

MISSION PERMANENTE DU JAPON
AUPRÈS DES ORGANISATIONS INTERNATIONALES
GENÈVE-SUISSE

YS/UN/400

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 3/2023, dated 26 October 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, 22 December 2023

Enclosure mentioned



RESPONSE OF THE GOVERNMENT OF JAPAN TO THE JOINT
COMMUNICATION FROM THE SPECIAL PROCEDURES 26 October 2023
REFERENCE AL JPN 3/2023

20 December 2023

We note that several mandate holders of 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 adverse impacts on the human rights of the members of the Native community of Santa Clara de Uchunya and on human rights defenders and workers caused by activities of a Ocho Sur P.SAC., whose products Japanese companies and other companies are alleged to have purchased. 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 address specific questions in our responses to Questions 2 through 5.

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.” 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 outlining the aforementioned position, we would like to respond below to the following questions concerning the measures undertaken by Japan.

2. Please provide information on the measures the Government of your Excellency has taken, or is considering taking, to ensure that business enterprises domiciled in your territory and/or jurisdiction respect human rights in all their activities, including with regard to their supply chain.

3. Please provide information on concrete progress made by the Government of your Excellency in requiring or encouraging business enterprises domiciled in your territory and/or jurisdiction to implement human rights due diligence processes, in accordance with the UN Guiding Principle on business and human rights, including with regard to their supply chain.

3. As Questions 2 and 3 are on related matters, the Government of Japan will provide a collective response to these questions. As indicated in paragraph 2, since the formulation of the NAP, the Government of Japan has continued to publicize the NAP and to raise awareness on human rights due diligence in regard to supply chains among business enterprises through various seminars, websites, and industry groups and other relevant bodies.
4. 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 aim to help deepen business enterprises’ understanding and promote their efforts by explaining the activities that all business enterprises are requested to undertake to respect human rights, in a concrete and easy-to-understand manner that is tailored to the actual situations of business enterprises engaging in business activities in Japan. The Guidelines require all business enterprises operating in Japan to strive to take efforts to respect human rights in their business enterprise, group companies, suppliers,

etc., regardless of whether they are located in Japan or outside of Japan (business enterprises in supply chains and other business partners, which are not limited to direct business partners) to the fullest extent possible in line with the Guidelines, which are based on international standards. All business enterprises engaging in business activities in Japan are required to formulate and publicize their human rights policies, conduct human rights due diligence, and provide remedy when business enterprises cause or contribute to adverse human rights impacts. Based on the Guidelines, the Ministry of Agriculture, Forestry and Fisheries in Japan has compiled the first draft of a “Guidebook for Respecting Human Rights in Food Enterprises” (hereinafter referred to as “the Guidebook”) and will finalize it based on the result of the public comment conducted in October 2023. Initiatives to respect human rights in the food industry, which involves many stakeholders in supply chains and engages in a wide range of activities from production, manufacturing, and distribution to retail, are not only important for risk management and ESG investment but also essential for the sustainable development of Japan’s food industry, as the labor force is shrinking due to the declining birthrate and aging population. Thus, the Guidebook has been prepared to facilitate practical application of the Guidelines so that the food industry (mainly food manufacturers) can actually tackle the issues. 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.

5. In particular, the Government of Japan organizes seminars on promoting business and human rights and responsible business conduct of Japanese business enterprises operating mainly in the Asia region and their business partners. The Ministry of Foreign Affairs (hereinafter referred to as “the MOFA”) and diplomatic missions overseas, in line with the NAP and in cooperation with relevant local agencies and related organizations, have also been introducing the NAP and the Guidelines and raising awareness on human rights due diligence among Japanese companies operating overseas. For example, contact points for Japanese business enterprises (Japanese business support officers) have been set up at diplomatic missions overseas to enhance support for overseas operations of Japanese business enterprises. Furthermore, the MOFA and its diplomatic missions also present the outline of the NAP and the Guidelines and emphasize the importance of efforts related to business and human rights, including human rights due diligence, at international conferences and various other forums. When doing so, if necessary, the MOFA and its diplomatic missions concretely refer to the need in business activities in developing countries to pay particular attention to the human rights of

indigenous peoples as one of the vulnerable groups concerned.

6. Moreover, collaborating with international organizations such as UNDP and the ILO, the Government of Japan organizes seminars in order to promote human rights due diligence and responsible business conduct in other countries and support the efforts of the governments concerned to formulate National Action Plans.

4. Please provide information on the measures the Government of your Excellency has taken against deforestation in the context of business activities.

7. The Act on Promotion of Procurement of Eco-Friendly Goods and Services by the State and Other Entities, was promulgated on May 31, 2000 and the amended Act was enforced on September 1, 2021, with the aim of promoting the procurement of Eco-Friendly Goods, etc. (see paragraph 1 of Article 2 for the definition)¹ by the Government and other public institutions, and also to establish a society that can develop sustainably with reduced environmental load, by providing information about such goods appropriately and promoting a shift of demand to Eco-Friendly Goods, etc. Although the Act is not directly applicable to business-to-business transactions, business operators are to endeavor to select Eco-Friendly Goods, etc., to the extent possible (Article 5), and a person who engages in the business of the manufacture, import, or sale of goods, or the provision of services, is to endeavor to provide purchasers and others concerned of the goods with information necessary for understanding environmental load pertaining to the goods, etc. by an appropriate method (Article 12).
8. The Government of Japan also supports projects for sustainable forest management and for establishing legal timber supply-chain in tropical timber producing countries through financial contributions to the ITTO (International Tropical Timber Organization), whose Secretariat Japan hosts in Yokohama.

5. Please provide information on the steps the Government of your Excellency is taking or considering taking to ensure that individuals affected by the activities of business enterprises domiciled in your jurisdiction have access to remedy in your country through judicial or extrajudicial State-based mechanisms.

¹ See the Japanese Law Translation website:
<https://www.japaneselawtranslation.go.jp/en/laws/view/2719>

9. In general, various judicial remedies are developed in Japan and such remedies might be available on a case-by-case basis according to the details of specific instances of business-related human rights violations. For instance, the Japan Legal Support Center (hereinafter referred to as “the JLSC”) was established as the central organization to provide legal assistance to citizens, based on the goal to “realize a society where legal information and services are accessible anywhere in the country.” The JLSC provides civil legal aid to Japanese citizens and foreign nationals lawfully residing in Japan who face legal issues but do not have the financial means to seek legal assistance. Another way to solve legal problems is to use Alternative Dispute Resolution procedures, such as conciliation and mediation conducted by private businesses (including private dispute resolution services provided by private businesses that are certified by the Ministry of Justice). With this method, an impartial third party acts as a mediator in a civil dispute between parties who seek a resolution without using litigation.

10. Moreover, the Japanese National Contact Point (hereinafter referred to as “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 MOFA, the Ministry of Health, Labour and Welfare, and the Ministry of Economy, Trade and Industry. The Japanese NCP is responsible for promoting the OECD Guidelines, responding to enquiries on 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.