



DATE: 19 March 2025

A/TO: His Excellency Mr. Atsuyuki OIKE
Ambassador Extraordinary and Plenipotentiary
Permanent Representative
Permanent Mission of Japan
to the United Nations Office
and other international organizations in Geneva

FAX: +41 22 717 36 29

EMAIL: mission@gv.mofa.go.jp

DE/FROM: Federica DONATI
Officer-in-charge
Special Procedures Branch
OHCHR

FAX: +41 22 917 9008

TEL: +41 22 917 9220

E-MAIL: ohchr-registry@un.org

REF: AL JPN 2/2025 (PLEASE USE THIS REFERENCE IN YOUR REPLY)

PAGES: 16 (INCLUDING THIS PAGE)

OBJET/SUBJECT: **JOINT COMMUNICATION FROM SPECIAL PROCEDURES**

Please find attached a joint communication sent by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the right to food; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on the human rights to safe drinking water and sanitation.

I would be grateful if this letter could be transmitted at your earliest convenience to His Excellency Mr. Iwaya Takeshi, Minister for Foreign Affairs.

In transmitting this Special Procedures communication, OHCHR is performing its secretariat function to Special Procedures. Any views or opinions presented are solely those of the author and do not necessarily represent those of the UN or OHCHR.

Mandates of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the right to food; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on the human rights to safe drinking water and sanitation

Ref.: AL JPN 2/2025
(Please use this reference in your reply)

19 March 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on the right to food; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the human rights of internally displaced persons and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 54/10, 55/2, 49/13, 50/17, 50/6 and 51/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the management of Advanced Liquid Processing System (ALPS)-treated wastewater from the Fukushima Daiichi Nuclear Power Station (NPS) by the Government of Japan and TEPCO (Tokio Electric Power), and notably the ongoing discharge of such waters into the Pacific Ocean.**

While we recognize that the Government of Japan has argued that the ALPS-treated water should not be considered contaminated, the information received raises utmost concerns on the inaptness of the ALPS processing system to properly remove all the contaminating substances from the treated water. TEPCO's own data confirms that ALPS-treated water contains multiple radionuclides, such as strontium-90, iodine-129 and carbon-14 and plutonium isotopes. In addition, it contains high concentrations of tritium,¹ which is not treated by ALPS.

¹ TEPCO, Radiation concentration estimates for each tank area (as of 30 September 2024), https://www.tepco.co.jp/en/decommission/progress/watertreatment/images/tankarea_en.pdf; Pacific Islands Forum

His Excellency
Mr. Iwaya Takeshi
Minister for Foreign Affairs

The Government of Japan and TEPCO had set 2020 as the target date to address the issue of stored contaminated water resulting from the Fukushima disaster. Thirteen years past the disaster and four years past the abovementioned target date, this issue has not been sustainably resolved. Moreover, the solution that was chosen, namely the release of contaminated water into the marine environment, may entail grave risks to the enjoyment of human rights of concerned populations within and beyond the borders of Japan.

In recent years, Special Procedures mandate holders have addressed several communications to your Excellency's Government which concern different aspects of the negative ramifications of the Fukushima Daiichi NPS accident on the enjoyment of human rights, including the right to life, the right to the highest attainable standard of health, the right to meaningful participation, the right to adequate food and the right to information (UA JPN 2/2017 on 20 March 2017, and response dated 8 June 2017; AL JPN 5/2018 on 28 June 2018 and response dated 17 August 2018; AL JPN 6/2018 on 5 September 2018 and response dated 5 November 2018, AL JPN 1/2020 of 20 April 2020 and response dated 12 June 2020, and AL JPN 1/2021 on 13 January 2021 and response dated 11 March 2021). We thank your Excellency's Government for its replies. However, serious concerns persist regarding the management of highly contaminated water at the Fukushima Daiichi nuclear plant.

According to the information received:

Management of contaminated water

From 24 August 2023 to 4 November 2024, there were ten discharges of ALPS-treated water into the Pacific Ocean.² The eleventh release is scheduled to take place between February and March 2025; exact dates yet to be specified. The procedure consists of diluting ALPS-treated water to gradually release it from storing tanks into the ocean waters, approximately 1 km off the east coast of Japan.

