

Guidelines on Respect for Human Rights in Responsible Supply Chains (Draft)

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Ministry of Economy, Trade and Industry

This document is a provisional English translation of the draft of the Guidelines on Respect for Human Rights in Responsible Supply Chains (“the draft”). The draft in Japanese is the original, and the English translation shall be used only for reference. The English translation is subject to further review and change. If there is any discrepancy between the Japanese original and this English translation, the Japanese shall prevail.

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1. Introduction

While globalization has driven economic development, the world faces difficult issues such as widening disparities and poverty, the escalation of climate change and other environmental problems, the spread of infectious diseases, and the eruption of conflicts, which are closely related to problems involving human rights abuses. While respecting freedom, democracy, human rights, the rule of law, and other universal and fundamental values more than ever, Japan will facilitate to resolve these global issues along with other countries worldwide in order to achieve sustainable economies and societies.

Human rights are the rights of all people to life, liberty and the pursuit of happiness, and inherent rights to live with dignity. States have the duty to protect and fulfill human rights.

At the same time, due to the development of globalization, the adverse impacts of business activities on human rights have expanded, and international discussion on corporate responsibility for human rights abuses by business activities has become more active. Under these circumstances, in 2011, the Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework (hereinafter referred to as the “UN Guiding Principles”),¹ was endorsed unanimously in the United Nations Human Rights Council as one of the most important international frameworks for business and human rights. The UN Guiding Principles rest on three pillars: The State’s duty to protect human rights, corporate responsibility to respect human rights, and access to remedy.² States and business enterprises are required to supplement each other and fulfill their respective roles.

¹ The Japanese translation is available here:

https://www.unic.or.jp/texts_audiovisual/resolutions_reports/hr_council/ga_regular_session/3404/. The Corporate Responsibility to Respect Human Rights: An Interpretive Guide prepared by the United Nations Human Rights Office of the High Commissioner (OHCHR) and explaining the corporate responsibility to respect human rights stipulated by the UN Guiding Principles (https://www.icclc.or.jp/human_rights/) may serve as a reference.

² “The State duty to protect because it lies at the very core of the international human rights regime; the corporate responsibility to respect because it is the basic expectation society has of business in relation to human rights; and access to remedy because even the most concerted efforts cannot prevent all abuse.” (Paragraph 6 of the Introduction to the UN Guiding Principles).

The Japanese government launched a National Action Plan on Business and Human Rights (2020 - 2025)³ in 2020 based on the UN Guiding Principles and is engaging in various efforts.⁴ Since Japan has developed supply chains with Asian countries, in particular, it is expected to display its leadership in disseminating and promoting efforts to respect human rights while considering each situation.

At the same time, under the UN Guiding Principles, business enterprises that engage in business activities in Japan must pay attention to the adverse human rights impacts on their company, group companies, and supply chains, etc., not only in Japan but also around the world.

The Japanese government continues to fulfill its obligations as a State proactively. From establishing the Guidelines, it will promote activities to disseminate and increase awareness among business enterprises to facilitate business efforts that respect human rights. In addition, it will provide information, advice, and support so that business enterprises can proactively respect human rights, and it will consider further measures to encourage business activities. These efforts of the Japanese government and business enterprises will proactively be promoted in other countries in cooperation with other governments and international organizations.

1.1 Background and purpose of the establishment of the Guidelines

As mentioned above in 1., in 2011, the UN Guiding Principles were endorsed unanimously by the United Nations Human Rights Council. In addition, the State's obligation to protect human rights and corporate responsibility to respect human rights were included when the Guidelines for Multinational Enterprises by the Organization for Economic Cooperation and Development (OECD),^{5,6} were revised in 2011, and the Tripartite Declaration of Principles concerning

³ This action plan is available here: <https://www.mofa.go.jp/mofaj/files/100104121.pdf>. In June 2022, the Japanese government reported on the implementation status of the action plan for the first year. (https://www.mofa.go.jp/mofaj/fp/hr_ha/page24_001838.html)

⁴ For example, METI and the Japan External Trade Organization (JETRO) have established webpages featuring business and human rights (<https://www.meti.go.jp/policy/economy/business-jinken/index.html> and https://www.jetro.go.jp/world/scm_hrm/). The Ministry of Foreign Affairs created "A Compilation of Case Studies on Business and Human Rights - Towards the expansion and establishment of efforts based on the UN Guiding Principles on Business and Human Rights" (<https://www.mofa.go.jp/files/100348374.pdf>) and the Ministry of Justice created "Report "Research and Study on Business and Human Rights" (https://www.moj.go.jp/JINKEN/jinken04_00188.html).

