

Opinion Concerning Concrete Matters and Measures
to Be Incorporated into the National Action Plan on Business and Human Rights

November 21, 2019

Japan Federation of Bar Associations

I. Gist of Opinions

With respect to concrete matters and measures for the National Action Plan on Business and Human Rights (hereinafter referred to as “NAP”) to disseminate and implement the United Nations Guiding Principles on Business and Human Rights (hereinafter referred to as “UNGP”), the JFBA demands that the Japanese government incorporate the following in its plan:

1. Ensure that national policies of Japan including its various initiatives in line with the 2030 Agenda for Sustainable Development adopted by the United Nations in 2015 (including the Sustainable Development Goals (SDGs); hereinafter referred to as “SDGs”) shall be consistent, in line with the gist of the UNGP;
2. Incorporate measures to respond to adverse impacts on human rights as a result of business activities both inside and outside of Japan;
3. Clarify the formulation and updating processes;
4. In order to concretize the content of the State’s obligations to protect human rights, identify gaps in the measures, as well as sort out the relationship between each principle of the UNGP and such measures and identify performance indicators and relevant government entities for each of such measures; and
5. In light of the gaps between the existent measures and the international human rights standards required by the UNGP, present a concrete action plan to implement the UNGP.

II. Reasons for Opinions

1. Necessity to Ensure Policy Consistency

Based on the requirements of the UNGP endorsed by the UN Human Rights Council in 2011, the NAP shall be a document to serve as unified policy objectives in Japan for the State, in particular, all the ministries and agencies of the government, economic activities of business entities of any size, as well as civil society which addresses the issue of Business and Human Rights, and it is essential to ensure consistency as a policy. Various initiatives implemented related to the SDGs by the State also need to be

implemented according to the gist of the UNGP¹.

2. Necessity for Measures that Cover Both Inside and Outside of Japan

The NAP is a policy document developed by the State not only to respond to actual human rights violations attributable to business enterprises, but also to prevent adverse impacts in advance as a result of business activities which may pose such risks. Business activities today are not confined to Japan alone. Instead, they exist as global activities that extend outside of Japan, including procurement of raw materials and materials, use of labor for production and services, development of markets and consumption and business operations, as well as investment and capital transactions, etc. Accordingly, it is essential to develop an action plan not only to address business activities in Japan but also to effectively address adverse impacts overseas.

Therefore, measures that cover both inside and outside of Japan should be incorporated into the NAP.

3. Necessity to Clarify the Formulation and Updating Processes

The NAP is not to be prepared with the intention of publishing it, but should be a living document which shall be implemented in actual policies and systems, whose implementation is consistently monitored, modified and improved as necessary. For that purpose, the following measures for revision and improvement need to be stipulated in the NAP:

- (1) In accordance with the “Guidance on National Action Plans on Business and Human Rights” (hereinafter referred to as “UN Guidance”) prepared by the Working Group of Business and Human Rights of the UN Human Rights Council, it should include [1] commitment to implementing UNGP, [2] background and purpose of formulating the NAP, [3] statement of expectations toward business enterprises, [4] priority issues and modalities of implementation and [5] mechanisms to monitor the implementation status and to update, and consideration should be given to the requirements and principles recommended by the UN Guidance, including perspectives on non-discrimination and equality as well as gender and children’s human rights.
- (2) The formulation process should follow the UN Guidance and include the following five steps: [1] initiation of formulation, [2] assessment of adverse human rights impacts by business-related activities, [3] drafting of initial NAP, [4]

¹ It is clearly indicated that business entities are also included in stakeholders and their efforts shall be in accordance with the UNGP. (Paragraph 67 of the SDGs).

implementation of NAP, and [5] reevaluation and updating; and at each step, inclusiveness and transparency shall be secured and sufficient discussions should be held with stakeholders².

Through these measures, the process to formulate and update the NAP should be clarified.

4. Necessity to Concretize the State's Obligations to Protect Human Rights³

(1) Importance of Identifying Gaps in Measures

The UNGP provides for the responsibility to respect human rights as a role of business enterprises, on the premise that the State is primarily obliged to protect the human rights of its citizens. It is important for the NAP to identify gaps related to the obligations owed by the State and indicate policy measures to supplement them.

