

YT/UN/591

The Permanent Mission of Japan to the International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the Note Verbal ref: AL JPN 4/2019, dated 10 September 2019, has the honour to transmit herewith the reply from the Government of Japan to the Joint Communication sent by Ms. Elżbieta KARSKA, Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises and by Mr. Michel FORST, Special Rapporteur on the situation of human rights defenders.

The Permanent Mission of Japan to the International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 9 December 2019

Enclosure mentioned



Reply of the Government of Japan to the Joint Communication from the Special Procedures (AL JPN4/2019)

In reference to the joint communication dated 10 September 2019, sent to the Permanent Mission of Japan to the International Organizations in Geneva, the Government of Japan provides the following response.

1. The Government of Japan attaches importance to compliance with laws and regulations including human rights and labor law. Regarding the allegations referred to in the joint communication from the Special Procedures, the Government of Japan recognizes that Furukawa Plantation claimed that the said allegations included some elements which were not based on facts. (Note: The Government of Japan cannot determine the credibility of Furukawa Plantation's claim mentioned above.)
2. Although it is not directly relevant to this case, the Government of Japan wishes to take this opportunity to explain that it possesses legal instruments with respect to remedy for damages occurring outside the territory of Japan as follows.
 2. 1 Regarding civil proceedings, the following items are stipulated in the Code of Civil Procedure (Act No.109 of 1996):
 2. 1. 1 An action for a tort may be filed with the Japanese courts, if the place where the tort occurred is within Japan (excluding if the consequences of a wrongful act committed in a foreign country have arisen within Japan but it would not ordinarily have been possible to foresee those consequences arising within Japan). (Article 3-3-viii)
 2. 1. 2 An action may be filed with the Japanese courts if the action is brought against a corporation or any other association or foundation whose principal office or business office is located in Japan, and against a corporation, association, or foundation without a business office or other office, or with a business office or other office of unknown location, whose representative or other person principally in charge of its business is domiciled in Japan. (Article 3-2- (3))
 2. 2 Regarding the criminal liability of companies involved in violations against human rights, there is a general rule that criminal penalties are imposed on individuals who have committed a crime. That being said, if a natural person commits a crime outside the territory of Japan that is subject to a dual criminal liability provision (a provision which enables competent authorities to punish a corporation or an individual with a fine, when an agent, employee or any other worker of the corporation or the individual commits a crime, in connection with the business of the corporation or the individual, in addition to the natural person who

commits the crime) in connection with the business of the said corporation, and Japanese criminal law is applied, both the natural person and the corporation may be held criminally responsible, which means that the Japanese domestic courts may be able to determine the liability of the corporation in such cases.

3. In addition to the legal instruments noted above, the following section shows measures which the Government of Japan takes, or is considering taking, to encourage Japanese companies outside Japan to raise their awareness of consideration for the environment and society.

3. 1 Japan is a member-state of the OECD Guidelines for Multinational Enterprises, which encourages multinational enterprises to voluntarily engage in expected responsible business conduct. The OECD Guidelines indicate that enterprises should respect human rights in their operations and carry out risk-based due diligence. The Government of Japan has been working on promotion of the OECD Guidelines.
3. 2 Japan is making efforts to promote the incorporation of provisions relating to social issues in its economic partnership agreements. Some of the economic partnership agreements (EPAs) signed or concluded by the Government of Japan have provisions which incorporate social issues such as the environment, labor, and safety. For example, the Trans-Pacific Partnership Agreement (TPP Agreement) has an independent chapter on “Environment” and “Labor” and the Japan-EU EPA has an independent chapter on “Trade and Sustainable Development”, which includes provisions relating to the environment and labor.
3. 3 Almost all the Japanese embassies and consulates around the world including in Ecuador have “Support Offices for Japanese Businesses” and, in cooperation with the relevant ministries, agencies and organizations, actively respond to inquiries and requests for support from Japanese companies operating overseas, where laws, legal systems and business practices differ from those in Japan. Some of the embassies and consulates also provide information regarding local laws and legal systems. The Embassy of Japan in Ecuador provides Japanese companies engaged in corporate activities in Ecuador with information on local circumstances and systems in response to their requests.
3. 4 Finally, as mentioned in the last communication, the Government of Japan supports the United Nations Guiding Principles on Business and Human Rights endorsed at the United Nations Human Rights Council by consensus and is taking steps to implement the Guiding Principles through formulating a national action plan on business and human rights scheduled to be published in June 2020. The Government of Japan supports companies in taking initiatives to respect human rights through the development of the national action plan and thereby promotes responsible business conduct.

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