housing sites and related facilities, and manage and transfer those sites and facilities (under condition that those activities are conducted in conjunction with the activities stipulated in subparagraph (3) of the preceding paragraph), as long as the Corporation conducts the activities stipulated in the preceding paragraph.

4. The Corporation shall obtain approval from the Minister of Land, Infrastructure and Transport when it intends to conduct the activities stipulated in the preceding two paragraphs.

² The Japan Railway Construction Public Corporation.

³ Articles 7 through 11 are provisions regarding the responsibilities for the costs necessary for payment of various annuities for former employees of the Japan National Railways.

Supplementary Provisions

Article 2

1. The Japanese National Railways Settlement Corporation shall be dissolved on the day when this law takes effect. Upon dissolution of the aforementioned Corporation, the Corporation⁴ shall assume all rights and obligations of the aforementioned Corporation, except for those liabilities that the government shall assume in accordance with paragraph 1 of Article 2 of this Law.

⁴ The Japan Railway Construction Public Corporation.