The State released the "Baseline Study Report on Business and Human Rights" in December 2018. Although the Report is commendable in that it sorted out the measures currently implemented by the State, it does not mention gaps between such measures and the state's obligations to protect human rights.

Therefore, the NAP should identify gaps between the measures currently implemented by the State and the requirements of the UNGP and indicate policy measures to supplement such gaps.

(2) Necessity to Sort Out Measures Addressing Each Principle of UNGP.

In addition, the State released "Towards formulating the National Action Plan (NAP) on Business and Human Rights" (hereinafter "Towards Formulating NAP") in July 2019, indicating overall priority areas and issues. However, it cannot be said to clearly indicate how such areas and issues are related to the State's obligations to protect human rights stipulated under each principle of the UNGP.

In this regard, as recommended in Annex I of the UN Guidance, it is usual to structure the NAP in a format where gaps in each principle of the UNGP are first identified and then concrete measures are described.

Accordingly, the State should first clarify how the priority areas and issues indicated in "Towards Formulating NAP" are related to each principle of the UNGP and then specify concrete measures that address each principle of the UNGP.

² JFBA "Opinion Calling for the Japanese Government to Formulate a National Action Plan on Business and Human Rights" (September 15, 2016)

³ The importance of formulating the NAP in a concrete manner is emphasized also in the United Nations CESCR General Comment No. 24 on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities (Paragraphs 58 and 59).

(3) Necessity to Identify Performance Indicators and Relevant Government Entities

Additionally, as recommended in Annex II of the UN Guidance, it is necessary to identify performance indicators (KPI) and the relevant government entities in charge of the implementation of each measure in the NAP in order to ensure the implementation of the measures indicated in the NAP and enable evaluation of their progress⁴.

5. Necessity to Present a Concrete Action Plan to Implement the UNGP

In light of the abovementioned gaps between the existent measures and the UNGP, the State should present a concrete action plan to implement the UNGP.

Based on the opinions previously released and submitted by the JFBA⁵, the following are examples of measures that are deemed appropriate to be incorporated into the Action Plan for the priority areas and issues indicated in “Towards Formulating NAP”⁶:

(1) Examples of Measures Concerning Public Procurement

[1] Incorporation of Human Rights Standards in the Public Procurement Process of the State/Local Governments⁷

a. Incorporation of Human Rights Standards as Criteria for Additional Points under the Overall Evaluation Bidding Method

Establish a new certification system for the implementation of human rights due diligence or incorporate such elements into the existing certification systems, which shall be included in the criteria for additional points. Expand the use of existing certification systems, such as “Kurumin,” “Eruboshi,”

⁴ Indicators and relevant government entities are identified for each measure in the appendix table of the SDGs Implementation Guiding Principles published by the State as well.

⁵ Including, but not limited to, the JFBA’s “Opinion Concerning Priorities to Be Included in the National Action Plan on Business and Human Rights” (July 25, 2017) and the JFBA’s opinions under the Baseline Study Report on Business and Human Rights.”

⁶ The following examples of measures describe an outline of measures which could be included in the Action Plan and the content of each measure will need to be elaborated more specifically in the process of implementation of the Action Plan.

⁷ In current public procurement, a practice exists where acquisition of certification labels regarding green procurement or labor, etc., is taken into consideration, but goods and businesses covered by such practice are limited, and no procurement standards can be said to exist which require respect for human rights in supply chains. In the United States, the Federal Acquisition Regulations amended in 2015 provide for specific prohibitions and requirements for contractors, including subcontractors, for public projects to prevent involvement in human trafficking. In the EU, the Public Procurement Directives adopted in 2014 provide a menu of items under which environmental and social elements including human rights shall be considered in various phases, such as qualification to participate in bidding, evaluation standards, contract enforcement conditions, etc. While referring to such systems in the U.S. and Europe, a method should be considered how to incorporate human rights standards according to the level of risk of human rights violations.

