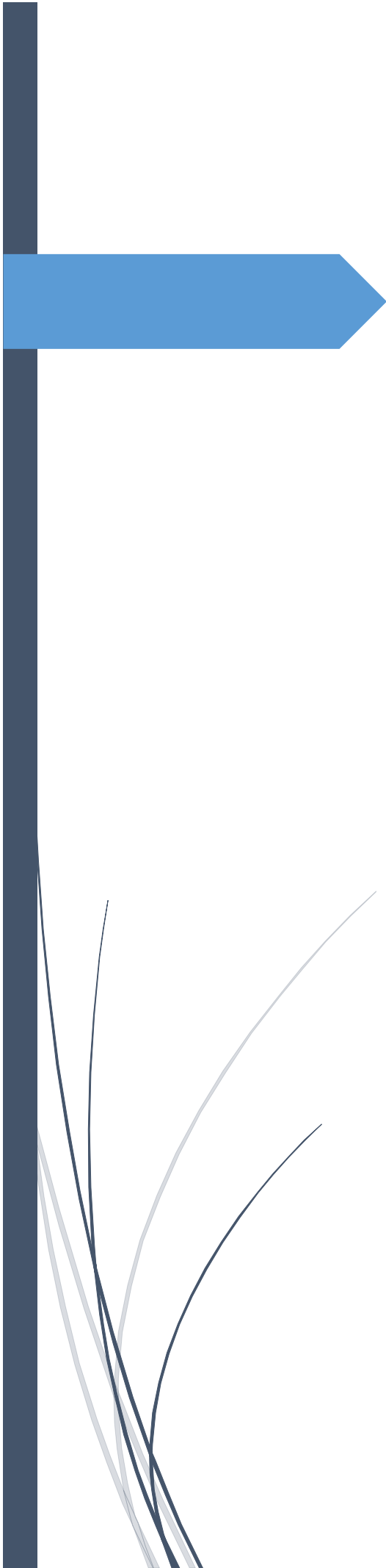




# Working Group on the National Action Plan (NAP) on Business and Human Rights

**“Stakeholder Common Request”  
and the Letter of Request  
(tentative translation)**

## [Stakeholder Common Request]

### ■ Non-financial Reporting:

*The Government promotes the non-financial reporting on the implementation and the result of human rights due diligence and other relevant initiatives to enhance the corporate value and competitiveness of the enterprises making effort to address challenges among business and human rights issues.*

*Specifically, the government formulates guidance on non-financial reporting (clarifying the linkage with the METI's Guidance for Collaborative Value Creation), establishes consultation desks and portal sites, and offers guidance and good practices. Mandatory reporting should be discussed continuously, including its validity and appropriateness, and the size of the enterprise shall be considered in that discussion.*

### ■ Foreign Workers:

*The Government, under the law, protects the human rights of all foreign workers, including those relating to equality and labour. The Government will implement the following policy measures in order to protect the rights of foreign workers in due consideration of the reported cases of poor working conditions and violations of the rights of foreign workers.*

- *Technical Intern Training Program: In light of rigorous enforcement of the Technical Intern Training Act, the Government increases investment in both human and financial resource towards strengthening the overall function of the Organization for Technical Intern Training, particularly the labour inspectorate. The Government takes measures within bilateral government agreements to eliminate obligations owed by workers that cause forced or compulsory labour. In addition, the Government conducts awareness raising and training to foreign technical interns, implementing organizations, and other actors concerned, including the dissemination of measures in accordance with the “Guideline concerning the Improvement of Employment Management”, and assistance will be provided to implementing organizations that are SMEs;*
- *Specified Skilled Workers: In case of accepting foreign workers under the framework of the Specified Skills, the Government ensures rigorous enforcement of applicable laws, increase in investment in both human and financial resource to fulfill the function of labour inspectorate, and guarantees the freedom to choose own workplace. The Government takes measures within bilateral government agreements to eliminate obligations owed by workers causing forced or compulsory labour. It also conducts awareness raising and provides assistance to related companies;*
- *Other policy measures for the protection of the rights of foreigners: Promote supply chain management, including human rights DD, in order to address the challenges of foreign workers in domestic and overseas supply chains, especially those relating to fundamental principles and rights at work. In addition, the Government provides consultation service for foreign workers, which offers in their mother language and cooperates with legal experts to improve accessibility and resolve problems effectively;*
- *To realize a society of harmonious coexistence, in which both Japanese and foreign*

