Mandates of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on trafficking in persons, especially women and children

Ref.: OL JPN 5/2025
(Please use this reference in your reply)

7 January 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on contemporary forms of slavery, including its causes and consequences; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the human rights of migrants and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 51/15, 53/3, 52/20 and 53/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the Act on the Appropriate Implementation of Employment for Skill Development for Foreign Nationals and Protection of Foreign Trainees and Employees (hereinafter "the Act", as introduced through Act to amend the Immigration Control and Refugee Recognition Act and the Act on Proper Implementation of Technical Intern Training for Foreign Nationals and Protection of Technical Intern Trainees and the relevant Cabinet Orders (Act No. 60 of 21 June 2024), which replaced the former Act on Proper Technical Intern Training and Protection of Technical Intern Trainees) and the Enforcement Regulations of the Act on the Proper Implementation of Employment for Skill Development of Foreign Nationals and on the Protection of Foreign Nationals in Employment for Skill Development (Ordinance of the Ministry of Justice and the Ministry of Health, Labour and Welfare No. 4 of 2025) (hereinafter "the Ordinance").

At the outset, we wish to acknowledge Japan's intention to enhance the protection of foreign workers under the Technical Intern Training ("*Gino Jisshu*") Programme by introducing the Act and pursuing to protect workers who plan to work under the new Employment-for-Skill Development ("*Ikusei Shuro*") system as prescribed in the Article 1 of the Act. However, several concerns have been raised with us regarding the potential human rights risks that may persist under this new "*Ikusei Shuro*" system.

In this context, in a spirit of constructive dialogue we wish to share the following reflections for the consideration to your Excellency's Government, with the aim of ensuring the new legislation's alignment with international human rights norms and standards.

Firstly, we wish to raise some concerns regarding the recruitment fees and related costs. According to the information received, Article 21 of the Ordinance stipulates the following with regard to "Standards for the amount of costs paid to sending organizations":

> "The standard specified by ministerial ordinance pursuant to Article 9, paragraph 1, item (xi) (including cases where it is applied mutatis mutandis under Article 11, paragraph 2 of the Act) shall be an amount not exceeding the amount obtained by multiplying by two the monthly remuneration stated in the Employment for Skill Development (*Ikusei Shuro)* plan."

In response to the public comments of the Ordinance, the Government stated:

> "The provision in question merely sets an upper limit, and we do not consider that establishing a regulation prohibiting costs paid to sending organizations from exceeding an amount equivalent to two months of the monthly remuneration stipulated in the Ikusei Shuro plan constitutes a violation of the ILO Private Employment Agencies Convention, 1997 (No. 181). However, we will ensure that the purpose of the system – including the expectation that receiving organizations will take measures to reduce the financial burden on foreign workers – is appropriately communicated."

In terms of international human rights and labour standards, we would like to remind the fact that article 7 of the ILO Private Employment Agencies Convention, 1997 (No. 181) explicitly stipulates that private employment agencies shall not charge, directly or indirectly, any fees or costs to workers. The ILO's *General Principles and Operational Guidelines for Fair Recruitment* and its 2018 *Definition of Recruitment Fees and Related Costs* also reaffirm this "workers shall not be charged" principle. Article 8 of Convention No. 181 further obliges ratifying States to take all necessary and appropriate measures within their jurisdiction – and, where relevant, in cooperation with other States – to protect migrant workers recruited or placed in their territory, including by preventing fraudulent or abusive practices by private employment agencies and through bilateral cooperation frameworks such as Memorandum of Understandings (MOUs).

We are concerned that, while the current domestic provisions (Article 9(1)(xi) of the Act and Article 21 of the Ministerial Ordinance) is the one which regulates the criteria for the approval of employment for skill development plans within Japan, questions may arise as to whether the Article 21 of the Ministerial Ordinance could, in practice, be perceived as allowing or tolerating the charging of recruitment fees to workers in countries of origin. Even if such an outcome is not intended, there is concern that the scheme may nevertheless have the practical effect of facilitating or legitimizing fee-charging. For example, if employers in Japan begin to engage with sending-country's private employment agencies that routinely charge recruitment fees, or if actors abroad interpret the approval process as tacit acceptance of such practices, the scheme may inadvertently reinforce the perception that worker-paid fees are permissible.

In addition, such a fee and the related financial burden have internationally been repeatedly identified as a major driver of debt bondage and forced labour. According to

the latest global research undertaken by the International Labour Organization (ILO), approximately 15 per cent of illicit profits from international labour migration (about USD 5.6 billion) stem from recruitment fees and related costs. Furthermore, around 20 per cent of documented forced labour cases involve debt bondage, most of which originate from excessive recruitment fees and related costs.

This issue should therefore be carefully examined from the perspective of ensuring consistency with international labour standards, especially, the ILO Forced Labour Convention, 1930 (No. 29), ratified by your Excellency's Government on 21 November 1932, which prohibits forced labour, as well as the ILO Private Employment Agencies Convention, 1997 (No. 181), ratified by your Excellency's Government on 28 July 1999.

Second, regarding the transfer of employers (in the Act, "implementing organization of Employment for Skill Developmentprogram"), under the Technical Intern Training Programme, a change of employers was permitted only in cases of "unavoidable circumstances" as is prescribed in the guideline for the operation of the technical intern training programme. In contrast, under the new Employment for Skill Development ("*Ikusei Shuro*"), such changes are allowed when there are no unavoidable circumstances as is prescribed in articles 8-2, 8-5 and 9-2 of the Act. We are welcoming this positive change.