“Youth Yell,” etc., into the public procurement field.

b. Incorporation of Human Rights Standards as Contract Conditions

Referring to efforts and operational issues under the Tokyo Olympic Sourcing Code, add conditions related to sustainability and responsible corporate behavior, including respect for human rights, to contracts for public procurement. Enact a Public Contracts Act and Public Contracts Regulations and add compliance requirements related to securing of proper labor conditions to contracts for public procurement. Consider whether to ratify ILO No. 94 Convention requiring incorporation of Labor Clauses in Public Contracts.

c. Strengthening and Clarification of the Enforcement of Human Rights Standards for Suspension of Qualification to Participate in Bidding

Strengthen the enforcement of suspension of qualification to participate in bidding based on violation of applicable laws and regulations, such as the Labor Standards Act and the Technical Intern Training Act⁸, which involves a high risk of human rights violations. Clarify that acts with a high risk of human rights violations, such as forced labor, child labor, etc., shall be cause for suspension of qualification to participate in bidding and strengthen sanctions.

d. Introduction of Environmental Standards Related to Human Rights in the Act on Promoting Green Procurement

It should be incorporated into the Basic Policy on Promoting Green Procurement as an additional guiding principle that goods, etc., produced in consideration of the rights of stakeholders to enjoy a favorable environment shall be preferentially procured. Referring to efforts and operational issues under the Tokyo Olympic Sourcing Code, whether due diligence procedures are taken to ensure legality and sustainability of the procurement process shall be included in the standards and matters to consider for procurement decisions also for such procured goods, etc., other than goods subject to the Green Wood Act.

[2] Improvement in Grievance Mechanism for Public Procurement by the State/Local Governments

a. With respect to grievance mechanism for public procurement, develop a

⁸ Official Title: “Act on the Appropriate Implementation of Technical Intern Training for Foreign Nationals, and Protection of Technical Intern Trainees”

system to enable handling of complaints related to human rights violations in procurement, referring to efforts and operational issues of grievance mechanism under the Tokyo Olympic Sourcing Code.

- b. Disseminate the fact that complaints related to human rights violations in procurement are also widely accepted by grievance mechanism for public procurement.

[3] Awareness-Raising and Education for Officials in Charge of Public Procurement

Share guidance documents with and provide training for officials in charge of public procurement for awareness-raising and education regarding consideration of human rights in public procurement.

[4] Awareness-Raising, Education and Support for Business Enterprises Participating in Public Procurement

- a. Share guidance documents with and provide training for business enterprises participating in public procurement for awareness-raising and education regarding consideration of human rights in public procurement.

- b. Collect information on human rights risks related to procurement of raw materials from overseas and provide business enterprises participating in public procurement with such information.

(2) Examples of Measures Concerning Development Cooperation and Development Finance

[1] Clarification and Concretization of Human Rights Standards under the Guidelines for Environmental and Social Considerations and Ensuring of Their Effectiveness

- a. Clarify and concretize human rights standards under the “Japan International Cooperation Agency (JICA) Guidelines for Environmental and Social Considerations” and the “Japan Bank for International Cooperation (JBIC) Guidelines for Confirmation of Environmental and Social Considerations.”

- b. In order to ensure that development projects are executed in compliance with such improved Guidelines as described above, thoroughly disseminate the Guidelines and execute the projects.

- c. Share guidance documents with and provide training for staff members in charge of development cooperation and development finance, or have them do

the same, for awareness-raising and education regarding consideration of human rights in development cooperation and development finance.

- d. Share guidance documents with and provide training for business enterprises, organizations, etc., undertaking contract work related to development cooperation as well as business enterprises, organizations, etc., receiving loans from development finance, or have them do the same, for awareness-raising and education regarding consideration of human rights and environment protection (including but not limited to those related to supply chains) in development cooperation and development finance.
 - e. Collect information on human rights risks related to development cooperation and development finance and provide business enterprises, organizations, etc., undertaking contract work related to development cooperation as well as the business enterprises, organizations, etc., receiving loans from development finance with such information.
 - f. Activate the contact point for filing objections concerning the Guidelines.
- [2] Ensuring Responsibility to Respect Human Rights in the Selection of Private Sector Collaboration Projects
- Include in the application requirements for private sector collaboration projects offered by JICA implementation of the responsibility to respect human rights by business enterprises⁹.
- [3] Ensuring Responsibility to Respect Human Rights When Providing Government Funds other than ODA to Developing Countries
- Establish standards to ensure implementation of the responsibility to respect human rights by the relevant business enterprises in the process of providing “Other Official Flows (OOF)” such as export loans, investment loans, untied loans, equity participations, etc.
- [4] Collect information on various regulations for the protection of public interest of the investment recipient country and provide business enterprises with such information.
- [5] Securing of Protection of Human Rights by International Financial Institutions

