

(Provisional Translation)

Initial Assessment on a Specific Instance  
involving Noritake Company Limited and Noritake Lanka Porcelain Limited  
in relation to the OECD Guidelines for Multinational Enterprises

Date: 5 February, 2024

Japanese National Contact Point (NCP)  
for the OECD Guidelines for Multinational Enterprises

1. Summary of the Initial Assessment conducted by the Japanese NCP

The National Contact Point of Japan (hereinafter referred to as “Japanese NCP”) for the OECD Guidelines for Multinational Enterprises (hereinafter referred to as “Guidelines”) has conducted an initial assessment on the Specific Instance (hereinafter referred to as “Specific Instance”) involving Noritake Company Limited received on 4 November 2021, and Noritake Lanka Porcelain Limited, a subsidiary of Noritake Company Limited located in Sri Lanka (Noritake Company Limited and Noritake Lanka Porcelain Limited, collectively referred to as “Companies Involved”) received on 5 November 2021, submitted by a former employee of Noritake Lanka Porcelain Limited (hereinafter referred to as “Complainant”), based on the Guidelines and the Procedural Guidance for the Japanese National Contact Point (NCP) under the OECD Guidelines for Multinational Enterprises.

As a result, the Japanese NCP has concluded that the issues submitted by the Complainant “do not merit further consideration,” and hereby notifies the Complainant and the Companies Involved of the conclusion.

This Initial Assessment is not an acknowledgement or a decision on whether or not the claims presented by the Complainant are plausible. Nor does it determine whether or not the Companies Involved have acted consistently with the Guidelines.

It is also noted that the Japanese NCP does not have the legal authority to determine whether the Companies Involved have acted consistently with the Guidelines or adjudicate the dispute between the parties referred in the issue raised.

2. Underlying facts

The Complainant was employed by Noritake Lanka Porcelain Limited, a subsidiary of Noritake Company Limited and located in Sri Lanka, in January 2010, and was dismissed in June 2021 after a suspension from work without pay (this dismissal is hereinafter referred to as "the dismissal").

### 3. Summary of issues raised and requests from the Complainant

#### (1) Summary of the claims made by the Complainant

The Complainant asserts that when his supervisor, the Director and General Manager, called him, the Complainant pointed out the problems that the company was having. The Complainant also asserts that, although Noritake Lanka Porcelain Limited alleges that the General Manager suffered psychological damage due to the defamation made by the Complainant as the reason for the dismissal, there is no evidence that the Complainant made any defamation at that time, and that he was intentionally and illegally dismissed by Noritake Lanka Porcelain Limited and its parent company, Noritake Company Limited.

The Complainant points out the following seven risks with respect to the Companies Involved.

Risk 1: Sale of government property made without authorization

Risk 2: Non-payment of employee social security benefits

Risk 3: Inappropriate handling of Halal certification for Bone China ceramic products

Risk 4: Illegal registration of corporate property

Risk 5: Illegal sale by a senior corporate officer to a third party of raw materials imported with beneficial tax measures granted by the government

Risk 6: Sabotage of one business associate s customer audits and ISO audits

Risk 7: Inefficient production

Furthermore, the Complainant also states that the Companies Involved do not observe the Guidelines, I. Definition and Principles, II. General Policy, III. Disclosure, IV. Human Rights, V. Employment and Industrial Relations, and VIII. Consumer Interests. The outline of the claim is that the Companies Involved discriminated against or disciplined the Complainant, a worker who made a good faith report of a corporate activity in violation of law, non-observance of the Guidelines or against corporate policy, by dismissing the Complainant who pointed out the risk that the Companies Involved are having, and that the procedure and disclosure were inadequate.

Also, the Complainant states that, by doing so, the Companies Involved caused adverse impacts on the matters covered by the Guidelines and failed to remedy the adverse

impacts by not implementing the following:

- Compliance with Sri Lanka's labor law and regulations.
- Respect for internationally recognized human rights
- Maintaining good corporate governance principle and a relationship of mutual trust with Sri Lankan society
- Conduct due diligence on risk and human rights
- Protection of Consumer Interests

The Complainant's allegations included that the reason of the dismissal was due to the fact that the Complainant pointed out problems related to obtaining Halal certification for ceramics manufactured and sold by the Companies Involved.