As discussed in a previous communication to your Excellency's Government (AL JPN 1/2021), the information received suggests that the ALPS-treated water is contaminated. As noted above, TEPCO's own data confirms ALPS-treated water contains multiple radionuclides and high concentrations of tritium.

Expert Panel, Dr Arjun Makhijani, Dr Ferenc, Dr Robert H. Richmond, Dr, Anthony Hooker, Dr Ken Buesseler, Minimizing Harm: the concrete option for solving the accumulation of radioactively contaminated water at the Fukushima Daiichi Nuclear Power Plant site - A paper prepared by the Independent Expert Panel to the Pacific Islands Forum, 12 June 2023, p. 1; Burnie, Shaun, Greenpeace Germany, Stemming the tide 2020 The reality of the Fukushima radioactive water crisis (2020), https://www.greenpeace.org/japan/wp/wp-content/uploads/2020/10/5e303093-greenpeace_stemmingthetide2020_fukushima_radioactive_water_crisis_en_final.pdf

² See also TEPCO, Radiological Environmental Impact Assessment Report for One Year after the Commencement of Discharge Regarding the Discharge of ALPS-Treated Water into the Sea, 9 December 2024, www.tepco.co.jp/en/hd/newsroom/announcements/archives/2024/pdf/241209e0102.pdf

Before the first water discharge, the contaminated water stored in the Fukushima Daiichi NPS amounted to more than 1.3 million metric tonnes³ However, the volume of contaminated water continues to increase through additional cooling water, rainwater, and groundwater coming into contact with the reactor cores. On 23 August 2023, prior to the start of discharge, there was over 1,350,000 cubic meters of contaminated water in storage tanks.⁴ As of 19 December 2024, TEPCO reported that there was more than 1,200,000 cubic meters of contaminated water in storage.⁵ The fundamental problem of on-going accumulation of contaminated groundwater has not been solved by TEPCO.

The latest data indicates an additional 53 cubic meters per day of newly contaminated water.⁶ Over the course of one year, this would amount to an additional 19,345 cubic meters of highly contaminated water, which represents 30 per cent of the total volume of water discharged from August 2023 to August 2024, totaling 62,631 cubic meters. Over the coming decades, the amount of newly accumulated highly contaminated water could increase by several hundred thousand cubic meters. TEPCO have yet to provide any assessment as to the management of this water. Reportedly, TEPCO's operations to release this towering volume of contaminated water will be terminated in 30 or 40 years. This timeframe appears unrealistic in light of available information.

Notwithstanding the delicacy of the issue at stake, the 2021 Radiological Environmental Impact Assessment (REIA) conducted by TEPCO shows several alarming deficiencies and inaccuracies.⁷ First, we have received information that, unlike the current ocean models which cover a 7-year period from 2014 to 2020, the REIA report analyzes meteorological and sea conditions over a shorter period, from 2014 to 2019.⁸ Also, the REIA takes into consideration only normal meteorological conditions, failing to address the potential impact of exceptional meteorological events, such as storms.