⁵ https://www.mofa.go.jp/mofaj/gaiko/csr/pdfs/takoku_ho.pdf

⁶ The OECD created the OECD Due Diligence Guidance for Responsible Business Conduct (hereinafter referred to as the "OECD Guidance") based on the OECD Guidelines for Multinational Enterprises (<http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-RBC-Japanese.pdf>) which is helpful for considering and implementing human rights due diligence. The OECD also created guidance by industry fields which is available on the website of the Ministry of Foreign Affairs of Japan (<https://www.mofa.go.jp/mofaj/gaiko/csr/housin.html>) and websites of the relevant ministries and agencies.

Multinational Enterprises and Social Policy (hereinafter referred to as the “ILO MNE Declaration”) by the International Labour Organization (ILO)⁷ in 2017.

The UN Guiding Principles, the OECD Guidelines for Multinational Enterprises, and the ILO MNE Declaration, which the Japanese government also supports, shows that it is an international principle that business enterprises are responsible for respecting human rights, in addition to the State’s obligation to protect human rights. Business enterprises may cause adverse human rights impacts through their activities. They are therefore required to conduct business in line with the UN Guiding Principles, the OECD Guidelines for Multinational Enterprises, and the ILO MNE Declaration.

As mentioned above in 1., in October 2020, the Japanese government launched the National Action Plan on Business and Human Rights (2020-2025). In November 2021, as part of a follow up on the national action plan, the results from the Questionnaire Survey on the Status of Efforts on Human Rights in the Supply Chains of Japanese Companies that was conducted jointly by the Ministry of Economy, Trade and Industry (hereinafter “METI”) and the Ministry of Foreign Affairs, were published. The survey presented the Japanese corporations’ strong demands to establish guidelines. Furthermore, many other stakeholders also voiced the expectation that the Japanese government take initiatives to promote business efforts that respect human rights.

In consideration of these situations, in March 2022, the Japanese government established the Study Group on Guidelines for Respecting Human Rights in Supply Chains in METI and held further discussions to promote corporate activities to respect human rights based on international standards. As a result, the Guidelines have been established and published.

Based on the UN Guiding Principles, the OECD Guidelines for Multinational Enterprises, the ILO MNE Declaration, and other international standards, the Guidelines have been established for the purpose of helping to deepen corporate understanding and promote business enterprises’ efforts by explaining activities that they are requested to implement to respect human rights, in a concrete and easy-to-understand manner in line with the actual situations of business enterprises engaging in business activities in Japan. To develop a deeper understanding of international standards, it is appropriate to refer to the UN Guiding Principles, the OECD Guidelines for Multinational Enterprises, and the ILO MNE Declaration, which the Guidelines are based on. In addition, the Guidelines will be reviewed in association with future developments of international standards.

⁷ The ILO established the ILO Helpdesk for Business, which business enterprises can consult with about international labour standards, including the ILO MNE Declaration(<https://www.ilo.org/tokyo/helpdesk/lang--ja/index.htm>). In addition, the ILO has also disclosed materials and other materials from the perspective of supporting consistent business development based on the principle of international labour standards (<https://www.ilo.org/tokyo/helpdesk/tools-resources/lang--ja/index.htm>).

In order to indicate details on efforts to respect human rights in a more concrete and practical manner, mainly to practitioners at business enterprises, METI has created materials to refer to in association with the Guidelines (*METI note: the materials will be developed). Please refer to them along with the Guidelines.

1.2 The Significance of respect for human rights

As shown in the UN Guiding Principles, business enterprises have a responsibility to respect human rights as entities that engage in business activities. Corporate responsibility to respect human rights means that business enterprises should avoid abusing the human rights of others and should address any adverse human rights impacts⁸ with which they are involved. All business enterprises have a corporate responsibility regardless of their company size, sector, operational context, ownership and structure.

Business efforts to respect human rights contribute to achieving a sustainable economy and society through the prevention, mitigation, and remedy of adverse human rights impacts from business activities. At the same time, as a result of continuing to meet their responsibility to respect human rights, business enterprises, for example, may also maintain and acquire social credibility and maintain and improve corporate value, as shown below.

First, efforts to respect human rights reduce the management risks that business enterprises face. In concrete terms, for example, the following risks may be reduced: Boycotts against products and services due to human rights abuse, downgrading as an investment location, targeting for exclusion from candidate investment locations and withdrawal of investments, etc. In addition, not only for large-sized business enterprises but also for small and medium-sized business enterprises, the possibility that business partners will discontinue trade due to human rights abuse is a significant management risk.