In this regard, the Complainant alleges that in 2017, the Companies Involved had instructed the Complainant to acquire Halal certification, to which the Complainant stated that certification could not be obtained since the raw materials contained pig bone, and that emails exchanged regarding this communication was deleted by the Companies Involved during the above-mentioned suspension period.

## (2) Requests made by the Complainant

The Complainant requests that the NCP makes fact finding and assessments regarding the issues and problems raised and takes appropriate measures regarding coordination and negotiation among the parties concerned so that the consequence arising from non-observance of the Guidelines, violations of national and international regulations, etc. can be managed, and requests the following measures among others:

- The Complainant requires payment of US\$1,000,000 from Noritake Company Limited (compensation for emotional damages) and a total of US\$1,179,269.54 (of which US\$179,269.54 as salary that should have been earned and US\$1,000,000 as compensation) from Noritake Lanka Porcelain Limited, together with any additional compensation that NCP deems appropriate.
- The Companies Involved should comply with any laws and regulations, and observe business guidelines among others when conducting its business activities around the world.
- The Companies Involved are required to pay the full amount of social security benefits related to Risk 2.
- The Companies Involved are urged to avoid malpractices to gain a competitive advantage by betraying the values of specific communities.
- The Companies Involved are requested to refrain from unfair commercial practices with materials suppliers.

- The Companies Involved are requested to advocate for clear product information.
- The Companies Involved should be aware of the need to ensure that specific areas, communities, and cultural values, including those of the Muslim community, are not undermined by the operations of the Companies Involved and that due diligence is conducted with respect to the human rights of those involved in the company's business activities.

#### 4. Views of the Companies Involved

The Companies Involved argue that "none of the risks listed by the Complainant is factually true, the dismissal was for just cause, and since the problem pointed out by the Complainant to the Companies Involved was not the reason for the dismissal, the risks and the dismissal have no relevance. Among others, regarding Risk 3 about Halal certification of Bone China ceramic products, the Companies Involved state that while Noritake Lanka Porcelain Limited has instructed the Complainant to consider the possibility of obtaining Halal certification for its products, as a result of a separate research, which revealed that the raw material supplier did not issue any Halal certificate, the Companies Involved decided not to refer to them as Halal certified and denies any relevance to the dismissal of the Complainant with this.

#### 5. Sri Lankan Domestic Dispute Settlement Procedures for the dismissal

The Complainant has taken proceedings under the Industrial Dispute act, No. 43 of 1950 with the Labor Tribunal of Sri Lanka on October 7, 2021, regarding this dismissal by Noritake Lanka Porcelain Limited and the proceedings is ongoing.

Regarding the proceedings, the Complainant alleges that Noritake Lanka Porcelain Limited has been absent on the fixed date in order to delay the proceedings. In response, the Companies Involved argue that there was a legitimate reason for such absence, and that Noritake Company Limited and Noritake Lanka Porcelain Limited expect the issue to be resolved in the proceedings. The Companies Involved also argues that NCP's involvement in the matter may cause unnecessary confusion and prejudice, and therefore NCP should refrain from being involved at this time.

#### 6. Elements to be considered for the initial assessment

##### (1) Whether the Japanese NCP is the correct entity to assess the complaint

Sri Lanka is not an adherent to the Guidelines and thus no NCP has been established in Sri Lanka. Therefore, it is appropriate for the Japanese NCP to handle this Specific

Instance, since one of the Companies Involved is located in Japan.

(2) The identity of the parties concerned and their interest in the matter

The Complainant was a former employee of Noritake Lanka Porcelain Limited, a subsidiary of Noritake Company Limited in Sri Lanka. He was dismissed by Noritake Lanka Porcelain Limited and claims that his dismissal was illegal, and demands an amount equivalent to the wages he should have earned, as well as compensation. In itself, this is a matter concerning the interests of the Complainant and related to his right against the Companies Involved.

The Companies involved are Noritake Company Limited, headquartered in Japan, and Noritake Lanka Porcelain Limited, a subsidiary of Noritake Company Limited, located in Sri Lanka.

(3) Whether the issue is material and substantiated

In its initial assessment, the Japanese NCP does not determine whether or not any of the issues submitted in the parties' claims or in the documents and other materials submitted by the parties are factually correct. The Complainant has submitted specific issues described in Section 3 above. However, it can be understood that the main interest of the Complainant in this case is to require monetary compensation on the grounds that the dismissal in question was illegal, and the material and substantiated relationship between that and the seven risks listed by the Complainant is not necessarily clear from the allegations.