-
- ³ TEPCO, Current ALPS-Treated Water, <https://www.tepco.co.jp/en/decommission/progress/watertreatment/alpsstate/index-e.html> ; Pacific Islands Forum Expert Panel, Dr Arjun Makhijani, Dr Ferenc, Dr Robert H. Richmond, Dr Anthony Hooker, Dr Ken Buesseler , Minimizing Harm: the concrete option for solving the accumulation of radioactively contaminated water at the Fukushima Daiichi Nuclear Power Plant site - A paper prepared by the Independent Expert Panel to the Pacific Islands Forum, 12 June 2023, p. 1, <https://cafethorium.who.edu/wp-content/uploads/sites/9/2023/06/Concrete-paper-Final-2023-06-12-v-2.pdf>
- ⁴ TEPCO, Situation of Storage and Treatment of Accumulated Water containing Highly Concentrated Radioactive Materials at Fukushima Daiichi Nuclear Power Station (613th Release), p. 5 , 23 August 2023, www.tepco.co.jp/en/hd/decommission/information/newsrelease/watermanagement/pdf/2023/watermanagement_20230823-e.pdf
- ⁵ TEPCO, Situation of Storage and Treatment of Accumulated Water containing Highly Concentrated Radioactive Materials at Fukushima Daiichi Nuclear Power Station (681st Release), 23 December 2024, www.tepco.co.jp/en/hd/decommission/information/newsrelease/watermanagement/pdf/2024/watermanagement_20241223-e.pdf
- ⁶ TEPCO, Changes in the amount of water transferred from groundwater drains to reactor and turbine buildings and in the amount of groundwater and rainwater flowing into the buildings, 14 January 2025, www.tepco.co.jp/en/hd/decommission/information/newsrelease/groundwaterdrain_transition/pdf/2025/groundwaterdrain_20250114-e.pdf
- ⁷ TEPCO, Radiological Impact Assessment Report Regarding the Discharge of ALPS Treated Water into the Sea (Design stage) at the Fukushima Daiichi Nuclear Power Station https://www.tepco.co.jp/en/hd/newsroom/press/archives/2021/20211117_01.html
- ⁸ TEPCO, Radiological Impact Assessment Report Regarding the Discharge of ALPS Treated Water into the Sea, [Radiological Impact Assessment Report Regarding the Discharge of ALPS Treated Water into the Sea \(Design stage*\) \[Overview\]](#), 17 November 2021, p. 10; Revision of the Radiological Impact Assessment Report Regarding the Discharge of ALPS Treated Water into the Sea, Attachment 3, [Revision of the Radiological Impact Assessment Report Regarding the Discharge of ALPS Treated Water into the Sea \(Design stage*\)](#), 28 April 2022, p. 9.

Moreover, the REIA is based on the assumption that radionuclide values reach equilibrium in bottom sediments. However, levels of the non-tritium radionuclides, which are 1000's (137Cs) to > 300,000 (60Co) times more likely to accumulate on the seafloor, would continue to increase over time with a continuous source. This would lead to an increasing uptake by demersal fish and benthic dwelling shellfish, therefore affecting the food chain and endangering consumers.

In addition, the REIA does not address genetic damage to marine organisms, nor to human consumption of these organisms. Hence, it lacks any assessment of mutation, health and cancer-related risks.⁹ In addition, acceptable limits to exposure to ionizing radiation are generally calculated on the basis of a standard adult man, without taking into account the higher susceptibility to cancer of children, given their smaller body size.

It is also unclear how the health impacts stemming from the release of the wastewater would affect those that have already experienced adverse health impacts from the Fukushima disaster, notably cancer patients and survivors. Rates of cancer among those living in the prefecture at the time of the disaster are substantially higher than the national average. Residents of Fukushima prefecture who may experience adverse health effects as a result of the release of wastewater could struggle to access adequate healthcare. Access to healthcare in Fukushima prefecture is constrained by the reluctance of qualified medical personnel to work in the prefecture, and many hospitals remain closed and understaffed.¹⁰

The July 2023 International Atomic Energy Agency (IAEA) report entitled “IAEA Comprehensive Report on the Safety Review of the ALPS-Treated Water at the Fukushima Daiichi Nuclear Power Station” (hereafter the 2023 IAEA Report), states that the operations of gradual release of the wastewater to the sea, as currently planned and assessed by TEPCO, would have a negligible radiological impact on people and the environment.¹¹ However, the IAEA’s review is based exclusively on IAEA’s safety standards, some of which appear outdated, failing to keep track of the latest developments with respect to multi-omics and DNA analyses to determine sublethal, cellular-level damage to the ocean and human life.¹² Therefore, the 2023 IAEA report does not appear suitable to provide a sound scientific endorsement of the discharge.

