

MISSION PERMANENTE DU JAPON
AUPRÈS DES ORGANISATIONS INTERNATIONALES
GENÈVE-SUISSE

AB/UN/349

The Permanent Mission of Japan to the International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights in Geneva and has the honour to transmit herewith the response of the Government of Japan to the Joint Communication from the Special Procedures, with reference AL JPN 1/2022, dated 5th of July 2022.

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 in Geneva the assurances of its highest consideration.

Geneva, 2 September 2022

Enclosure mentioned



RESPONSE OF THE GOVERNMENT OF JAPAN TO THE JOINT
COMMUNICATION FROM THE SPECIAL PROCEDURES 5 July 2022
REFERENCE AL JPN 1/2022

2 September, 2022

We note that the several special procedures of the Human Rights Council, including the Working Group on the issue of human rights and transnational corporations and other business enterprises, have expressed interest in the efforts of the Government of Japan in relation to the alleged prevalence of trafficking in persons for the purpose of forced labor in tobacco cultivation in Malawi. In this response, we will outline the Japanese government's efforts and position on business and human rights in our response to Question 1, and then respond to specific questions under Question 2 onwards.

(1) Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

- 1 In October 2020, the Government of Japan formulated the National Action Plan on Business and Human Rights (hereinafter referred to as the "NAP"). The NAP was developed with the aim of ensuring the steady implementation of the United Nations Guiding Principles on Business and Human Rights (hereinafter referred to as the "UNGPs"). Based on the UNGPs, the NAP presents various measures that the Government has undertaken, with a focus on the three pillars as follows: (1) the State duty to protect against human rights abuses by third parties, including business enterprises, (2) the corporate responsibility to respect human rights, and (3) access to remedy.
- 2 With regard to the scope of the State duty to protect human rights, Guiding Principle 1 of the UNGPs states that "[s]tates must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication." In addition, Guiding Principle 2 of the UNGPs refers to the concept that "[s]tates should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations." In light of these Principles, Japan expects enterprises to respect internationally recognized

human rights and the principles concerning fundamental rights as set out in the ILO Declaration on Fundamental Principles and Rights at Work, to introduce the process of human rights due diligence based on the UNGPs and other related international standards, and to engage in dialogue with stakeholders, including those that are part of supply chains. Based on this position, we respond to the questions as follows concerning the measures undertaken by Japan.

(2) In regard to the above allegations, please indicate the actions taken, or being planned, by your Excellency's Government to implement the relevant provisions in the 2022-2025 National Action Plan on Business and Human Rights (NAP), specifically the "Measures Related to Domestic and Global Supply Chains and Promotion of Human Rights Due Diligence Based on the UNGPs". In particular, please provide detailed information on the steps taken, or being considered, to "publicize the NAP and raise awareness of human rights due diligence to Japanese business enterprises operating overseas via Japanese embassies, consulates, and overseas offices of government-related entities". In addition, please indicate the actions taken or planned by your Excellency's Government to strengthen the provisions in its NAP through explicit references to extraterritorial jurisdiction.

- 3 Since the formulation of the NAP, the Government of Japan has continued to publicize the NAP and raise awareness of human rights due diligence among enterprises, including in regard to supply chains, through various seminars, websites, and industry groups and other relevant bodies.
- 4 In addition, the Study Group on Guidelines for Respecting Human Rights in Supply Chains has been established, with the participation of various stakeholders, in order to encourage Japanese business enterprises to make efforts to respect human rights. The Study Group has started to develop cross-industry guidelines for human rights due diligence.
- 5 Japanese diplomatic missions abroad, in line with the NAP, have been publicizing the NAP and raising awareness of human rights due diligence among Japanese companies operating overseas, in cooperation with the relevant local agencies and related organizations. For example, contact points for Japanese business enterprises (Japanese business support officers) have been established to enhance support for Japanese business enterprises' overseas expansion. The diplomatic missions also

explain the outline of the NAP and the importance of efforts related to business and human rights, including human rights due diligence, at various seminars and meetings, while paying sufficient attention to the issue of protection of human rights of workers in supply chains, including the socially vulnerable such as women and children.

- 6 In particular, the Embassy of Japan in Malawi often raises the human rights situation of the workers at JTI Leaf Malawi and its tobacco farmers, especially with regard to child labor, during discussions with JTI Leaf Malawi. JTI Leaf Malawi has explained to the Embassy that the company has been working to eliminate child labor in cooperation with the ILO. In addition, it is our understanding that the company is involved in forest conservation activities in cooperation with women's groups and provides meals to underprivileged children in the region and that the company is actively engaged in corporate social responsibility activities targeting women's groups and children. If the Embassy of Japan in Malawi becomes aware of any specific information pertaining to the company causing or contributing to child labor or other human rights issues, it will immediately make a request for improvement to the company.
- 7 In addition, through contributions to international organizations, the Government of Japan has supported the introduction of human rights due diligence by Japanese enterprises operating overseas, thereby promoting responsible business conduct.