*nationals can respect each other, the Government promotes and disseminates among society various measures such as support for foreign nationals as living citizens as envisaged in “Comprehensive Measures for the Acceptance and Coexistence of Foreign Human Resources”.*

## ■ **Human Rights Due Diligence and Supply Chains:**

*The Government implements the following policies to promote corporate human rights due diligence based on the UN Guiding Principles and other initiatives to respect human rights in both domestic and overseas supply chains (definition of “supply chains” should be subject to review):*

- *The Government develops practical and feasible guidelines on human rights DD based on UNGP and OECD DD Guidance and provide tools to promote the use thereof. Such guidelines should include the ones specialized in particular sector or individual human rights issues (forced labour, child labor, trafficking in persons, etc.) that pose particularly high risks to human rights;*
- *With a view to enhancing corporate competitiveness, the Government promotes corporate initiatives to engage in dialogue with stakeholders, as a mutually complementary initiative together with human rights DD. Specifically, assistance should be provided to enterprises by means of collecting and disseminating good practices in relation with the stakeholder dialogue. In the field of labour, guarantee of core labour standards and collective labour rights is prerequisite. Good practices are identified in line with the ILO MNE Declaration, and which include those related to constructive industrial relations that address labour issues through labour-management dialogues, and practices where efforts are made to improve working environment and address social issues through engagement and collaboration with stakeholders;*
- *The Government engages in effective dialogue with overseas countries and provide necessary assistance for institutional development through bilateral or multilateral cooperative frameworks between governments in order to address issues in overseas countries identified through the corporate human rights DD;*
- *In due consideration of the issues specific to SMEs, the Government develops a guidebook for SMEs on human rights DD, collects and disseminates good practices of SMEs, and provides sufficient information and necessary support for SMEs; and*
- *The Government establishes a consultation desk on human rights DD and supply chain initiatives as well as providing expert referral services. The Government ensures policy coherence through cooperation between diplomatic missions and related ministries and agencies. The Government conducts awareness raising and dissemination of the ILO MNE Declaration and the OECD MNE Guidelines to promote corporate initiatives that are implemented in accordance with those instruments.*

## ■ **Public Procurement:**

*The Government fulfils its responsibility to protect human rights in relation with public procurement and implements the following policies for public procurement in order to promote corporate initiatives to respect human rights:*

- *The Government considers a scoring system that evaluates positively the corporate initiatives to respect for human rights, in addition to the existing scoring mechanisms for promoting women's participation and advancement in workplace and efforts ensuring work-life balance;*
- *The Government implements awareness raising and training for public officials involved in public procurement;*
- *The Government improves procedures of the existing grievance mechanism under public procurement system from the perspective of ensuring access to effective remedy by people whose human rights are negatively affected; and*
- *The Government provides necessary support for public procurement in local governments to ensure that measures are taken in accordance with the spirit of the above-mentioned policies by those local governments.*

#### ■ **Access to Remedy:**

*The Government implements the following policies to ensure an easy access to effective remedy by people whose human rights are negatively affected:*

- *With regard to the NCP, the Government (i) strengthens and facilitates collaboration among the three Ministries in charge, aiming at assisting the conflict resolution by parties, (ii) guarantees fairness and neutrality of the system in order to ensure the trust by all parties, and (iii) conducts public relations activities on NCP functions and processes for the purpose of enhancing the awareness and understanding of the system; and*
- *The Government makes efforts to recognize and support, as necessary, private-sector initiatives for grievance, such as industry-level grievance mechanisms.*

## Letter of Request

FROM:

Working Group on the NAP on Business and Human Rights

All Stakeholder Members

21 November 2019

### **1. Request**

Various opinions from each stakeholder who constitutes the working group has been submitted respectively through the formulating process of the National Action Plan on Business and Human Rights (NAP). Aiming at extracting **minimum consensus** from those various stakeholder opinions and requests towards NAP in five identified issue categories significant to the NAP formulating process; namely non-financial reporting, foreign workers, human rights due diligence and supply chains, public procurement, and access to remedy, we conducted a set of dialogue and then confirmed “minimum consensus”.