Additionally, the 2023 IAEA report bases its assessments on the presumption that, throughout the entire period of the discharge operation, which is expected to last approximately 30 years, the activities will run under normal operations.¹³

⁹ IAEA, “IAEA Comprehensive Report on the Safety Review of the ALPS-Treated Water at the Fukushima Daiichi Nuclear Power Station”, 2023, p. 17, [iaea_comprehensive_alps_report.pdf](#)

¹⁰ A/HRC/53/35/Add. 1, paras 74-76

¹¹ IAEA, “IAEA Comprehensive Report on the Safety Review of the ALPS-Treated Water at the Fukushima Daiichi Nuclear Power Station”, 2023, p. V., [iaea_comprehensive_alps_report.pdf](#)

¹² IAEA, “IAEA Comprehensive Report on the Safety Review of the ALPS-Treated Water at the Fukushima Daiichi Nuclear Power Station”, 2023, p. 5, [iaea_comprehensive_alps_report.pdf](#)

¹³ IAEA, “IAEA Comprehensive Report on the Safety Review of the ALPS-Treated Water at the Fukushima Daiichi Nuclear Power Station”, 2023, p. 6, [iaea_comprehensive_alps_report.pdf](#)

However, given the length of this timeframe, the occurrence of exceptional circumstances, including natural and man-made hazards, can be neither ignored nor overlooked.

It has also been alleged that the Government of Japan and TEPCO have failed to take into account the feasible less harmful alternatives to the discharge of wastewater, in breach of the principle ‘as low as reasonably achievable’ (ALARA). This principle of radiation safety refers to the concept of making every reasonable effort to keep exposure to ionizing radiation as low as practicable considering relevant societal, economic, and other considerations.¹⁴ Reportedly, one example of an alternative that is less harmful than the discharge of contaminated water is the utilization of treated water to make concrete, with negligible human contact. This would avoid any risk of absorption of the contaminating substances by marine organisms without increasing direct exposure for human beings.¹⁵

Lack of justification assessment

Furthermore, the 2023 IAEA report lacks a justification assessment. This assessment evaluates whether the expected benefits for individuals and society from a given project outweigh the harm resulting from that project. The justification assessment is thus key to ensuring the proper evaluation of the societal, environmental and economic implications of a project. In this case, the absence of a justification assessment in the 2023 IAEA report makes it difficult to determine whether the benefits of releasing treated wastewater to individuals and society as a whole would sufficiently outweigh the negative impacts caused by such operations.

According to information received, the lack of the justification assessment is due to the fact that the request of the Government of Japan to obtain the review by the IAEA was made after it decided to discharge ALPS-treated water into the marine environment. According to the 2023 IAEA Report, the responsibility for conducting the justification assessment lies thus with the Government of Japan.¹⁶ This raises significant concerns on the impartiality of the justification assessment procedure, as it would be conducted by the same entity that adopted the measure at stake. The assessment should include radiation exposure, as well as all social, economic and environmental factors relating to the discharge of treated wastewater.

Among these aspects, the imposition of trade restrictions on the export of Japanese seafood is a key element that should have been carefully considered, given the significant economic impact on local fishers, many of whom are still

¹⁴ IAEA, “IAEA Comprehensive Report on the Safety Review of the ALPS-Treated Water at the Fukushima Daiichi Nuclear Power Station”, 2023, p. 20, [iaea_comprehensive_alps_report.pdf](#).

¹⁵ Pacific Islands Forum Expert Panel, “Minimizing Harm: the concrete option for solving the accumulation of radioactively contaminated water at the Fukushima Daiichi Nuclear Power Plant site”, pp. 1 and 2, [Panel Report.pdf](#)

¹⁶ IAEA, “IAEA Comprehensive Report on the Safety Review of the ALPS-Treated Water at the Fukushima Daiichi Nuclear Power Station”, 2023, p. 19, [iaea_comprehensive_alps_report.pdf](#).

struggling to recover from the impact of displacement, potential exposure to radiation, and grave disruptions to their livelihoods experienced in the immediate aftermath of the disaster. In August 2023, as a reaction to the start of the wastewater discharge activities, China and Russia imposed a ban on imports of seafood from Japan, whereas South Korea limited the scope of such measure to the seafood deriving from eight Japanese prefectures. Subsequently, in 2023 Japan's overall export of seafood plummeted by 17 per cent compared to the share of the previous year. According to the most recent developments, while Russia and South Korea continue to impose their bans, in September 2024 China agreed with Japan to gradually lift the trade ban in the following months, provided that China will be allowed to participate in Japan's monitoring arrangement with the International Atomic Energy Agency, as well as to autonomously conduct its own activities of water sampling and monitoring.