(3) Please indicate the steps that your Excellency's Government has taken, or is considering taking, to ensure effective access to domestic judicial mechanisms for victims of business-related human rights abuses, including for overseas victims of serious human abuses such as those alleged in the present letter.

- 8 Japan has been taking the following measures aimed at improving access to domestic judicial mechanisms for victims of business-related human rights violations, in line with the UNGPs:
- 9 The Japan Legal Support Center (hereinafter the "JLSC") provides information on the Japanese legal system and consultation services as part of its information provision program. The JLSC also provides free legal consultations and lends money to people with limited financial resources to cover costs such as attorneys' fees, as part of its civil legal aid program.

- 10 In accordance with the Act on Promoting the Resolution of Individual Labor-Related Disputes, the comprehensive labor consultation sections set up in Prefectural Labor Bureaus and others provide one-stop consultation services on labor problems between workers and employers at workplaces in Japan. The sections also provide information and make referrals to other organizations as necessary. In cases where there is a suspicion of a violation of labor standards-related laws and regulations, appropriate measures are taken, including through referrals to departments in charge of the relevant laws and regulations.
- 11 In addition to setting up various consultation services, the police are taking appropriate measures to pursue criminal charges against acts deemed to be in violation of Japan's criminal laws and regulations.
- 12 With the enactment of the Act Partially Amending the Code of Civil Procedure in May 2022, digitalization will be promoted in civil court procedures in the future, with a view to improving accessibility and convenience for victims, including through the online submission of complaints and the clarification of issues via teleconferencing, which do not require the parties concerned to appear before the court in person.

(4) Please indicate the steps that your Excellency's Government has taken, or is considering taking, to ensure that business enterprises domiciled in its territory and/or jurisdiction establish effective operational-level grievance mechanisms, or cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to.

- 13 The following efforts have been made by the Government of Japan to ensure that enterprises in Japan establish grievance mechanisms:
- 14 An incorporated administrative agency under the jurisdiction of the Ministry of Foreign Affairs serves as the joint secretariat and, through a pilot project, provides support to establish a one-stop, cross-business mechanism to assist in providing counseling and remedies for foreign workers in Japan. This initiative provides an option for enterprises to establish an effective grievance mechanism outside the enterprises.
- 15 The following efforts have been made by the Government of Japan to ensure

cooperation from enterprises in Japan on the legitimate remedial processes:

- 16 The Act on Promotion of Use of Alternative Dispute Resolution defines a system in which the Minister of Justice grants certification for private dispute resolution services (conciliation and intercession services performed by private businesses on a civil dispute) if the Minister recognizes the services as satisfying the certification standards and requirements set forth in the Act. On this basis, certified dispute resolution business operators (private businesses certified by the Minister of Justice) utilize their professional knowledge and experience in resolving disputes in order to appropriately respond to diverse needs. In addition, the Ministry of Justice has been taking various measures to ensure that conciliation and other services conducted by certified dispute resolution business operators are widely used by the public, including by enterprises.
- 17 The Ministry of Justice informs the public of the need to establish grievance mechanisms on training materials for enterprises published on its website.
- 18 The Japanese NCP was established in 2000 in accordance with the Decision of the Council on the OECD Guidelines for Multinational Enterprises (2000). The Japanese NCP is composed of the Ministry of Foreign Affairs (MOFA), the Ministry of Health, Labour and Welfare (MHLW) and the Ministry of Economy, Trade and Industry (METI). NCPs are responsible for undertaking activities to promote the Guidelines, responding to enquiries about the Guidelines and contributing to the resolution of issues that arise relating to the implementation of the Guidelines in specific instances, including human rights related issues.

<p>(5) Please provide information on the measures taken by your Excellency's Government to prevent diseases due to chemicals reportedly used by business enterprises domiciled in its territory and/or jurisdiction and ensure the right to health, including reproductive health, of all the reported workers, including women and children.</p>

- 19 The Government of Japan has been implementing the following measures to ensure workers' rights to health, including reproductive health, in relation to chemicals used by enterprises in Japan:
- 20 The Act on the Regulation of Manufacture and Evaluation of Chemical Substances

regulates the prevention of environmental pollution caused by chemical substances that pose a risk of harming human health or interfering with the inhabitation and/or growth of flora and fauna. Specifically, the following measures are being taken:

- Pre-market evaluation for the chemicals newly manufactured or imported;
- Continual management of chemicals after entering the market;
- Regulations and measures according to the properties of chemicals (e.g., biodegradation, bioaccumulation, toxicity, and condition of the residual chemicals in environment).