Therefore, we hereby request your Ministry **to reflect this minimum consensus among stakeholders (“Stakeholder Common Request”) in NAP in a meaningful and concrete manner.** We also request that this Letter of Request including Stakeholder Common Request is taken up as one of the agendas of the forthcoming fourth working group meeting and the meetings thereafter, is distributed in the meeting, and is made public in a timely manner.

Additionally, we request that opinions from each stakeholder that are additional to the Stakeholder Common Request are to be discussed in the working group meetings, and also the result of judgment, either adoption or rejection, is to be informed with an explanation of reasoning.

### **2. Preconditions**

This Letter of Request is subject to the following:

- A. Stakeholder opinions that are extracted to form the Stakeholder Common Request:
  - Opinions included in the Report of the Baseline Study;
  - Written opinions submitted to your Ministry through the working group; and
  - Opinions from stakeholders raised during the course of our dialogue to develop this Letter of Request
- B. Issue categories that are identified in forming the Stakeholder Common Request:
  - Identified as 5 important issue categories - non-financial reporting, foreign workers, human rights due diligence and supply chains, public procurement, and access to remedy;
  - Identified in consideration of the level of importance that is manifested from multiple stakeholders;
  - Among those 5 categories, each Stakeholder Common Request can be mutually overlapping, and other common issues raised in the stakeholder requests can be omitted for some taxonomic reason.

C. Nature of the Stakeholder Common Request

- Stakeholder Common Request is regarded as minimum consensus of the stakeholder, and therefore it does not aim to revise or restrict other requests already made from each stakeholder.

D. A way forward

- We request that the Stakeholder Common Request is to be documented as concrete action plans through a full engagement with stakeholders and discussions for further development.
- For important issues other than those 5 categories, stakeholder can additionally discuss and agree a common request.
- Relevant information from UNGPs, SDGs, UN NAP Guidance, Baseline Study, NAPs from other countries were referred in forming the Stakeholder Common Request; a summary of these information has been prepared and considered to submit in another occasion.

### 3. Stakeholder Common Request

#### A. Non-financial reporting

| Common understandings: Non-financial reporting                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| <p><b>Opinions of the stakeholders (Summary)</b></p> <p>“B”: Japan Federation of Bar Associations<br/> “C”: Civil Society Platform for Japan’s National Action Plan on Business and Human Rights<br/> “G”: Global Compact Network Japan<br/> “T”: International Labour Organization<br/> “K”: Japan Business Federation (KEIDANREN)<br/> “R”: Japan Trade Union Confederation (JTUC-Rengo)<br/> “S”: National Conference of Association of Small Business Entrepreneurs<br/> “Z”: Ms Zeniya, Dai-ichi Life Insurance (investor)</p> <p>[Content and evaluation of the information that should be reported by companies]</p> <ul style="list-style-type: none"> <li>– Scope and evaluation criteria should be standardized or clarified when it comes to human rights reporting. (K)</li> <li>– Information such as gender pay gap and diversity is not included in the mandatory non-financial reporting framework (under current law) (B)</li> <li>– Reporting should include information such as human rights risk management throughout supply chains which involve other companies (B, C)</li> </ul> <p>[Mandatory reporting]</p> <ul style="list-style-type: none"> <li>– Policy should promote voluntary reporting and disclosure for the time being (e.g. establish guidance for domestic companies, consultation desks, and portal sites). (K)</li> <li>– Policy promoting non-financial reporting should be developed progressively with due analysis on the necessity and effect of the reporting as well as on examples of other countries. (K)</li> <li>– Reporting of efforts and initiatives implemented throughout supply chains should be mandatory (C), mandatory reporting for companies of a size larger than a prescribed level. (B)</li> </ul> <p>[Process of reporting]</p> <ul style="list-style-type: none"> <li>– Linkage with METI’s Guidance for Collaborative Value Creation (G), develop a guidance document for non-financial reporting making a linkage with the revision of the Corporate Governance Code and Stewardship Code. (Z)</li> <li>– Reporting by using integrity reports or sustainability reports (K, Z), dialogue with investors (Z), company initiatives to protect human rights should be disclosed under non-financial reporting (voluntary framework) using integrity reports, etc. , rather than mandatory reporting, since there are diversity within sectors in terms of efforts in place and priority set (reason: NAP should clarify that the non-financial reporting in human rights area is not mandatory). (Z)</li> <li>– Non-financial reporting should not be linked with the Corporate Governance Code, which is part of the rules for listing companies, nor with the Stewardship Code, which has been signed by most institutional investors; explicit linkage between those codes and human rights due diligence creates implication of mandatory due diligence, which makes those codes go beyond the guidance function. (K)</li> </ul> <p>Therefore, as of now, the <b>Stakeholder Common Request</b> can be understood and described as follows:</p> <p><i>The Government promotes the non-financial reporting on the implementation and the result of human rights due diligence and other relevant initiatives to enhance the corporate value and competitiveness of the enterprises making effort to address challenges among business and human rights issues.</i></p> |