Access to Justice

We also note that 300 citizens from the Fukushima prefecture, five other prefectures and Tokyo have filed a civil lawsuit seeking an end to the discharge of radioactive wastewater from the Fukushima Daiichi site. The lawsuit was filed in Fukushima District Court and is called the "Lawsuit Seeking an Injunction against the Release of ALPS-Treated Contaminated Water". The citizens seeking an injunction to stop the discharges highlight "the personal rights of fishing people and the exercising of these rights. The personal rights of other fishery-related people and citizens in general are also involved (the right to subsistence and the right to live in peace in an uncontaminated environment). The water release is proceeding despite other options being available and even though there is no urgency to go ahead with the release. Moreover, further increasing environmental pollution is illegal, being in contravention to environmental laws and treaties."¹⁷

Public consultations and access to information

Allegedly, the Government of Japan continues to fail to adopt the necessary measures that would ensure adequate access to information concerning health and environmental matters in Japan and beyond, as well as to guarantee effective participation in decision-making, in particular of affected communities and individuals. The abovementioned failure to conduct a justification assessment implies the lack of consideration of the economic, social and environmental implications of wastewater discharge for the affected population. Subsequently, the Government of Japan has not put in place any procedure to take into account the various forms of opposition to the wastewater release operations. This reflects opacity in the process with respect to the transparency and accountability of governmental conduct regarding critical public affairs.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our serious concerns regarding the management of the consequences of the nuclear plant disaster in Fukushima. While acknowledging efforts of Japanese authorities to deal with the complex ramifications deriving from an event of such

¹⁷ CNIC, Lawsuit to Halt ALPS Treated Water Discharge, December 2023, <https://cnic.jp/english/?p=6853>

magnitude, we regret that thirteen years after the disaster many issues are unresolved, and the people still bear the brunt of the consequences of this disaster. In this regard, we are alarmed that the implementation of contaminated water release operations of into the ocean may pose major environmental and human rights risks, exposing people, especially children, to threats of further contamination in Japan and beyond.

We wish to raise our concern about the allegations of the failure to assess the consequences on health of the release of wastewater against the best available scientific evidence. Against this backdrop, we would like to highlight that the threats to the enjoyment of the right to adequate food do not concern only local people within the borders of Japan. Given the migratory nature of fish, their contamination represents a risk also for people living beyond the Japanese borders, including Indigenous Peoples across the Pacific Ocean which, according to their culture and traditions, mainly rely on seafood as their primary livelihood. As recalled by the Food and Agriculture Organization (FAO) Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, the pollution and degradation of water environments poses a serious threat to small-scale fishing communities, impeding the secure and sustainable use of the fishing resources that they depend on.

The discharge of treated wastewater in the ocean threatens the effective enjoyment of human rights of people put in a vulnerable situation by the Fukushima Daiichi nuclear accident, including displaced persons and those who remained in the prefecture despite radiation risks and economic decline due to a lack of alternative options, whose physical and mental health as well as their livelihood is under additional strain in the aftermath of the wastewater releases carried out.

We are also concerned about the alleged persistent lack of effective engagement with and participation of local communities and representatives of civil society organizations in meaningful consultations regarding the disposal of contaminated wastewater. This is resulting in the failure of the Government to properly consider and respect the rights and needs of the affected people. In turn, this is hindering the rebuilding of lives of those individuals who have heavily suffered the consequences of the Fukushima disaster.

Furthermore, we highlight that informed and effective mechanisms of consultation with the entire spectrum of stakeholders involved are critical to ensure the proper consideration of reasonable and feasible less harmful alternatives to the dumping of contaminated wastewater into the marine environment. Enabling a process that considers the views of the affected communities is essential to guarantee the proper functioning of a democracy and protecting and promoting human rights, with the ultimate goal to attain the highest standard of wellbeing for the society as a whole.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on how the Radiological Environmental Impact Assessment has been conducted according to the best available scientific evidence, including the consideration of exceptional meteorological circumstances that may occur throughout the long-term release operations.
3. Please provide information on whether and how a justification assessment on the release operations has been carried out.
4. Please provide information on the measures adopted to assist those persons who may find themselves under additional strain in the aftermath of the release operations, including Indigenous Peoples of the Pacific, beyond the Japanese borders.
5. Please explain in detail which mechanisms have been put in place to guarantee effective consultation rights to the affected communities, including concrete examples of the consideration given to the concerns expressed and the proposals advanced by civil society.
6. Please explain whether and how the adoption of feasible less harmful alternatives, such as the utilization of treated water to make concrete with low human contact, has been taken into consideration.
7. Please explain what measures have been taken or are envisaged to ensure the right to remedy for those affected by the release of the wastewater in terms of displacement, adverse health impacts, or adverse impact to their livelihoods.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.


