

May 16, 2017

To the Government of Japan
Regarding National Action Plan on Business and Human Rights

Civil Society Platform for Japan's National Action Plan
on Business and Human Rights (BHR-NAP Platform)

The UN Guiding Principles on Business and Human Rights (UNGPs) were endorsed by the UN Human Rights Council in 2011. In accordance with the UNGPs, the UN Working Group on Business and Human Rights (UNWG), along with other stakeholders, have since 2013 been calling on Governments to develop National Action Plans (NAPs), to ensure that the UNGPs are implemented fully. As of April 2017, there are 14 States that have completed NAPs., and, concerned with ongoing serious human rights violations involving businesses around the world, we, the undersigned representatives of civil society, have continued to call on the Government of Japan to take immediate steps to formulate a NAP.

In the 5th Forum on Business and Human Rights in November 2016, Ambassador Shino stated that Japan planned to formulate a NAP. The formulation of a NAP has also been included in as one planned measure in the document “Measures to Achieve the Sustainable Development Goals (SDGs)”, published in December 2016. Taking into account its expressly stated willingness to formulate a NAP, we urge the Government of Japan to take the following actions.

With regard to the fundamental principles of the NAP:

1. Ensure that the NAP is based on the Guidance on National Action Plans on Business and Human Rights (NAP Guidance).

The Nap Guidance, which was published by the UNWG in 2014, outlines the following four 'essential criteria' as indispensable for effective NAPs, namely they must: 1) be founded upon the UNGPs; 2) respond to specific challenges of the national context; 3) be developed and implemented through an inclusive and transparent process; and 4) be regularly reviewed and updated. The NAP Guidance is based on the recognition that there is no ‘one-size-fits-all’ approach to developing NAPs.

We emphasise the importance of fully meeting these criteria, and note that the NAP Guidance states: "Non-Governmental stakeholders should call upon their Governments to develop NAPs along this guidance and hold them accountable for unjustified deviations from the UNWG recommendations outlined". We share the shared vision enumerated by the Government that “every human person must be free from human rights violations”.

2. Ensure that the NAP is properly founded upon the UNGPs.

This would include ensuring that the NAP is based on international human rights instruments, and implementing fully the obligations of the state, including ensuring meaningful access to an effective remedy as outlined in the first pillar and the third pillar of the UNGPs. This would also include the integration of the UNGPs into existing government policies strategies, through the NAP.

3. Ensure that all sections of the Government are aware of Japan's international human rights obligations.

The NAP Guidance explicitly states that "awareness of and knowledge about business and human rights issues should be strengthened among representatives of relevant government departments and agencies" through a NAP process. We consider that this is essential.

With regard to the NAP process:

4. Ensure that officials responsible for NAP formulation engage in meaningful dialogues with non-governmental stakeholders.

We highlight the importance of engagement with interested stakeholders, including civil society organisations, in the NAP process. The NAP Guidance expressly states, "Engagement with relevant non-governmental stakeholders throughout the process is essential for the effectiveness and legitimacy of a NAP". It requests Governments to create a format for cross-departmental collaboration and to be engaged with relevant interested stakeholders at each stage of a NAP process, so it can: 1) identify adverse corporate-related human rights impacts; 2) identify gaps in State and business implementation of the UNGPs; 3) consult on the priorities and concrete actions to be included in the NAP; 4) draft the initial NAP; 5) evaluate the impact of the NAP after finalising, launching, implementing and monitoring it; and 6) draft updated NAP, consult, finalise, and launch it. This engagement is crucial in the NAP process, and we urge the government to ensure that there is meaningful dialogue, as stated by the UNWG.

5. Ensure a meaningful baseline study is conducted.

A meaningful baseline study is vital to the NAP, and should not be conducted solely by the government. Rather, it must involve relevant stakeholders and external experts.

Regarding the identification of adverse human rights impacts:

6. Ensure that adverse human rights impacts are exhaustively identified.

The NAP process should identify adverse human rights impacts throughout the entire value chain of corporations, including the supply chain, and create an exhaustive list of human rights issues. This includes negative human rights impacts both inside and outside Japan, negative human rights impacts involving companies incorporated in Japan, as well as cases where there is Government involvement, direct or indirect. In identifying gaps in State and business implementation of the UNGPs in relation to identified adverse human rights impacts, all relevant legal and non-legal framework for companies should be examined.

Regarding Government measures with regard to business and human rights:

7. Ensure a strong Government commitment to address adverse human rights impacts.

The NAP Guidance recommends that Governments' current and future commitments to address adverse human rights impacts are included in the NAP. In addition, Annex III sets out a non-exhaustive list of measures that Governments should consider in their response to the first pillar and the third pillar of the UNGP. The Japanese Government should commit to measures to address adverse human rights impacts, with full reference to international human rights standards.

Regarding the core human rights principles of non-discrimination and equality:

8. Take full account of the views of vulnerable or marginalized individuals and groups, based on the principles of non-discrimination and equality.

Vulnerable or marginalized individuals and groups are more likely to be subject to negative human rights impacts, and particular attention should be given to their views and situations. The NAP Guidance mentions "Effective implementation of the UNGPs requires equality and non-discrimination regardless of gender, age, ethnicity, sexual orientation, economic situation, or social status". We put emphasis on the importance of involving such peoples' views in the NAP process.

Respectfully,

※ Members of BHR-NAP Platform (May 16, 2017)

Action against Child Exploitation (ACE)
Amnesty International Japan
Asia-Pacific Human Rights Information Center
Business & Human Rights Resource Centre
CSO Network Japan
Japan NGO Center for International Cooperation
Human Rights Now
Save the Children Japan
World Vision Japan