

MISSION PERMANENTE DU JAPON

AUPRÈS DES ORGANISATIONS INTERNATIONALES
GENÈVE-SUISSE

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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, has the honour to transmit herewith the Response of the Government of Japan to Joint Communication Ref.: OL JPN 5/2021 from Special Procedures by the Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises, the Special Rapporteur on the right to development, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Independent Expert on the promotion of a democratic and equitable international order, the Independent Expert on human rights and international solidarity, and the Special Rapporteur on extreme poverty and human rights.

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

Geneva, 13 December 2021

Enclosure mentioned



**Response of the Government of Japan to Joint Communication from Special
Procedures
by
the Chair-Rapporteur of the Working Group on the issue of human rights and
transnational corporations and other business enterprises,
the Special Rapporteur on the right to development,
the Special Rapporteur on the right of everyone to the enjoyment of the highest
attainable standard of physical and mental health,
the Independent Expert on the promotion of a democratic and equitable
international order,
the Independent Expert on the promotion of a democratic and equitable
international order,
the Independent Expert on human rights and international solidarity,
the Special Rapporteur on extreme poverty and human rights**

1. **Please kindly inform us about the views of your Excellency's Government on the proposed temporary waiver of certain COVID-19 TRIPS protections to ensure that intellectual property rights on the vaccines do not become a barrier to the effective enjoyment of the fundamental human rights. In this regard we would like to draw your attention to Principle 10 of the Guiding Principles on Business and Human Rights, which provides that: "States, when acting as members of multilateral institutions that deal with business-related issues, should: (a) Seek to ensure that those institutions neither restrain the ability of their member States to meet their duty to protect nor hinder business enterprises from respecting human rights".**

The TRIPS Council has been discussing the revised proposal for a waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19.

Japan's position is that it will constructively discuss various issues and measures with members to ensure equitable access to safe, effective and quality-assured vaccines in all countries and regions for the early convergence of COVID-19.

In the TRIPS Council, members share the same goal regarding access to vaccines. Japan will continue to constructively engage in discussions with the other members to achieve this common goal.

2. **We would also welcome information about the relevant national policies, laws, and practices, including the use of compulsory licence orders under the TRIPS**

Agreement by your Excellency's Government to produce and distribute vaccines in the public interest, to scale up production of vaccines and treatments against COVID-19 and to open up more opportunities for dissemination to a larger number of the population.

Japan is making efforts to supply the domestically-produced vaccine to as many people as possible by providing subsidies from the FY2020 second supplementary budget for the improvement of the production system as part of its support for the development and production of COVID-19 vaccines.

- 3. We would be interested in knowing about the ways in which your Excellency's Government supports efforts for international economic and scientific cooperation and international solidarity to avoid vaccine hoarding and to ensure global vaccine procurement and distribution, to provide financial and technical assistance to governments of low- and middle-income countries to address the human rights consequences of the current crisis (i.e. by strengthening the capacity of the health systems of such countries to produce vaccines themselves and to distribute them in an equitable manner).**

In order to overcome the COVID-19 crisis, Japan has been promoting international cooperation to achieve universal health coverage (UHC) based on the principle of human security and the principle of "leaving no one's health behind."

It was based on this principle that Japan participated in the COVAX Facility as one of the first donors to disburse seed funds to the COVAX Advance Market Commitment (AMC) in order to secure vaccines for low-income economies. Since then, in cooperation with international frameworks such as COVAX, Japan has accelerated COVID-19 vaccine-related support to ensure equitable access to safe, effective, and quality-assured vaccines in all countries and regions.

For example, Japan co-hosted the COVAX AMC Summit in June with Gavi, the Vaccine Alliance, and announced an additional contribution of USD 800 million to the COVAX AMC, which brought the total contribution by Japan to USD 1 billion. As a co-host, Japan encouraged participating countries to further contribute to the AMC, and as a result, the Summit was able to mobilize well beyond the targeted amount of USD 8.3 billion, which would be necessary to secure vaccines to cover 30% of the population in developing economies.

Regarding dose-sharing, to date Japan has delivered approximately 30 million doses of vaccines to countries and regions in need, including through the COVAX Facility, and will further provide up to around 60 million doses in total.

4. **Finally, we would like to enquire about laws and policies of your Excellency's Government on full transparency in its contracts with pharmaceutical companies purchasing vaccines, including all elements of vaccine development, procurement, and provision to ensure that your Excellency's Government complies with international law and that its related responsibilities can be effectively monitored and enforced, especially regarding the pricing policies and the human rights impact of indemnification clauses, as well as the partial or full built-in immunity clauses for the case of adverse side effects of the vaccines.**

Details of contracts between the Government and vaccine manufacturers and sellers, etc. are disclosed to the extent possible.

With regard to COVID-19 vaccines, Article 8 of the Supplementary Provisions of the Immunization Act stipulates that the Government may enter into a contract (i.e., an indemnity agreement) with the vaccine manufacturers and sellers, etc. of a supply contract of the COVID-19 vaccine to compensate for losses arising from the need to compensate for damages to health caused by immunization using the vaccine under the relevant supply contract. Please note that the indemnity agreement is a contract to compensate for losses incurred by the vaccine manufacturers and sellers, etc. and does not exempt them from liability.