

**Remarks of Professor Anita Ramasastry, Member of the United Nations Working Group
on Business and Human Rights**

**Inaugural Meeting of the Advisory Group for the Japanese National Action Plan on
Business and Human Rights
Ministry of Foreign Affairs, June 18, 2019**

Dear Vice Minister Yamada, Ambassador Otaka, Ladies and Gentlemen, and Distinguished Members of the Advisory Group:

It is my pleasure to be with you here and to listen and learn about your impressions and recommendations for Japan's National Action Plan (NAP).

Japan, as a member of the OECD and the G20 and G7 has already made a commitment to responsible business conduct and the United Nations Guiding Principles on Business and Human Rights. Just last week Labor and Employment Ministers issued the G7 Social communique which noted

We acknowledge that G7 governments have a crucial role to play in engaging all actors to work towards achieving sustainability, inclusiveness and decent work in global supply chains. This involves taking action to strengthen the implementation of RBC building on the ILO Tripartite Declaration of Principles on Multinational Enterprises and Social Policy (MNE Declaration), the OECD Guidelines for Multinational Enterprises (OECD Guidelines) and the UN Guiding Principles on Business and Human Rights.

It is only fitting that Japan should now bring those commitments to life through its NAP. The United Nations Working Group on Business and Human Rights encourages governments to lead by example. The best way to do this is to develop a NAP as a blueprint for promoting responsible business conduct by Japanese companies within and outside of Japan.

The UN Working Group believes that the largest contribution that Japanese companies can make the sustainable development goals is to prevent their negative human rights impacts and to use the UN Guiding Principles and human rights due diligence as a way to identify the largest risks of their operations to workers and other people in their operations.

For example, if a company identifies child labor in its supply chain, by taking steps to prevent and eliminate the child labor, the company is also contributing to SDG 8. Similarly, by focusing on gender equality in the workplace, companies will contribute to SDG 10 focused on ending discrimination.

But what should Japan's priorities be for a NAP? Each country has a different journey and different set of priorities and it is for Japan to decide what is best in the national context. In that spirit, I will cover some general observations about NAPs, based on my work with other G20 governments as well as governments within Asia, in particular ASEAN.

Awareness raising

One key role that a national action can play is to raise awareness of the UN Guiding Principles and the government's commitment to responsible business conduct and respect for human rights. This can be achieved through key ministries making a shared commitment through the plan to each take steps to include the UN Guiding Principles in key policy documents and initiatives linked to CSR, responsible business conduct and environmental and social frameworks. This can be accomplished through the following:

First, civil servants can learn about the UN Guiding Principles and their relevance through training.

Second, different ministries can be encouraged to update their policies to include as appropriate reference to the UN Guiding Principles. For example, JETRO has an environmental and social considerations document which should include the UN Guiding Principles as reference document. Companies should use the UN Guiding Principles as a tool.

Third, there might be a focal point in each ministry or other government departments that is tasked with further awareness raising.

Fourth, the key ministries that interact with the business community through trade, export promotion, small business advising, labor regulation, should help businesses understand how to engage in responsible business practices including human rights due diligence and preventing human rights impacts in their activities.

Living document – evaluation and revision

It is also important for all stakeholders to realize that the national action plan is a living document. It is not intended to be perfect or comprehensive, but rather a document which shows a commitment to progress, and that can be monitored. We encourage States to set up a multi-stakeholder group to monitor implementation of the NAP. We also encourage there to be a date when the NAP will be reviewed and updated as needed. I should note that in many countries, such as the UK, France and Switzerland, the NAP existed but that other measures such as human rights due diligence or a modern slavery law, came about after the NAP was adopted. ***So a NAP does not mean that new developments will not arise outside of the NAP process.***

I should also note that it is important for the NAP to address all 3 pillars of the UN Guiding Principles.

First Pillar One – the state duty to protect.

The Guiding Principles do not tell governments how to promote business respect for human rights – just suggest a smart mix of regulation and voluntary initiatives. Some of the key policy tools that major economies are using to encourage companies to respect human rights include:

- a) Tying public procurement to company's commitment to human rights;
- b) Linking export credit to respect for human rights; and

- c) Developing legislation focused on topics like mandatory human rights due diligence in France and Switzerland, or modern slavery in Australia and the UK.

It is important for the government to have concrete measures set forth to demonstrate its own commitment to this agenda.

Pillar Two: Business Respect for Human Rights

Pillar II focuses on how companies can respect human rights through using human rights due diligence to identify the risks that business activities pose to people. For a company that sources palm oil, for example, what are the risks to workers on those plantations?

The government can provide support and guidance to companies through the key ministries and departments that provide support, financing and counseling to Japanese companies. Many embassies or trade officers are starting to provide guidance to companies on human rights issues in different markets as part of their larger advisory services. Germany now has a help desk on business and human rights for German companies.

Other governments have focused on developing guidance for key sectors in their economies. Developing sectoral codes of conduct in partnership with business and civil society that focus on the specific applications of the UN Guiding Principles can serve as a useful tool for key sectors.

And of course, SMEs will need help and support as part of any effort to encourage businesses to consider human rights.

Pillar Three: Access to Remedy

I also need to emphasize that national action plans should address access to remedy. During my visit, I have discussed how companies might address complaints and issues from people impacted by their business – be it local communities of a major project financed by JBIC, or foreign workers who have a concern about their employer in Japan. In each of those situations, there should be an emphasis on how companies can provide effective grievance mechanisms. Guiding Principle 31 provides criteria for what would be acceptable and the government can provide future guidance to companies on how to improve their guidance mechanisms.

Similarly, Japan can also examine its own non-judicial mechanisms such as its OECD National Contact Point to see how its processes can be made more effective.

Connection to the Sustainable Development Goals

Of course, it is essential to connect the NAP to the larger SDG agenda. But more importantly, it is important to ensure that respect for human rights is seen as the foundation of sustainable growth, and that business that engage in responsible business, will in the longer term face less risk themselves, and be competitive in the global marketplace.

Many of Japan's trading partners in ASEAN including Thailand, Malaysia and Indonesia are developing NAPs. One way to help level the playing field is to cooperation with those governments and share best practices on business and human rights –government to government as well as business to business. This will help increase Japanese market access and also build the capacity of your economic partners.

I look forward to hearing your recommendations and the UN Working Group stand ready to serve as a resource on comparative good practices.

Thank you again for the invitation. It is a great honor and privilege to be here today.