*Specifically, the government formulates guidance on non-financial reporting (clarifying the linkage with the METI's Guidance for Collaborative Value Creation), establishes consultation desks and portal sites, and offers guidance and good practices.*

*Mandatory reporting should be discussed continuously, including its validity and appropriateness, and the size of the enterprise shall be considered in that discussion.*

## B. Foreign workers

### Common understandings: Foreign workers

#### Opinions of the stakeholders (Summary)

##### [Background]

- Technical Intern Training Program: Labour laws are allegedly violated in more than 70% of workplace (R), large amount of debts (C), restriction on freedom to choose own workplace hinders equal labour-management relations (B), the program is used mainly by SMEs. (C)
- Foreign workers in general: insufficient knowledge of labour laws (R), difficulties in obtaining knowledge of social matters, language skills, access to remedy which leads vulnerability in rights. (C)
- Justice system: There are doubts among international community about whether foreigners are treated fairly. (Z)

##### [Positioning in NAP]

- The issue of foreign workers should be stated within the topic of “equality under the law” in the cross-cutting section (K, I, R), it should be treated as the issue of eliminating discrimination in employment and occupation. (C)
- The topics of the NAP should include securing the rights of foreign workers (R), respect for the rights of foreigners and other minorities, and responding to human rights issues. (B)

##### [Law, system, awareness raising]

- There are diverse opinions regarding the technical intern training program: law enforcement and institution should be strengthened (R, C); the purpose and employment placement mechanism should be revised (S); the system should be entirely abolished (B); and the policy accepting foreign workers should not rely on the program. (C)
- Technical Intern Training Program: Rigorous enforcement of the relevant laws and strengthening of the institution that enables it (oversight of supervising organizations etc.) (K), bilateral government agreements should be prerequisite in accepting workers (B), awareness raising and support for SME employers which are called “implementing organizations”. (K)
- Specified Skilled Workers: Rigorous enforcement of the relevant law and strengthening of the institution that enables it (K), guarantee of freedom to choose own workplace, elimination of brokers, etc., and a system that considers human rights protection e.g. not forcing long-term family separation (B), awareness raising and support for companies, steady implementation of the “Comprehensive Measures for the Acceptance and Coexistence of Foreign Human Resources” etc. (K)
- Disseminate measures required under the Guideline concerning the Improvement of Employment Management for foreign workers. (Omura, Advisory Committee)

##### [Foreign workers in supply chains]

- Measures to prevent labour practices in supply chains that infringe the ILO's core labour standards, e.g. forced labour (particularly institutions and initiatives related to supply chain management), and fact-finding investigation. (B)
- Based on the government commitment to decent work, address the issue of migrant workers in the overseas supply chain of Japanese companies. (I)

##### [Equal treatment]

- Fundamental labour rights of foreign workers, secure working conditions such as wages equivalent to those of Japanese workers (R), provided however, within the scope of activities specified in the Immigration Control and Refugee Recognition Act. (K)

##### [Access to remedy]

- Cooperate with the bar associations in relation with the consultation service for foreigners at the Multi-cultural Coexistence General Consultation One-Stop Center. (B)
- Provide consultation and grievance in mother languages. (R)