⁹ In the existing selection criteria for private sector collaboration projects, only two items of “stability as a business enterprise” and “contribution to the domestic local economy” are set as experience and capability requirements. However, it is clearly indicated in Guiding Principle 4 that, if the state provides funds, it should bear responsibility against adverse impacts on human rights caused by its activity.

Secure implementation of human rights due diligence by international development financial institutions, such as the World Bank Group, Asian Development Bank, Inter-American Development Bank, African Development Bank, European Bank for Reconstruction and Development, etc., as their shareholder in their process of loan extension.

(3) Examples of Measures Concerning Economic Partnership Agreements¹⁰

- [1] Develop a business environment in which consideration is given to the protection of human rights in cooperation with each country through establishment of a special committee for effective implementation of agreements concerning human rights and labor under existing economic partnership agreements and joint dialogue with civil society.
- [2] When concluding any economic partnership agreement in the future, promote agreements on trade and investment between partner countries reflecting the UNGP from the viewpoint of protecting human rights, etc., ensuring predictability in business activities and promoting investment (for example, ensuring regulatory authority with respect to human rights, etc., in the investment recipient country; ensuring fair application of regulations and the regulations of the investment recipient or other countries; developing a framework for provision of information concerning the content of regulations of the investment recipient country; encouraging the development of a system for business enterprises to protect human rights, etc.).
- [3] Collect information on various regulations for the protection of public interest of the investment recipient country and provide business enterprises with such

¹⁰ In the context of Business and Human Rights, “economic partnership agreements” referred to under priority issues means international agreements in general for liberalization and facilitation of trade and investment, and needs to be understood as including investment agreements, as well as bilateral FTAs (free trade agreements) and EPAs (economic partnership agreements) containing provisions concerning liberalization and protection of investment, improvement of business environment, etc., and regional multinational agreements such as the TPP, in particular.

Since economic partnership agreements for liberalization and facilitation of trade and investment may cause adverse impact on human rights while contributing to the revitalization of economic activities, it is important to ensure promotion of the execution of international human rights when concluding such an agreement.

Furthermore, while so-called investment arbitration is generally considered to be necessary for the protection of investors in the case of overseas investment, it has been subject to criticism especially from the viewpoint of protecting human rights and other public interests, mainly regarding the cases in which measures to protect public interest are referred to arbitration. Accordingly, it is desirable to establish an appropriate task force in a timely manner and take up the question of how to handle and consider matters involving public interest, such as human rights, etc., as an item to be discussed.

information.

- [4] Provide guidance and support for business enterprises to introduce voluntary measures to protect human rights, etc.
 - [5] Consider options and modality of dispute settlement mechanism for foreign investment.
 - [6] Secure incentives for business enterprises by linking them with the SDGs.
- (4) Examples of Measures Concerning Human Rights Education and Awareness-Raising
- [1] The Basic Plan for Human Rights Education and Awareness-Raising has been developed based on the Act on Promotion of Human Rights Education and Human Rights Awareness-Raising. In this plan, in the “Efforts to Address Specific Human Rights Issues,” add new “Business and Human Rights” issue and as for the content of this issue, take up implementation of the SDGs and implementation of measures to promote dissemination and awareness-raising of the content of the Guiding Principles on Business and Human Rights as efforts to address this issue.
 - [2] Enhance education and awareness-raising activities for business enterprises regarding Business and Human Rights (for example, revise the human rights awareness-raising booklets including the content on the SDGs and Business and Human Rights; revise the human rights awareness-raising video “Business Enterprises and Human Rights”; disseminate and expand the opportunities to hold seminars for business enterprises; disseminate and expand the opportunities to send lecturers to human rights training seminars held at business enterprises and expand human rights awareness-raising activities in cooperation with the business enterprises; provide training for civil rights commissioners on the SDGs and Business and Human Rights.).
 - [3] Promote seminars regarding the SDGs and Business and Human Rights at universities.
- (5) Examples of Measures Concerning Efforts in Supply Chains inside and outside of Japan
- [1] Promotion of Incorporation of Human Rights Standards in Private Procurement

Develop guidelines and model codes for procurement policies under which human rights are respected, referring to efforts and operational issues of the Tokyo Olympic Sourcing Code.