Currently, mainly in Europe, domestic laws are being introduced to oblige business enterprises to engage in efforts in view of respecting human rights, and, in the U.S. and other countries, laws and regulations related to human rights abuses, including bans on imports due to forced labour, have been strengthened. Both business enterprises to which these laws and regulations apply directly and business enterprises to which they do not apply are required to strengthen efforts further to respect human rights at the request of the business enterprises to which the laws and regulations apply. Promoting efforts to respect human rights further enhances actions for these laws and regulations or predictability in global business.

⁸ Unless it is stated expressly and specifically, “adverse human right impacts” as used in the Guidelines include both actual and potential adverse impacts.

Second, as a result of business enterprises meeting their responsibility to respect human rights, they may benefit from positive impacts in terms of business management. For example, appropriately implementing and disclosing activities to respect human rights improves the corporate brand image, increases the rating as an investment location, improves relationships with business partners, helps develop new business partners, and the acquisition of excellent human resources, etc. This increases competitiveness domestically and abroad and increases corporate value.

In this way, efforts towards respecting human rights have major significance for business enterprises not only from the perspective of meeting their responsibility, but also from the perspective of reducing management risks and increasing corporate value as a result.

Many Japanese business enterprises have already engaged in initiatives conscious of ESG⁹ and the SDGs,¹⁰ and they have endeavored to develop worker skills, improve industrial safety and health, and build constructive labour-management relations¹¹ not only by themselves and in their group companies, but also in cooperation with relevant business enterprises, including, in particular, suppliers in Asian countries.¹² These activities for decent work¹³ and constructive labour-management relations contribute to the prevention, mitigation, and remedy of adverse human rights impacts that international standards require. These activities have been developed in Asian regions and other regions where Japanese business enterprises have deep connections through supply chains and have contributed to social and economic progress in these areas. Therefore, these activities are a strength for Japanese business enterprises. It also leads to building

⁹ ESG is an abbreviation of Environment, Social, and Governance. For example, the term ESG investing (investment in consideration not only of conventional financial information, but also of ESG elements) is in use. An investor initiative in partnership with the UNEP finance initiative and the UN Global Compact, the Principle for Responsible Investment (<https://www.unpri.org/download?ac=14736>) proposed “responsible investment (a strategy and practice to incorporate ESG factors in investment decisions and active ownership) and listed modern slavery, child labour, etc. as social examples from among ESG factors.

¹⁰ SDGs refers to the Sustainable Development Goals, which are the international goals to achieve a sustainable and better world by 2030 as stated in the 2030 Agenda for Sustainable Development, which was adopted unanimously by UN summit members in September 2015 as a successor to the Millennium Development Goals (MDGs) established in 2001.

¹¹ For example, some business enterprises have created a global framework agreement (international labour-management agreement on multinational business enterprise actions) with their labour unions and international industry labor unions and broadly announced to society their commitment to comply with the ILO Core Conventions in the form of agreements, and are engaged in achieving these commitments.

¹² For example, there is a case where a business enterprise provided broad vocational training and education not only to their employees, but also to the employees of their business partners and people suffering from economic hardship and unemployment, and it contributed to the creation of better job opportunities, while at the same time, these efforts resulted in securing excellent personnel.

¹³ “Decent work” means productive work in which rights are protected, which generates an adequate income, with adequate social protection.

resilient and inclusive supply chains with international competitiveness to implement and enhance efforts to respect human rights along with relevant business enterprises, including suppliers, based on the relationship of trust that Japanese business enterprises have built.

1.3 Target business enterprises of the Guidelines and target scope of efforts for respecting human rights

The Guidelines are not legally binding. However, regardless of the company size, sector, etc., all business enterprises (including sole proprietors; the same applies hereinafter) engaging in business activities in Japan should comply with the Guidelines, which are created based on the international standards, and should strive in efforts to respect human rights in their business enterprise, group companies, suppliers, etc. (meaning companies in supply chains inside and outside Japan and other business partners; hereinafter the same to the fullest extent possible.¹⁴

The term “supply chain” as used in the Guidelines refers to “upstream” in relation to the procurement and securing, etc. of raw materials and resources for their products and services, facilities, and software, and “downstream” in relation to the sale, consumption, etc. of their products and services.

