

MISSION PERMANENTE DU JAPON
AUPRÈS DES ORGANISATIONS INTERNATIONALES
GENÈVE-SUISSE

AB/UN/361

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 3/2022, dated 4th of August 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, 13 September 2022



Enclosure mentioned

RESPONSE OF THE GOVERNMENT OF JAPAN TO THE JOINT
COMMUNICATION FROM THE SPECIAL PROCEDURES 4 August 2022
REFERENCE AL JPN 3/2022

13 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 prolonged negative human rights impacts on those affected by the collapse of an auxiliary dam in Attapeu province in Laos PDR. 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 concerning the measures undertaken by Japan as follows.

2. Please indicate what measures have been adopted to support durable solutions for the communities displaced by the dam collapse and to ensure their full participation in the planning and management of their return, resettlement or reintegration.

3. The Government of Japan is not aware of such measures.
4. The Government of Japan, as described in its NAP, 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.

3. With a view to promoting and enabling the provision of remedy for victims of the dam collapse, please describe how the Government is investigating, independently and/or in collaboration with the Government of Lao PDR, the role of Japanese business enterprises (in particular, Mitsubishi UFJ Financial Group), with regard to the absence of effective remedies.

5. The Government of Japan has not carried out such investigations.
6. The Government of Japan, as described in its NAP, 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.

4. Please highlight the steps that your Excellency's Government has taken or is considering to protect against human rights abuses by Japanese business enterprises, and ensure that business enterprises domiciled in its territory and/or jurisdiction are conducting effective human rights due diligence to identify, prevent, mitigate, and account for the human rights impacts of their activities and throughout their operations (including abroad), as set forth by the UN Guiding Principles on Business and Human Rights.

7. 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.
8. 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 formulate cross-industry guidelines for human rights due diligence.
9. In particular, 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.
10. Moreover, 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.

5. Please describe the guidance, if any, that the Government has provided to Japanese business enterprises on how to respect human rights throughout their operations in line with the UN Guiding Principles. This guidance may include measures, inter alia, conducting human rights due diligence, consulting meaningfully potentially affected stakeholders, and remediating any negative impacts.

11. The Government of Japan has not provided any guidelines on conducting human rights due diligence on business enterprises; however, it has been developing cross-industry guidelines for human rights due diligence in order to encourage Japanese business enterprises to respect human rights. Although the content of the guidelines is being formulated, the Government of Japan, in the formulation process, attaches importance to dialogue with a wide range of stakeholders, including through establishing a study group to discuss the guidelines.

6. Please provide information regarding the measures that your Excellency's Government is taking or considering to ensure that those affected by the overseas activities of private companies involved in the dam collapse have access to effective remedies, as per the UN Guiding Principles.

12. 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 promotional activities of 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, through so called non-judicial grievance mechanisms.

7. Please provide information as to whether there is an established insurance claims process with which affected people can receive compensation payments. If so, please elaborate on how your Excellency's Government has been facilitating access to remedy via this claims process and what steps have been taken by your Excellency's Government to ensure that affected people are aware of the existence of this coverage and of their right to make claims. If such an insurance claims process is not in place, kindly explain why such mechanism has not been resorted to.

13. The Government of Japan is not aware of such measures.
14. The Government of Japan, as described in its NAP, 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.