However, in order for a transfer request to be approved by the Government several strict conditions must be met as is prescribed in the Arcticle 9-2 of the Act and the Arctiles 27 and 28 of the Ordinance. These include remaining in the same work category, completing a certain period of employment (between one and two years depending on sectors), acquiring a required level of skills and Japanese language proficiency, and fulfilling other criteria set out in the sectoral operational policy. In addition, the receiving companies of transferred workers are required to bear a significant cost burden. For example, if the transfer takes place between one year and one year and six months of employment, the receiving companies of transferred workers must cover five-sixths of the associated costs. We have received concerns that, these strict requirements make it extremely difficult to change implementing organizations, rendering the system effectively inaccessible for most workers.Especially, the requirement of completing two years of employment out of the three-year employment for skill development period in certain sectors appears excessively long, given the length of the designated Employment for Skill Development period. Also, the high cost burden of the receiving companies of transferred workers significantly discourages receiving companies from accepting transferred workers. It should also be noted that a major Japanese business association advised that the requirement should not be set at two years and should instead be uniformly limited to one year.

Third, regarding the prohibition of family accompaniment, while Japan has not ratified this instrument,article 44 of the UN Convention on the Rights of Migrant Workers and Their Families call on States to take appropriate measures to facilitate family reunification. In addition, the ILO Migrant Workers Recommendation (No. 151, 1975) urges States to take such measures without delay. In line with these standards, it would be important to establish a system that allows for family accompaniment.

In this regard, we have received concerns that workers are, in principle, prohibited from being accompanied by their families for up to eight years, three years under the Employment for Skill Development (*Ikusei Shuro)* scheme and five years under the Specified Skilled Worker (Category 1) status. Neither status is included among the residence statuses eligible for "family stay (Dependent)" under Appended Table I (4) of the Immigration Control and Refugee Recognition Act in the Immigration Control and Refugee Recognition Act.

Fourth, we also received concerns regarding the fact thatEmployment for Skill Development (*Ikusei Shuro)* program can be implemented in a dispatch-based employment arrangement in seasonal sectors such as agriculture and fisheries as is prescribed in Article 2-3 of the Act. While dispatch work offers flexibility, it also tends to present challenges related to employment stability and weaker oversight mechanisms. As noted in the Supplementary Resolution to Cabinet Bill No. 59 of the 213th Diet Session, it is essential to ensure the strict fulfilment of labour conditions and the establishment of effective, independent monitoring systems when operating dispatch-based arrangements in seasonal sectors. Therefore, detailed safeguards on these points should be put in place before the scheme becomes operational.

Fifth, we welcome measures adopted which allow the Employment for Skill Development (*Ikusei Shuro)* scheme to ensure the independence and neutrality of supervising support organisations as is prescribed in Articles 25-5 and 39-5 of the Act as well as Article 47 of the Ordinance. These include restrictions on the involvement of officers and employees who have close ties with receiving organisations (i.e. employers hosting workers working under Employment for Skill Development ("*Ikusei Shuro*") system), as well as the requirement to appoint external auditors. These features are designed to address the challenges seen in the Technical Intern Training Programme, where supervising organisations sometimes lack independence.

At the same time, we understand that under the Technical Intern Training Programme, many supervising organisations are business cooperatives whose members include the receiving organisations themselves. In this context, it has been pointed out to us that, while the new system introduces important safeguards by limiting the involvement of officers and employees with close ties, additional safeguards may be necessary to ensure that supervising support organisations do not monitor receiving organisations that belong to the same cooperative.

Supervising support organisations under the Employment for Skill Development (*Ikusei Shuro)* scheme will play a crucial role in protecting the human rights and labour rights of foreign workers. For example, they coordinate transfers, oversee and guide receiving organisations, and provide support and protection to workers under the Employment for Skill Development (*Ikusei Shuro)* program. It is therefore essential to ensure, through appropriate institutional design, that these organisations can operate with genuine independence from receiving companies.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

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

2. Please clarify how your Excellency's Government ensures that Article 21 of the Ministerial Ordinance, which may be perceived as permitting costs equivalent to up to two months of remuneration, is in line with the international standards including the ILO Forced Labour Convention, 1930 (No. 29) and the ILO Private Employment Agencies Convention, 1997 (No. 181). Please also clarify whether, your Excellency's Government intends to progressively tighten the criteria related to recruitment fees in light of current practices in countries of origin. If so, is there any plan to treat Article 21 of the Ministerial Ordinance as temporary measures and to conduct periodic reviews of these provisions?

3. Please explain why your Excellency's Government considers that workers will be meaningfully able to change implementing organisations under the current requirements, given the strict eligibility conditions and substantial cost burdens placed on receiving organisations? If these conditions potentially limit the ability of workers to transfer, please advise if the Government is considering any adjustments.

4. Please clarify the current position of your Excellency's Government regarding the long-term prohibition on family accompaniment under the Employment for Skill Development (*Ikusei Shuro*) scheme and Specified Skilled Worker (Category 1) status. In addition, please indicate if the Government is considering any future review or revision of this policy in line with its obligations under international labour standards and international human rights law relating to family unity.

5. In line with the Supplementary Resolution to Cabinet Bill No. 59 of the 213th Diet Session, please indicate what specific safeguards and oversight mechanisms your Excellency's Governments is planning to put in place before the Employment for Skill Development (*Ikusei Shuro*) Act enters into force, ensuring stable working conditions and effective monitoring in dispatch-based arrangements in seasonal sectors.

6. In light of the potential for conflicts of interest we raised above – particularly where supervising organisations or their members have close links with receiving companies – please explain whether your Excellency's Government is planning to take any further measures to ensure the genuine independence of supervising support organisations going forward?

7. Please highlight what measures are currently in place, and what further measures are planned by your Excellency's Government to ensure

access to justice and to a remedy, for instance by establishing effective grievance mechanisms - including at national and local levels, within receiving organizations and in the private sector – for foreign workers.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting website after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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