

MISSION PERMANENTE DU JAPON
AUPRÈS DES ORGANISATIONS INTERNATIONALES
GENÈVE-SUISSE

YS/UN/82

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, with reference to the latter's Note Verbale AL JPN 4/2022, dated 12 January 2023, has the honour to transmit herewith the response of the Government of Japan to the Joint Communication from the Special Procedures.

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, 10 March 2023

Enclosure mentioned



RESPONSE OF THE GOVERNMENT OF JAPAN TO THE JOINT
COMMUNICATION FROM THE SPECIAL PROCEDURES 12 January 2023
REFERENCE AL JPN 4/2022

10 March 2023

We note that 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 ongoing violations and abuses against indigenous people related to the development of the Coastal GasLink pipeline project in Canada, in which a Japanese company is participating. 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 its 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 following three pillars: (1) the State duty to protect against human rights abuses, (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." In addition, Guiding Principle 2 of the UNGPs sets forth 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," while at the same time stating in the commentary that "[a]t present States are not generally required under international human rights law to regulate the extraterritorial activities of businesses domiciled in their territory and/or

jurisdiction.”

3. In the NAP, Japan expects business 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. In addition to the aforementioned position, we would like to respond to the questions concerning the measures undertaken by Japan as follows.

2. Please indicate what steps your Excellency’s Government has taken or is considering to take, including policies, legislation, and regulations, to uphold its obligations to protect against human rights abuses by Mitsubishi Corporation, ensuring that business enterprises domiciled in its territory and/or jurisdiction conduct human rights due diligence to identify, prevent, mitigate, and account for how they address their impacts on human rights and the natural environment throughout their operations (including abroad), as set forth by the UN Guiding Principles on Business and Human Rights.

4. The Government of Japan, as described in its NAP, expects business 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.
5. 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 business enterprises, including in regard to supply chains, through various seminars, websites, and industry groups and other relevant bodies.
6. In September 2022, the Government of Japan released the Guidelines on Respecting Human Rights in Responsible Supply Chains (hereinafter referred to as “the Guidelines”) to support business efforts to respect human rights. Based on the UNGP and other international standards, the Guidelines have been established to help deepen business enterprises’ understanding and promote their efforts by

explaining the activities that business enterprises are requested to undertake to respect human rights, in a concrete and easy-to-understand manner, which is tailored to the actual situation of business enterprises engaging in business activities in Japan. The Guidelines require all business enterprises engaging in business activities in Japan to formulate their human rights policies, conduct human rights due diligence, and provide remedy. The Government of Japan is currently engaged in promoting the Guidelines in order to make many business enterprises aware of them and encourage their broad utilization.

7. 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 women and children and other socially vulnerable groups.
8. Moreover, through contributions to international organizations, the Government of Japan has supported the introduction of human rights due diligence by Japanese business enterprises operating overseas, thereby promoting responsible business conduct.

3. Please describe the guidance, if any, that your Excellency's Government has provided to Mitsubishi Corporation on how to respect human rights throughout its 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. In particular, please also indicate whether any guidance was provided with regards to the duty to obtain free and informed consent of Indigenous Peoples prior to the approval of the project on their traditional lands, as per the UN Declaration on the rights of Indigenous Peoples' rights.

9. As noted in Paragraph 6, in September 2022, the Government of Japan released the Guidelines. The Guidelines require all business enterprises engaging in business activities in Japan to formulate their human rights policies, conduct human rights due diligence, and provide remedy. In addition, the Guidelines clearly indicate that dialogues with stakeholders are important for all of these efforts.
10. The Guidelines refer to indigenous people as an example of stakeholders who may be in particularly vulnerable situations, and clarify that the United Nations Declaration on the Rights of Indigenous Peoples adopted in 2007 in the United Nations General Assembly notes that “[n]o relocation shall take place without the free, prior, and informed consent (FPIC) of the indigenous peoples concerned . . .”

4. Please kindly provide information on how your Excellency’s Government ensures that business enterprises under its jurisdiction do not impact negatively the work of human rights defenders, specifically in light of the recommendations provided to States in the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on the adverse impact of business activities on human rights defenders (A/HRC/47/39/Add.2) recalling for States and business the normative and practical implications of the Guiding Principles on Business and Human Rights in relation to protecting and respecting the vital work of human rights defenders.

11. The aforementioned Guidelines refer to the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on the adverse impact of business activities on human rights defenders (A/HRC/47/39/Add.2) and clearly state that business enterprises should pay attention not to expose human rights defenders to undue risks by initiating unfounded legal proceedings or reporting human rights defenders to authorities as a means of intimidating them.

5. 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 Mitsubishi Corporation have access to effective remedies, as per the UN Guiding Principles.

12. The Japanese National Contact Point (hereinafter referred to as “the 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, the Ministry of Health, Labour and Welfare and the Ministry of Economy, Trade and Industry. The NCP is responsible for undertaking promotional activities of the OECD Guidelines, responding to enquiries about the OECD 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.