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

A handwritten signature in black ink, reading "Marcos A. Orellana." with a horizontal line underneath.

Marcos A. Orellana
Special Rapporteur on the implications for human rights of the environmentally sound
management and disposal of hazardous substances and wastes

A handwritten signature in black ink, reading "Astrid Puentes Riaño." with a horizontal line underneath.

Astrid Puentes Riaño
Special Rapporteur on the human right to a clean, healthy and sustainable
environment

A handwritten signature in black ink, reading "Michael Fakhri" with a horizontal line underneath.

Michael Fakhri
Special Rapporteur on the right to food

A handwritten signature in black ink, reading "Gina Romero" with a horizontal line underneath.

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

A handwritten signature in black ink, reading "Paula Gaviria" with a horizontal line underneath.

Paula Gaviria
Special Rapporteur on the human rights of internally displaced persons

A handwritten signature in black ink, reading "Pedro Arrojo-Agudo" with a horizontal line underneath.

Pedro Arrojo-Agudo
Special Rapporteur on the human rights to safe drinking water and sanitation

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation. These include:

- The Universal Declaration of Human Rights;
- The International Covenant on Economic, Social and Cultural Rights;
- The International Covenant on Civil and Political Rights;
- The Convention on the Rights of the Child;
- The UN Framework Principles on Human Rights and the Environment

We wish to draw your Excellency's Government's attention to obligations under international human rights instruments, to which Japan is party, recalling article 3 of the Universal Declaration of Human Rights (UDHR) and article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) which guarantee the right of every individual to life, liberty and security. The UDHR proclaims that every organ of society shall strive to promote respect for human rights and fundamental freedoms and to secure their universal and effective recognition and observance. We would also like to call your Excellency's Government's attention to general comment No. 36 of the Human Rights Committee (HRC) on the right to life. According to the HRC, the duty to protect also implies that States Parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity, including degradation of the environment (para. 26). Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States Parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors (para. 62). In addition, article 6 of the Convention on the Rights of the Child (CRC) recognizes that every child has the inherent right to life and requires States parties to ensure to the maximum extent possible, the survival and development of the child. It further requires States parties to take all effective and appropriate measures to diminish infant child mortality and increase life expectancy.

We would also like to draw the attention of your Excellency's Government to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The right to health is also guaranteed as a part of the UDHR under article 25 which considers the individual's potential, the social and the environmental conditions affecting the health of the individual, and the availability of health services. General comment No. 14 describes the normative content of ICESCR article 12 and the legal obligations undertaken by the States parties to respect, protect and fulfil the right to physical and mental health. In paragraph 11 of general comment No. 14, the Committee on Economic, Social and Cultural Rights (CESCR) interprets the right to health as "an inclusive right extending not only to timely

and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information”. Furthermore, article 24 of the CRC recognizes the right of the child to the enjoyment of the highest attainable standard of physical and mental health, and the concomitant duty of the State to provide adequate nutritious food and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.

We would also like to refer your Excellency’s Government to the report by the former Special Rapporteur on the right to the highest attainable standard of physical and mental health after his visit to Japan in November 2012 (A/HRC/23/41/Add.3). The Special Rapporteur encouraged the Government to address a number of serious challenges and to consider particular areas for improvement in the nuclear emergency response system; including the scope and extent of the basic and detailed health management surveys; the dose limits of radiation; access to accurate information on radiation and its impact on health; the transparency and accountability of the nuclear industry and regulatory authority; and participation of affected communities in decision-making processes. In particular, the Special Rapporteur urged, “the Government to involve individuals and community organizations in current and future nuclear and health policies, including in data collection and radiation monitoring, planning evacuation centers, designing health management surveys, decisions regarding radiation levels and evacuation zones, and in setting compensation amounts” (para. 75).