[Policy for Multicultural Coexistence]

- Steady implementation of Comprehensive Measures for the Acceptance and Coexistence of Foreign Human Resources (K)
- While taking into account the social costs of developing a policy environment, the policy should be implemented with consensus among the national citizens (K, R)

Therefore, as of now, the **Stakeholder Common Request** can be understood and described as follows:

*The Government, under the law, protects the human rights of all foreign workers, including those relating to equality and labour. The Government will implement the following policy measures in order to protect the rights of foreign workers in due consideration of the reported cases of poor working conditions and violations of the rights of foreign workers.*

- *Technical Intern Training Program: In light of rigorous enforcement of the Technical Intern Training Act, the Government increases investment in both human and financial resource towards strengthening the overall function of the Organization for Technical Intern Training, particularly the labour inspectorate. The Government takes measures within bilateral government agreements to eliminate obligations owed by workers that cause forced or compulsory labour. In addition, the Government conducts awareness raising and training to foreign technical interns, implementing organizations, and other actors concerned, including the dissemination of measures in accordance with the “Guideline concerning the Improvement of Employment Management”, and assistance will be provided to implementing organizations that are SMEs.*
- *Specified Skilled Workers: In case of accepting foreign workers under the framework of the Specified Skills, the Government ensures rigorous enforcement of applicable laws, increase in investment in both human and financial resource to fulfill the function of labour inspectorate, and guarantees the freedom to choose own workplace. The Government takes measures within bilateral government agreements to eliminate obligations owed by workers causing forced or compulsory labour. It also conducts awareness raising and provides assistance to related companies.*
- *Other policy measures for the protection of the rights of foreigners: Promote supply chain management, including human rights DD, in order to address the challenges of foreign workers in domestic and overseas supply chains, especially those relating to fundamental principles and rights at work. In addition, the Government provides consultation service for foreign workers, which offers in their mother language and cooperates with legal experts to improve accessibility and resolve problems effectively.*
- *To realize a society of harmonious coexistence, in which both Japanese and foreign nationals can respect each other, the Government promotes and disseminates among society various measures such as support for foreign nationals as living citizens as envisaged in “Comprehensive Measures for the Acceptance and Coexistence of Foreign Human Resources”.*

## C. Human rights due diligence and supply chains

| Common understandings: Human rights due diligence and supply chains                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <p><b>Opinions of the stakeholders (Summary)</b></p> <p>[Current status]</p> <ul style="list-style-type: none"> <li>While some initiatives for human rights DD and CSR procurement are consistent with the UN Guiding Principles, suppliers (Tier 2 or higher) are not sufficiently managed (G), Japanese companies have few opportunities to receive external requests (C), there is little knowledge and experience in stock mainly in SMEs. (B)</li> <li>In supply chains, SMEs are disadvantaged (wage gaps with workers of large companies, restriction on freedom to choose own workplace, lack of human resources, financial access). (S)</li> <li>There are not a few cases in overseas supply chains that have problems, for example, in securing sufficient working conditions for local workers, occupational safety and health, and child labour; many have caused labour-management disputes. Rengo conducts activities such as awareness raising and seminars for local workers and unions of Japanese MNEs overseas. (R)</li> </ul> <p>[Object/naming]</p> <ul style="list-style-type: none"> <li>Although it is generally agreed that the term “supply chains” include global supply chains, there is a disagreement regarding whether it includes “value chains” (B, C) and “investment chains”. (B)</li> </ul> <p>[Gap analysis as a prerequisite]</p> <ul style="list-style-type: none"> <li>As a prerequisite for government actions, compliance with domestic laws, treaties and other commitments should be verified. (S, C)</li> </ul> <p>[Voluntariness of human rights DD or CSR procurement]</p> <ul style="list-style-type: none"> <li>There are diverse opinions regarding whether to obligate companies the human rights DD and CSR procurement; the decision on CSR procurement should be subject to legal judgments, for example "subject to the duty of care" (C); in order to attract institutional investors, human rights DD should remain "request-basis" (consultation is required at the timing of implementation and the size of the target company, etc.) (Z); they should be voluntary under the leadership of top managements given that the human rights DD and CSR procurement can contribute not only to mitigating the operational risks but also to enhancing corporate value and competitiveness. (K)</li> </ul> <p>[Government's external relations – towards developing a level playing field]</p> <ul style="list-style-type: none"> <li>The Government should assume leadership to work with the governments of developing countries and strengthen support for institutional development to address human rights issues in those countries identified through the corporate human rights DD. (K), this is consistent with the ILO MNE Declaration (Home-Host Dialogue, Paragraph 12). (I)</li> <li>Towards achieving fair competition and business relations, act toward the establishment of “East Asian Fair Competition Treaty” and an international organization for its implementation. (S)</li> </ul> <p>[Promotion of the implementation, guidance, awareness raising]</p> <ul style="list-style-type: none"> <li>For the promotion of human rights DD and other efforts in supply chains, international or domestic instruments should be based on or referred to: UN Guiding Principles; ILO MNE Declaration; OECD Guidelines for Multinational Enterprises; OECD DD Guidance on Responsible Business Conduct; JFBA Guidance for Human Rights DD; Keidanren Charter of Corporate Behavior; Small and Medium Enterprise Charter; and International Labour Conference Resolution 2016, Conclusion on Decent Work in Global Supply Chain.</li> <li>Provide government guidance, guidebook or guideline (G, B, I, C), measures or guidance on high risk sectors and specific topics such as child labor / forced labour / human trafficking / foreign workers (B, I,C), appropriate information (G), and certification mechanism. (C)</li> <li>Ensure collective labour rights and industrial relations, establish constructive industrial relations through expanding the conclusion of international framework agreements that adhere</li> </ul> |