[2] Promotion of the Respect for Human Rights through Supply Chains Outside of Japan

- a. Collect and share information concerning human rights risks in each country.
- b. Enhance training on Business and Human Rights for local Japanese business enterprises.
- c. Set up consultation points regarding overseas human rights risks.
- d. Consider introduction of import ban under the Customs Act in relation to human rights violations that are deemed particularly serious, such as child labor, forced labor, etc.
- e. Make appeals to other countries for improvement of human rights and working environments and provide support for the same through the development of legal systems, etc.

[3] Support for Supply Chain Efforts by Multi-stakeholders

Support efforts and frameworks to respect human rights through supply chains by multi-stakeholders including business enterprises and industry organizations.

(6) Examples of Measures Concerning the Promotion of Human Rights Due Diligence in accordance with the UNGP

[1] Clarification of the Government's Expectations for Human Rights Due Diligence

- a. Develop public guidelines on human rights due diligence by business enterprises, referring to the "Guidance on Human Rights Due Diligence" developed by the JFBA.
- b. Establish percentage targets for business enterprises implementing human rights due diligence.

[2] Mandatory Disclosure of Non-financial Information

Mandate business enterprises of a certain size or larger to disclose non-financial information such as the status of management of human rights-related risks to be found throughout their supply chain.

[3] Support for Implementation of Human Rights Due Diligence by Business Enterprises

See “(7) Examples of Measures Concerning Support for Small- and Medium-Sized Enterprises” below.

(7) Examples of Measures Concerning Support for Small- and Medium-Sized Enterprises¹¹

[1] Development of Guidance Documents and Implementation of Training for Small- and Medium-Sized Enterprises

- a. Develop public guidelines concerning implementation of human rights due diligence and grievance mechanism for small- and medium-sized enterprises and disseminate and widely spread the same.
- b. Provide training on “Business and Human Rights” for small- and medium-sized enterprises. Enhance such training for overseas and regional locations that have particular problems.
- c. When implementing the above mentioned measures a) and b), take into consideration and disseminate the fact that small- and medium-sized enterprises are by no means free from human rights risks, as even small- or medium-sized enterprises may fall into a situation where they contribute to human rights violations at their bases or in supply chains inside and outside of Japan, in which case they may receive public criticism, be held accountable for violating labor laws or for tort, etc., and may be refused from doing business with any business partner in violation of its procurement rules.

[2] Establishment of Consultation Points and Expert Referral System on “Business and Human Rights” for Small- and Medium-Sized Enterprises

- a. Set up consultation points where small- and medium-sized enterprises can consult about issues related to “Business and Human Rights.”
- b. Establish a system to refer small- and medium-sized enterprises to experts who support them to address issues related to “Business and Human Rights.”
- c. Enhance the functions of consultation points for overseas and regional locations that have particular problems.
- d. Provide awareness-raising activities on “Business and Human Rights” for lawyers and experts who support small- and medium-sized enterprises.

[3] Provision of Small- and Medium-sized Enterprises with Information on

¹¹ It would be beneficial for the State to support efforts of business enterprises with little experience in human rights due diligence, regardless of the size of the business enterprise, through measures stipulated under this item.

Human Rights Risks in Supply Chains

Collect information on human rights risks in supply chains inside and outside of Japan and provide small- and medium-sized enterprises with such information.