In addition, the term “other business partners” refers to business enterprises other than those in the supply chains and other business enterprises related to their business, products, and services. In concrete terms, for example, they are investment and lending locations, partners of joint enterprises, business operators providing equipment maintenance and inspection and business operators providing security services.

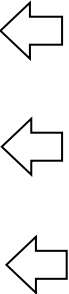
As mentioned above, the term “suppliers, etc.” covers a wide range; however, the degree of leverage a business enterprise has on their “suppliers, etc.” varies due to different factors. Business enterprises are required to meet their responsibility to respect human rights in consideration of this point.

2. Overview of business efforts to respect human rights (Outline)

2.1. Outline of efforts

In order to meet corporate responsibility to respect human rights, business enterprises are requested to establish a human rights policy, conduct human rights due diligence, and provide remedy when business enterprises cause or contribute to adverse human rights impacts. An outline of the overview is shown below.

¹⁴ As stated in 2.2.4 below, if it is difficult for business enterprises to immediately address all the “adverse human rights impacts” as requested by the UN Guiding Principles, the business enterprises should give priority to adverse human rights impacts with the higher level of severity first.

Human rights Policy (Details 3)	Expression of commitment to meet the responsibility to respect human rights (UN Guiding Principles 16, Details 3)	
Human rights due diligence (Details 4) (UN Guiding Principles 17)	Identification and assessment of adverse human rights impacts (UN Guiding Principles 18, Details 4.1)	
	Prevention and mitigation of adverse human rights impacts (UN Guiding Principles 19, Details 4.2)	
	Tracking of activity effectiveness (UN Guiding Principles 20, Details 4.3)	
	Communication and information disclosure (UN Guiding Principles 21, Details 4.4)	
Remedy (Details 5)	Actions for damages caused by adverse human rights impacts (UN Guiding Principles 22, Details 5)	

Dialogue with stakeholders ¹⁵

2.1.1 Human rights policy (see Details 3)

A human rights policy is a policy in which a business enterprise clearly presents its commitment to meet the responsibility to respect human rights towards stakeholders inside and outside the business enterprise.

2.1.2 Human rights due diligence (see Details 4)

Human rights due diligence refers to a series of acts undertaken by business enterprises to identify, prevent, and mitigate adverse impacts (2.1.2.2 below) on human rights (2.1.2.1 below) in their business enterprise, group companies, and suppliers, etc., to track the effectiveness of their responses, and to account and disclose information on how they addressed the adverse human rights impacts.

Due to its nature, human rights due diligence does not guarantee the result that there are no human rights abuses, but it is an ongoing process to prevent and mitigate adverse human rights impacts while holding dialogue with stakeholders (2.1.2.3 below).

2.1.2.1 Scope of “human rights”

In the Guidelines, the term “human rights” refers to internationally recognized human rights.¹⁶ The internationally recognized human rights include those expressed in the International Bill of

¹⁵ The “stakeholder engagement” requested by international standards refers to an ongoing process of interaction and dialogue between a business enterprise and its stakeholders. In the Guidelines, it is referred to as “dialogue with stakeholders.”

¹⁶ It is obvious that the human rights guaranteed by the Constitution of Japan should be respected in Japan.

Human Rights,¹⁷ and the principles concerning fundamental rights¹⁸ set out in the “ILO Declaration on Fundamental Principles and Rights at Work.”

In concrete terms, business enterprises need to consider the impact on the freedom not to be subjected to forced labour¹⁹ or child labour,²⁰ freedom of association, the right to collective bargaining, freedom from discrimination in employment and occupation, freedom of movement and residence, freedom from discrimination on the ground of race, disability, religion, social origin, or gender. Business enterprises need to pay particular attention to forced labour and child labour, etc. regarding suppliers and other entities operating in countries and regions where human rights protections are weak. That’s because they are considered to have a high level of severity in their adverse human rights impacts, and priority actions for them may be considered.

In addition, regardless of whether or not it is considered to be internationally recognized human rights, business enterprises should not infringe the rights and freedoms guaranteed by the laws and regulations of each country and to comply with such laws and regulations

On the other hand, even with compliance with the national laws and regulations, it cannot be always said that the corporate responsibility to respect human rights is completely met. Compliance with the laws and regulations in each country and the corporate responsibility to respect human rights are not always the same. In particular, if the laws and regulations or enforcement of a country

¹⁷ The International Bill of Human Rights refers to the “Universal Declaration of Human Rights (UDHR)” (https://www.mofa.go.jp/mofaj/gaiko/udhr/1b_001.html), the “International Covenant on Civil and Political Rights,” (https://www.mofa.go.jp/mofaj/gaiko/kiyaku/2c_001.html), and the “International Covenant on Economic, Social and Cultural Rights” (https://www.mofa.go.jp/mofaj/gaiko/kiyaku/2b_001.html), which are key documents that codify the UDHR. Internationally recognized human rights may vary, depending on the development of international disputes and other factors. In July 2022, the UN General Assembly adopted a resolution on the “human right to a clean, healthy, and sustainable environment.”