to core labour standards and respect fundamental labour rights (R), promote dialogue between companies and other stakeholders. (B)

- Recognize, support, and disseminate good practices among Japanese companies. (I)
- Raise awareness of the basics of the Guiding Principles and Human Rights DD (K), disseminate information and raise awareness with linking to the Guidance for Collaborative Value Creation. (G)

[Achieving fair trade / support and remedy for SMEs]

- In order to remove the disadvantages suffered by SMEs, various measures to achieve fair trade (e.g. strengthening the authority of the JFTC and strict enforcement of the Antitrust Law) are needed (S), prevent adverse effect to the working environment of SMEs caused by a cost burden shifted from large companies to SMEs. (B)
- An organization constitutes of SME-related organization to promote human rights DD (S), a guidebook for SMEs (S), collection and publication of good practices among SMEs (S), provision of sufficient information and implementation guideline for SMEs to promote human rights DD (G), training. (B)

[Access to remedy]

- Establish a support system such as a public guideline for companies in setting up a grievance mechanism, a consultation desk, and referral of experts (B)

Therefore, as of now, the **Stakeholder Common Request** can be understood and described as follows:

*The Government implements the following policies to promote corporate human rights due diligence based on the UN Guiding Principles and other initiatives to respect human rights in both domestic and overseas supply chains (definition of “supply chains” should be subject to review):*

- *The Government develops practical and feasible guidelines on human rights DD based on UNGP and OECD DD Guidance and provide tools to promote the use thereof. Such guidelines should include the ones specialized in particular sector or individual human rights issues (forced labour, child labor, trafficking in persons, etc.) that pose particularly high risks to human rights;*
- *With a view to enhancing corporate competitiveness, the Government promotes corporate initiatives to engage in dialogue with stakeholders, as a mutually complementary initiative together with human rights DD. Specifically, assistance should be provided to enterprises by means of collecting and disseminating good practices in relation with the stakeholder dialogue. In the field of labour, guarantee of core labour standards and collective labour rights is prerequisite. Good practices are identified in line with the ILO MNE Declaration, and which include those related to constructive industrial relations that address labour issues through labour-management dialogues, and practices where efforts are made to improve working environment and address social issues through engagement and collaboration with stakeholders;*
- *The Government engages in effective dialogue with overseas countries and provide necessary assistance for institutional development through bilateral or multilateral cooperative frameworks between governments in order to address issues in overseas countries identified through the corporate human rights DD;*
- *In due consideration of the issues specific to SMEs, the Government develops a guidebook for SMEs on human rights DD, collects and disseminates good practices of SMEs, and provides sufficient information and necessary support for SMEs;*
- *The Government establishes a consultation desk on human rights DD and supply*