- [4] Promotion and Support for Small- and Medium-sized Enterprises to Disclose Non-financial Information Regarding Their Efforts to Respect Human Rights
 - a. Provide guidance for small- and medium-sized enterprises on disclosure of non-financial information including the status of their efforts to respect human rights.
 - b. Develop a platform where small- and medium-sized enterprises can share non-financial information including the status of their efforts to respect human rights.
- [5] Improvement in the Working Environment of Small- and Medium-sized Enterprises by Optimizing Fair Subcontracting Conditions
 - a. Based on the promotion standards under the Act on the Promotion of Subcontracting Small- and Medium-sized Enterprises, encourage subcontracting entrepreneurs to agree to renegotiate transaction prices in consideration of increase in labor cost among subcontractors.
 - b. Based on the promotion standards under the Act on the Promotion of Subcontracting Small- and Medium-sized Enterprises, encourage subcontracting entrepreneurs to improve any trade practices which prevent the subcontractors from realizing work-style reforms.
 - c. Strengthen the enforcement of the Subcontract Act.
- (8) Examples of Measures Concerning Judicial Remedies
 - [1] In order to ensure effectiveness of the existing civil justice system and validity of the legal aid system, remove legal, practical (cost, time, language barrier, availability of legal aid, etc.) and other related obstacles.
 - [2] Ensure equal access to justice for all, including for overseas cases involving Japanese business enterprises¹².
 - [3] Develop a system to help persons claiming a right to seek legal support easily and promptly from authorities related to other countries and judicial authorities and so that they can collect evidence to be used in judicial proceedings from foreign nationals, foreign business enterprises and authorities.

¹² See 16.3 of the SDGs.

(9) Examples of Measures Concerning Non-judicial Remedies

- [1] Establish a national human rights institution according to Principles Related to the Status of National Institutions (Paris Principles) with effective powers independent of the government.
- [2] Ratify the Optional Protocols to each international human rights treaty or declare acceptance of the individual complaint system to enable individual complaints to be lodged.
- [3] Improve the Japanese National Contact Point (Japanese NCP)¹³ so that it will function as an effective complaint handling mechanism. In particular, take measures such as facilitating access by overseas victims of human rights violations, placing professional committee members including lawyers, etc., equipped with actual problem-solving abilities.
- [4] Provide support by the State for business enterprises and industry organizations to develop their complaint handling mechanisms, and identify the materiality (importance) of industry-specific risks, which shall be provided as useful reference information for individual businesses and each business enterprise to develop a complaint handling mechanism.
- [5] Amend the Whistleblower Protection Act to provide for confidentiality obligations of the persons in charge of receiving reporting, reverse the burden of proof concerning disadvantageous treatment including dismissal, include former officers and present and past business partners, etc., in the scope of whistleblowers, exclusion of criminal liability for collecting materials to support reporting, and introduce administrative orders administrative sanctions or criminal punishments against disadvantageous treatments.
- [6] Prepare guidelines and provide information, technical assistance and other support to support establishment and operation of an effective complaint handling system by industry. In this case, utilize the knowledge and experience (including those related to issues such as lack of legal binding power) of the complaint handling systems using lawyers (Nuclear Damage Compensation Dispute Resolution Center, Tokyo Olympics, etc.).

¹³ As an existing mechanism of non-judicial remedies, the Japanese National Contact Point (Japanese NCP) has been established under the OECD Guidelines for Multinational Enterprises. However, the Japanese NCP can undertake conciliation only and has not been functioning as an effective complaint handling mechanism until today.

- [7] In operating the Registration of Whistleblowing Compliance Management System (Self-Adaptation Declaration Registration System), give support so that the non-judicial remedies requirements of the UNGP (Guiding Principle 31) will be fulfilled.
- [8] Expand the extra-judicial conflict resolution procedures such as ADR to cover overseas cases involving Japanese business enterprises.
- [9] Work together with the Bar Associations with respect to consultation from foreign nationals at the Multicultural Counseling Centers.
- (10) Examples of Measures Concerning Labor
- [1] Elimination of Discrimination and Employment Equality
- a. Develop guiding principles concerning human rights policies of business enterprises.
 - b. Implement a statistical analysis concerning the status of human rights policy development and publish the results.
 - c. Follow up the implementation status of new harassment-related laws.
 - d. Review the items to be disclosed under the Women's Participation Promotion Act¹⁴.
 - e. Continue to conduct racial discrimination surveys and publish the results.
 - f. Enhance the System of Human Rights Awareness-Rising Promoters for Fair Recruitment Selection.
 - g. Monitor the status of implementation of the Disabled Persons Employment Promotion Act¹⁵ (statutory employment rate and reasonable considerations) (guidelines to prohibit discrimination of disabled persons and guidelines to give reasonable considerations) and the Disabled Persons Abuse Prevention Act¹⁶.
 - h. Implement tentative special measures including a quota system.
 - i. Expand introduction of subsidy systems (e.g. Guidelines on Public Procurement and Utilization of Subsidies for the Promotion of Women's Participation and Advancement).
 - j. Consider measures for realizing equal pay for equal (value of) work.