Additionally, we would like to draw to the attention of your Excellency’s Government that on 1 February 2019 under Principles Concerns and Recommendations, the UN Committee on the Rights of the Child (CRC) made seven important recommendations to the government of Japan in relation to the Fukushima nuclear disaster.¹⁸ Specifically to: *(a) Reaffirm that radiation exposure in evacuation zones is consistent with internationally accepted knowledge on risk factors for children; (b) Continue providing financial, housing, medical and other support to evacuees, in particular children, from areas not designated for return; (c) Intensify the provision of medical and other services to children affected by radiation in Fukushima prefecture; (d) Conduct comprehensive and long-term health check-ups for children in areas with radiation doses exceeding 1 millisievert per year; (e) Ensure mental health facilities, goods and services are available to all evacuees and residents, especially vulnerable groups such as children; (f) Provide, in schoolbooks and materials, accurate information about the risk of radiation exposure and the increased vulnerability of children to radiation exposure; (g) Implement the recommendations made by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (see A/HRC/23/41/Add.3).*

Moreover, article 11(1) of the ICESCR recognizes “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. In interpreting this provision, the CESCR stressed in its general comment No. 12 that the

¹⁸ Committee on the Rights of the Child Eightieth session 14 January-1 February 2019, Item 4 of the provisional agenda Consideration of reports of States parties”, List of issues in relation to the combined fourth and fifth periodic reports of Japan, CRC/C/JPN/Q/4-5, 22 February 2018.

core content of the right to adequate food implies, inter alia, both economic and physical accessibility of food (para. 7). The Committee considers that the core content of the right to adequate food implies, inter alia, availability of food which refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand. The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that private actors do not deprive individuals of their access to adequate food. The obligation to fulfil requires the State to proactively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever a group or individual is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the duty to provide that right directly. In addition, we would like to recall that, according to the FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, States should strive to restore access to traditional fishing grounds and coastal lands to small-scale fishing communities that have been displaced by natural disasters (5.12).

The right to maintain wholesome or healthy living is also enshrined in article 25 of the Constitution of Japan. These provisions in the Constitution and human rights instruments form the basis of the right to avoid unnecessary exposure to radiation. Read together, these rights clearly establish a duty of the part of your Excellency's government to prevent exposure to hazardous substances and wastes, as detailed in the 2019 report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes to the UN General Assembly (A/74/480). We would also like to draw the attention of your Excellency's Government to the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention) ratified by Japan on 15 October 1980, and its 1996 Protocol (London Protocol). According to article 3 of the London Protocol, States "shall apply a precautionary approach to environmental protection from dumping of wastes or other matter whereby appropriate preventative measures are taken when there is reason to believe that wastes or other matter introduced into the marine environment are likely to cause harm even when there is no conclusive evidence to prove a causal relation between inputs and their effects".

We wish to call the attention of your Excellency's Government to article 25 of the ICCPR, which guarantees the right and the opportunity of every citizen to take part in the conduct of public affairs. The HRC in general comment No. 25 stipulates that citizens may participate directly by taking part in popular assemblies which have the power to make decisions about local issues or about the affairs of a particular community and in bodies established to represent citizens in consultation with government (para. 6), and that they may also exert influence through public debate and dialogue with their representatives or through their capacity to organize themselves (para. 8). The right to participate in public affairs is further expounded in A/HRC/39/28: "Meaningful participation requires a long-time commitment by public authorities, together with their genuine political will, an emphasis on agency and a shift in mindset regarding the way of doing things... Laws, policies and institutional arrangements should ensure the equal participation of individuals and groups in the design,

implementation and evaluation of any law, regulation, policy, programme or strategy affecting them (para. 19(c)). The right to participate in public affairs should be recognized as a continuum that requires open and honest interaction between public authorities and all members of society, including those most at risk of being marginalized or discriminated against, and should be facilitated continuously (para. 19(h)). When decision-making processes may have an impact on children, States should ensure that the right of children to express their views freely and to be heard is guaranteed, including by establishing child-friendly, age-appropriate, gender sensitive, inclusive and safe mechanisms for their meaningful engagement (para. 59). Article 12 of the CRC provides that States shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