Risk 3 (Inappropriate handling of Halal certification of Bone China ceramic products), which is relatively specifically alleged as related to the dismissal, is also a matter that was exchanged between the Complainant and the Companies Involved in 2017, and the Companies Involved, having conducted a separate research and found that the raw material supplier of Bone China did not issue any Halal certificate, have decided not to refer to "Halal certified." It is therefore difficult to understand that the allegations themselves prove the linkage between Risk 3 and the dismissal.

However, since the Complainant raised certain issues as described above, the Japanese NCP does not conclude here that the issues are not material and substantive.

(4) Whether there seems to be a link between the activities of the enterprise involved and the issue raised in the specific instance

Since the dismissal related to the Complainant who was employed by the Companies Involved and since the seven risks raised by the Complainant are related to the Companies

Involved, there appears to be a linkage between the activities of the Companies Involved and the Specific instance submitted.

(5) Relations with applicable law and procedures, including court rulings

As mentioned in Section 5 above, a proceeding under the Industrial Dispute act, No. 43 of 1950 is on-going in the Labor Tribunal of the State of Sri Lanka regarding the dismissal.

As noted in Paragraph 26. of the Commentary of Procedural Guidance, the existence of parallel domestic dispute settlement procedures in Sri Lanka should not directly lead to the conclusion that the Specific Instance does not merit further consideration. However, in this case, the parallel procedures in Sri Lanka are more effective than the procedures by the Japanese NCP in the context that the former meets more the request of the Complainant. There is also a possibility that the dispute may be resolved by settlement in the parallel proceedings. In addition, taking into consideration the fact that there is a significant conflict of claims made by both parties at this point, and that the Companies Involved expects the dispute to be resolved in the parallel proceedings, and have stated that NCP's involvement in the Specific Instance will have a negative impact on the dispute settlement through the parallel proceedings, it is not recognized that the offering a good office by the Japanese NCP could contribute positively to the resolution of the Specific Instance.

(6) How similar issues have been or are being, treated in other domestic or international proceedings

It is not clear that similar issues are being treated in other domestic or international proceedings.

(7) Whether the consideration of the specific issue would contribute to the purposes and effectiveness of the Guidelines

Although the issues raised can be relevant to the provisions of the Guidelines, as stated in Section 6. (2) above, it can be understood that the main interest of the Complainant in this case is to require monetary compensation claiming that the dismissal against him was illegal, and the material and substantive relationship between that and the seven risks listed by the Complainant is not necessarily clear from the allegations.

In addition, in view of the respective positions expressed by the Complainant and the Companies Involved in Section 3 and Section 4 above, the main issue in contention in this case is what the reason for the dismissal is and whether it is justified. As stated in

Section 5 above, the dispute settlement procedures on the dismissal in this case is currently on-going at the Labor Tribunal of Sri Lanka between the Complainant and the Company Involved, and the reason for the dismissal and its justification, etc. can be determined in the procedures based on the laws and regulations of Sri Lanka.

On the other hand, in the Japanese NCP procedures, it is not expected to strictly recognize the facts regarding the reason for the dismissal or to order one party to take certain measures based on the claims of the other party or the recognized facts, but as stated in Section 2 above, the Complainant is requiring certain monetary compensation and other actions from the Companies Involved based on the assumption that the dismissal was illegal.

Taking into account of the above mentioned points, notably based on the fact that the relevance of the Specific Instance submitted by the Complainant to the main interest of the Complainant is not sufficiently clear, and the determination of whether the dismissal could be justified, which could be the premise of monetary compensation, etc. is left primarily to the dispute settlement procedures in the Labor Tribunal of the Sri Lanka, the Japanese NCP does not recognize that the dealing with this Specific Instance could contribute to the purpose and effectiveness of the Guidelines.

## 7. Conclusion

Based on the consideration in Section 6 above, the Japanese NCP concludes that the Specific Instance does not merit further examination and will terminate the proceedings with this initial assessment.

The Japanese NCP, noting that there is a difference of opinion between the Complainant and the Companies Involved, urges the parties to make every possible effort to have constructive discussions on those matters.