*chain initiatives as well as providing expert referral services. The Government ensures policy coherence through cooperation between diplomatic missions and related ministries and agencies. The Government conducts awareness raising and dissemination of the ILO MNE Declaration and the OECD MNE Guidelines to promote corporate initiatives that are implemented in accordance with those instruments.*

## D. Public procurement

| Common understandings: Public procurement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| <p><b>Opinions of the stakeholders (Summary)</b></p> <p>[Policy for public procurement in general]</p> <ul style="list-style-type: none"> <li>– Enact a basic law on public procurement, ensure fair labour standards and compliance with and labour related laws, and fully apply social insurance for those working under public contracts, promote diversity in employment including persons with disabilities, promote municipal ordinances on public contracts, etc.(R)</li> <li>– Order in a reasonable price, minimum price system, securing minimum wage, promotion of municipal ordinance on public contract, etc. for the purpose of preventing excessive cost reduction in public contracts. (S)</li> <li>– Ratify ILO Convention No. 94 (Labour Clauses (Public Contracts)) (R), highlight the importance of ratification in NAP. (C)</li> <li>– It is meaningful to show that the government is taking the initiative. (G, Z)</li> </ul> <p>[Incorporation of human rights standards in public procurement]</p> <ul style="list-style-type: none"> <li>– There are diverse opinions; public procurement should incorporate standards in relation with human rights and environmental considerations (B) or labour provisions (I, R); and the incorporation should be based on a scoring system that evaluates positively the corporate initiatives to respect for human rights while avoiding excessively positive scoring. (K)</li> <li>– <u>Requirements of public procurement</u>: awarding requires the implementation of an impact assessment processes such as OECD-DD Guidance (G), it should avoid inflexible mechanisms such as exclusion from procurement by certification (K), compliance with WTO agreements. (K)</li> <li>– <u>Evaluation criteria</u>: introduction of a comprehensive evaluation method that also evaluates social value brought by the corporate efforts (R), a scoring system that positively evaluates initiatives to respect human rights (while avoiding excessively positive scoring) (K).</li> <li>– Ensure fairness and transparency of the procurement procedures and standard-setting process. (K)</li> <li>– Incorporate human rights standards in various aspects such as qualification for bid participation, evaluation standards, and conditions for contract implementation, taking into account the level of risk with regard to human rights abuses. (B)</li> </ul> <p>[Monitoring]</p> <ul style="list-style-type: none"> <li>– Adoption of OECD DD Guidance and other impact assessment process by the government (G).</li> <li>– Establish a national level check system for the procurement of raw materials from overseas countries (K), set up a standard framework for checking the status of human rights in supply chains (C), DD in supply chains should not impose excessive burden of confirmation that might not be feasible in practice or is unnecessarily complicated. (K)</li> <li>– Public contracts should include the system to secure human rights protection and procedures so that they can be monitored. (C)</li> </ul> <p>[Procurement standards that should be referenced]</p> <ul style="list-style-type: none"> <li>– Tokyo 2020 Sustainable Procurement Code (K, B). However, the validity should be carefully examined from various viewpoints including consistency with WTO rules. (K)</li> <li>– NAP should include statements on public procurement which keeps the equivalent level of those in other countries' NAPs. (Z)</li> <li>– US 2015 Amendments to Federal Acquisition Regulation, EU 2014 Public Procurement Directives. (B)</li> </ul> <p>[SMEs]</p> <ul style="list-style-type: none"> <li>– Local governments' priority order system for specified SMEs, registration system for small businesses, consideration on SME's contribution to local development or level of knowledge about local matters in the process of Integrated Evaluation within the General Competitive Bid System. (S)</li> </ul> |

- Expansion of support for SMEs. (C)

[Capacity building / awareness raising]

- Enlightenment, training, etc. for government institutions as procurer-side. (K)
- Development and implementation of procurement standards should be used to the greatest extent as an opportunity to raise awareness among administrative bodies, companies, citizens, consumers, etc. (K)

[Grievance mechanism]

- Improve grievance mechanism for the cases of violations of public procurement standards. (B)