¹⁴ Official Title: "Act on Promotion of Women's Participation and Advancement in the Workplace"

¹⁵ Official Title: "Act on Employment Promotion, etc., of Persons with Disabilities"

¹⁶ Official Title: "Act on the Prevention of Abuse of Persons with Disabilities and Support for Caregivers"

- [2] Elimination of Forced Labor
 - a. Consider import ban under the Customs Act.
 - b. Continuously investigate violations under the Technical Intern Training Program and the Specified Skilled Worker Program and publish the results.
 - c. Develop procurement guidelines.
 - d. Consider enhancing the Business Improvement Subsidy System (minimum wage increase).
- [3] Freedom of Association
 - a. Make use of the Global Framework Agreement (international labor-management agreement).
 - b. Develop guiding principles for the promotion of labor-management dialogue.
 - c. Develop procedures for labor-management negotiations.
 - d. Provide information to labor and management.
- [4] Issues Specific to Japan (work-style reforms, in particular, working hours)
 - a. Revise the basic policies, action plans, leaflets, etc., and monitor the status of implementation.
 - b. Expand the use of Portal Sites for Improvement of Work Styles and Holidays.
 - c. Revise the Guidelines on Improvement of Working Hours, etc., and monitor the status of implementation.
 - d. Revise the implementation guidelines for the Equal Employment Opportunity Act¹⁷ and the Childcare and Caregiver Leave Act¹⁸ and monitor the implementation status.
 - e. Revise the action plans under the Act on Advancement of Measures to Support Raising Next-Generation Children.
 - f. Expand the use of various certification systems (Kurumin, Nadeshiko Brand).

(11) Examples of Measures Concerning Respect for and Promotion of the Rights of Children

¹⁷ Official Title: “Act on Securing, etc., of Equal Opportunity and Treatment between Men and Women in Employment”

¹⁸ Official Title: “Act on Childcare Leave, Caregiver Leave, and Other Measures for the Welfare of Workers Caring for Children or Other Family Members”

[1] Elimination of Child Labor

- a. Consider import ban under the Customs Act.
- b. Introduce measures concerning human rights due diligence for supply chain management, including procurement guidelines that provide for consideration for human rights of children, etc.

[2] Protection and Promotion of the Rights of Children Related to Other Business Activities

- a. Introduce regulations, etc., for the protection of the rights of children in advertising and marketing.
- b. Looking toward the 2020 Tokyo Olympics and Paralympics, encourage multifaceted respect for and promotion of the rights of children by sports-related businesses, not limited to the scope of the “Sustainable Sourcing Code.”
- c. Strengthen measures to handle problems involving children, such as sexual abuse and other crimes, etc., via the internet.
- d. Promote disclosure of information by business enterprises on their efforts to respect and promote the rights of children.
- e. Promote efforts to prevent accidents involving children.

(12) Examples of Measures Concerning Human Rights Associated with Development of New Technology

[1] Establishment of Domestic Laws for the Securement of Privacy and Prevention of Violations on the Internet

- a. Investigate the situation of new human rights violations associated with the development of the information and communication fields, further establish laws and regulations such as a personal information protection law addressing privacy violations by profiling, etc., aiming at achieving an appropriate balance between business activities and freedom of expression, privacy, moral rights, etc., of business enterprises, individuals and groups, as well as promote the implementation of transparency reporting (report prepared by business enterprises to disclose to the general public the outline of any request from administrative bodies to such business enterprises for customer data and how they respond to such request)¹⁹.