We wish to appeal to your Excellency's Government to take all necessary steps to secure the right to information, which is an enabler of rights to meaningful participation, prior informed consent, among many others. The right to information has been recognized as one of the rights upon which free and democratic societies depend (E/CN.4/2000/63, para. 42). We would like to call the attention of your Excellency's Government to the importance of the right to information about hazardous substances to the general public, as emphasized in the Human Rights Council Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (A/HRC/30/40) in paragraphs 7, 8 and 48. In addition, we would like to refer your Excellency's Government to the HRC's general comment No. 34 concerning Freedoms of Opinion and Expression which indicates that the right to access to information includes "access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored, its source and date of production" (paras. 18 and 19).

In order to fully realize the right to information for transparent public institutions, implementation through frameworks for measuring, monitoring, reporting and verification of information are necessary for Governments to ensure accountability on their obligations. States should ensure collection and proper management of information on exposure levels, contamination, and long-term health implications of exposure to chemicals, especially with regard to affected communities. In this connection, we wish to refer your Excellency's Government to general comment No. 14 of the CESCR which provides that States should establish and maintain mechanisms to monitor the implementation of policies and plans towards achieving the right to health (para. 56). Maintaining disaggregated information is necessary to understand specific events in the realization of the impact of particular actions on various groups including children. The CESCR has in relation to various countries evaluations recommended that States improve national statistics and data collection and disaggregation.

We see it particularly relevant to point to Human Rights Committee's general comment No. 36 of 2018 states that human right to life concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity. The general comment also recalls that obligations of States parties under international environmental law should inform the contents of article 6 of the Covenant, and the

obligation of States parties to respect and ensure the right to life should also inform their relevant obligations under international environmental law. In this regard, we would like to draw the attention of your Excellency's Government about international law norms prohibiting significant transboundary environmental harm, both to the territory of other States and to areas beyond national jurisdiction. Environmental impact assessments (EIA) are required as a preventive measure to enable States to ensure that significant transboundary harm does not occur. Any uncertainty resulting from the EIA must be resolved applying the precautionary principle, pursuant to principle 15 of the Rio Declaration on Environment and Development 1992. Principle 21 of the Stockholm Declaration on the Human Environment 1972, reaffirmed by principle 2 of the Rio Declaration, provided that States have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. This was codified in article 194(2) of the United Nations Convention on the Law of the Sea (UNCLOS), which provides that "States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention." Another important duty is contained in article 195 of the Convention: "In taking measures to prevent, reduce and control pollution of the marine environment, States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another." That is what Japan would be doing if it were to discharge the million tons of pollution into the Pacific Ocean.¹⁹ Indeed, it is "every State's obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States."²⁰

The Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. They underline States' substantive responsibilities in this regard including the obligation to prevent from violating the right to a healthy environment or other human rights. Principle 14 for example provides that "States should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities." The most vulnerable include children which are more vulnerable to environmental harm for many reasons including because they are physically developing. In addition, it is important to highlight that paragraph 2(c) of article 24 of the Convention of the Rights of the Child expressly provides that States should take appropriate measures to "combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution."

¹⁹ Nuclear Weapons Advisory Opinion [1996] ICJ 2. At <https://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-00-EN.pdf>. Paragraph 29

²⁰ Pulp Mills on the River Uruguay (Argentina v. Uruguay) (Pulp Mills), at <https://www.icj-cij.org/en/case/135/judgments>. Paragraph 101.

The Guiding Principles on Internal Displacement establish that all wounded and sick internally displaced persons, as well as those with disabilities, shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require (principle 19). Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of their rights to seek freely opportunities for employment and participate in economic activities, and the right to associate freely and participate equally in community affairs (principle 22(b)(c)).

We wish to recall that the Special Rapporteur on the human rights of internally displaced persons, in her report on her official visit to Japan (A/HRC/53/35/Add.1) recommended that in light of concerns expressed by Fukushima residents and internally displaced persons from Fukushima that the Government, guided by impartial scientific expertise, reconsider releasing ALPS water in light of feasible alternatives, and undertake meaningful consultations with potentially affected populations, particularly those in the fishing industry (para. 82).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.