

Statement concerning the process to elaborate a “Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises”

Japan is committed to the promotion and protection of human rights. In recognition of the importance of advancing human rights even in the context of business and human rights, we support the UN Guiding Principles on Business and Human Rights (UNGPs) as endorsed by consensus at the UN Human Rights Council. In 2020, Japan launched the UNGPs-based National Action Plan (NAP) on Business and Human Rights. We further intend to continue to promote and protect human rights in business activities through the steady implementation of the NAP. In September, the Government of Japan released the “Guidelines on Respecting Human Rights in Responsible Supply Chains”, which is cross-industry guidelines to be followed by business enterprises, with an aim to support business efforts to respect human rights. The Guidelines have been established based on the UNGPs, and other international standards. As such, we consider it crucial that all States and stakeholders take tangible actions based on the UNGPs.

While we appreciate the efforts the Chairman-Rapporteur has made so far, Japan would like to emphasize that it is a fundamental prerequisite that internationally legally binding instruments regarding business and human rights are realistic, effective, and well balanced to ensure that many States can agree on their basic contents. This means that such instruments must reflect the views of the greatest possible number of stakeholders and governments, each of whom are responsible for people faced with greatly varying circumstances. To achieve this when formulating such instruments, it is necessary to have a wider range of relevant States and stakeholders discuss any proposed drafts and to undertake a consensus-building process, which would build upon the UNGPs, during the drafting process.

However, the current draft does not meet the above-mentioned prerequisite. Indeed, it contains fundamental flaws in various provisions, such as the ones concerning:

consistency with international agreements concluded by each State; the scope of rights to be remedied; and procedures and methods to realize remedy, including the definition of the statute of limitation. We are concerned that the current draft is not ideal to achieve our common goals of promoting and protecting human rights in the context of business activities.

In this context, we recognize that the United States has taken the initiative to address these issues. We hope that various differences in position will converge and that we will be able to work towards an outcome on which as many stakeholders as possible can agree.

Finally, we would like to conclude our statement by reaffirming our commitment to the significant issue of respecting human rights in the course of business activities. We will continue to strive to promote and protect human rights in this field in the spirit of the UNGPs, which reflect a broad consensus of relevant stakeholders.