¹⁹ The European Commission provides sector-by-sector guidance for the implementation of the UNGP in information and communication technology (ICT) businesses:

- [2] Prevention of Human Rights Violations When Using AI, etc.
 - a. In order to ensure that human rights are protected in the development and use of AI, develop concrete guidelines to encourage implementation of human rights due diligence when developing or using AI based on the “Social Principles of Human-Centric AI” determined by the Integrated Innovation Strategy Promotion Council, “AI Principles” from the OECD and “3. Human-centered Artificial Intelligence” referred to in the “G20 Ministerial Statement on Trade and Digital Economy.”
 - b. Support business enterprises with the introduction of policies concerning AI and human rights in accordance with the above guidelines and the implementation of human rights due diligence.
- (13) Examples of Measures Concerning the Rights and Roles of Consumers
 - [1] Promotion of the Basic Plan for Consumer Policies

Steadily implement the measures incorporated into the Basic Plan for Consumer Policies.

Develop a timetable for the steady implementation of the measures, and revise the timetable in accordance with the progress of such measures and the changes in the situation surrounding consumers, as well as the various principles under the SDGs and the United Nations Guidelines for Consumer Protection.
 - [2] Consumer’s Right to Know and Consumer Education

From the viewpoint of securing the consumer’s right to know and the right to receive education, undertake awareness-raising activities on ethical consumption to enhance consumer’s understanding, and introduce measures to promote information disclosure by business enterprises to consumers.
 - [3] Prohibition of Discrimination

Prohibit discrimination in the formation of consumer contracts under private law, and stipulate liability for damages in case of violation, as well as invalidate discriminatory provisions and provide for appropriate supplementary effects to realize equality.
 - [4] Guarantee of Consumers’ Rights

European Commission Sector Guides on Implementing the UN Guiding Principles on Business and Human Rights, http://ec.europa.eu/enterprise/policies/sustainable-business/documents/corporate-social-responsibility/index_en.htm

With respect to human rights due diligence and access to remedies, consider measures to guarantee the rights of consumers as stakeholders.

(14) Examples of Measures Concerning Equality under the Law (Persons with Disabilities, Women, LGBT, Foreign Nationals, etc.)

[1] Ratification of Treaties Aiming at Realization of Equality under the Law

- a. Ratify ILO Discrimination (Employment and Occupation) Convention (No. 111) and ILO Convention concerning the Elimination of Violence and Harassment in the World of Work (No. 190).
- b. Introduce the definitions of discrimination required under the Convention on Elimination of Racial Discrimination²⁰, Convention on Elimination of Discrimination against Women²¹, Convention on the Rights of Persons with Disabilities, etc.
- c. Proceed with a review of the Discrimination Elimination Act²², Barrier-free Act²³, etc., in line with the gist of the Convention on the Rights of Persons with Disabilities.
- d. Proceed with a review of laws and regulations in line with the equality provisions and discrimination prohibition provisions under the ICCPR²⁴ and the ICESCR²⁵.

[2] Enactment and Amendment of Laws for the Realization of Equality under the Law

- a. Enact a comprehensive discrimination prohibition act.
- b. Introduce provisions to directly prohibit harassment and penal provisions.
- c. Add mandatory disclosure items under the Women's Participation Promotion Act.

[3] Institutionalization of Positive Actions

Introduce effective systems in the area of employment, such as a quota system, to increase the proportion of women in "positions of leadership" (parliament/assembly members, executive officers of corporations/organizations, etc., certain professional positions, etc.).

²⁰ Official Title: "International Convention on the Elimination of All Forms of Racial Discrimination"

²¹ Official Title: "Convention on the Elimination of All Forms of Discrimination against Women"

²² Official Title: "Act for Eliminating Discrimination against Persons with Disabilities"

²³ Official Title: "Act on Promotion of Smooth Transportation, etc., of Elderly Persons, Disabled Persons, etc."

²⁴ Official Title: "International Convention on Civil and Political Rights"

²⁵ Official Title: "International Covenant on Economic, Social and Cultural Rights"