Therefore, as of now, the **Stakeholder Common Request** can be understood and described as follows:

*The Government fulfils its responsibility to protect human rights in relation with public procurement and implements the following policies for public procurement in order to promote corporate initiatives to respect human rights:*

- *The Government considers a scoring system that evaluates positively the corporate initiatives to respect for human rights, in addition to the existing scoring mechanisms for promoting women's participation and advancement in workplace and efforts ensuring work-life balance;*
- *The Government implements awareness raising and training for public officials involved in public procurement;*
- *The Government improves procedures of the existing grievance mechanism under public procurement system from the perspective of ensuring access to effective remedy by people whose human rights are negatively affected; and*
- *The Government provides necessary support for public procurement in local governments to ensure that measures are taken in accordance with the spirit of the above-mentioned policies by those local governments.*

## E. Access to remedy

### Common understandings: Access to remedy

#### Opinions of the stakeholders (Summary)

##### [State-based judicial mechanisms]

- Consider measures to lower legal, practical and other barriers of accessibility and ensure the effectiveness of the civil justice system and legal aid system. (B)
- Expand the coverage of the civil aid to victims residing overseas, and support for interpretation and translation. (C)
- Provide backup to the activities, and enhance the capacity of the secretariats of the Labour Relations Commission, improve strategies for human resources and operational procedures related to the labour dispute adjudication proceedings etc. (R)

##### [State-based non-judicial mechanisms: NCP]

- Support for conflict resolution and trust building:
  - Enhance the function of conflict resolution related to “business and human rights”. (G)
  - Ensure fairness and neutrality and secure supportive functions of conflict resolution through dialogue by strengthening and facilitating collaboration among the three ministries. (K)
  - Increase human and financial resources to play a sufficient role in an early settlement of labour-management disputes. (R)
  - Adequate protection of sensitive corporate information. (K)
  - Improve accountability, transparency and independency (C), disclose the result of initial assessments, involvement of external stakeholders, expand human and financial resources, power of investigation, and deal with cases where parties do not respond to mediation. (C)
- Involvement of experts:
  - Measures to appoint experts e.g. lawyers (B), involvement of experts in the NCP Committee of Japan. (R)
- Improve accessibility:
  - Improve accessibility for victims of human rights abuses residing overseas. (B)
- Public relations activities:
  - Public relations activities related to NCP functions and processes, etc. (K)

##### [State-based non-judicial mechanisms: other matters than NCP]

- Establish a national human rights institution in accordance with the Paris Principles. (B, C)
- Improve functions of contact points of the whistleblower protection mechanism, especially at the municipal level. (R)

##### [Non-state-based mechanisms]

- Introduce model business practices of SMEs or industry-level grievance mechanisms, formulate guidelines (G), support industry associations for their efforts to develop grievance mechanisms, develop guidelines, provide information, technical support, etc. (B), support for the efforts to develop mechanisms in collaboration with stakeholders. (C)
- Regarding discrimination and harassment in workplace, provide a remedy system by law, establish a committee for employment equality independent from the government, which provide an access to remedy. (R)

##### [Other matters related to access to remedy]

- Ensure accessibility in terms of making complaint (Z) and system usability (B, C), evaluate existing state-based mechanism from the perspective of UN Guidance Principle 31. (C)
- Ratify the Optional Protocol or declare acceptance of individual complaints procedures allowing individuals to bring a complaint in relation with each international human rights treaty. (B)
- Enact comprehensive laws such as “Human Rights Remedy Law”. (R)

Therefore, as of now, the **Stakeholder Common Request** can be understood and described as follows:

*The Government implements the following policies to ensure an easy access to effective remedy by people whose human rights are negatively affected:*

- *With regard to the NCP, the Government (i) strengthens and facilitates collaboration among the three Ministries in charge, aiming at assisting the conflict resolution by parties, (ii) guarantees fairness and neutrality of the system in order to ensure the trust by all parties, and (iii) conducts public relations activities on NCP functions and processes for the purpose of enhancing the awareness and understanding of the system.*
- *The Government makes efforts to recognize and support, as necessary, private-sector initiatives for grievance, such as industry-level grievance mechanisms.*