¹⁸ It refers to freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced labour; the effective abolition of child labour; the elimination of discrimination in respect of employment and occupation; and a safe and healthy working environment. (<https://www.ilo.org/declaration/lang--en/index.htm>) A safe and healthy working environment was added by resolution of the ILO International Labour Conference in June 2022.

¹⁹ ILO defines “forced labour” as “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily” (https://www.ilo.org/tokyo/helpdesk/about/WCMS_449451/lang--ja/index.htm). In addition, ILO published the eleven indicators of forced labour (https://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang--en/index.htm).

²⁰ Child labour refers to work by children under the minimum age to work. The specific minimum age to work is stipulated by law in each country; however, the ILO’s “Minimum Age Convention” (No. 138) stipulates that the minimum age shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years, excluding specific exemptions. In addition, the ILO’s “Worst Forms of Child Labour Convention” (No. 182) prohibits the “worst forms of child labour” by persons under the age of 18 (including work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children). For more details, please refer to the ILO’s website (https://www.ilo.org/tokyo/areas-of-work/WCMS_239915/lang--ja/index.htm).

do not appropriately protect recognized human rights, business enterprises need to seek ways to respect internationally recognized human rights to the greatest extent possible.²¹

2.1.2.2 Scope of “adverse human rights impacts”

In the Guidelines, “adverse human rights impacts” are of three types as shown in the following table. In other words, business enterprises need to address adverse human rights impacts that are directly linked to their business, products, and services, in addition to adverse human rights impacts that they cause or contribute to directly or indirectly.

In addition, not only adverse actual human rights impacts, but also potential adverse impacts are subject to human rights due diligence. If adverse human rights impacts occur, recovery from the damage is not easy, and it is impossible in some cases. Therefore, it is important to prevent adverse human rights impacts in advance and, if adverse impacts occur, to prevent a recurrence.

Type of adverse human rights impacts	Example
When business enterprises cause adverse human rights impacts through their own activities	Exposure of factory workers to hazardous working conditions without adequate safety equipment Being the sole or main source of pollution in a community’s drinking water supply due to chemical effluents from production processes
When business enterprises contribute to adverse human rights impacts through their own activities—either directly or through some outside entity (government, business enterprises, or other)	Based on past transaction results, a business enterprise knew that the lead time (the time necessary from order placement until delivery) was not feasible but set the lead time and requested delivery from the supplier. As a result, the supplier employees were forced into extremely excessive overtime. A business enterprise recognizes that installing costly equipment that treats run-off from the plant of a company in which the business enterprise invests is necessary to prevent the drinking water of a local community from being polluted by the run-off. However, the business enterprise votes against installing the costly equipment and the drinking water of the local community is polluted by the runoff from the company’s plant.
While business enterprises neither cause nor contribute to adverse human rights impacts, the impacts are caused by an entity with which it has a business relationship and is directly linked to its own operations, products or services	Embroidery on a retail company’s clothing products being subcontracted by the supplier to child labourers in homes, counter to contractual obligations Providing financial loans to an enterprise for business activities that, in breach of agreed standards, result in the eviction of communities

2.1.2.3 “Stakeholders”

The term “stakeholders” refers to persons or groups with interests that could be affected by an enterprise’s activities.

Examples of stakeholders are considered to be business partners, employees of the business enterprise, group companies, and business partners, labour unions, worker representatives,

²¹ See the UN Guiding Principles 23.

consumers, as well as NGOs, such as civil society, etc., human rights defenders,²² nearby residents, investors and shareholders, national governments, local governments and other organizations.

Business enterprises need to identify stakeholders who are or may be affected due to their specific business activities.

Example: If local residents live in or use the land for their living and a business enterprise engaging in land development business overseas intends to acquire the land, the local residents are considered stakeholders. Also, local residents who do not use the land directly but may be affected by the development are considered stakeholders.

2.1.3 Remedy (see Details 5)

The term “remedy” refers to mitigating and repairing damages caused by adverse human rights impacts and the process. As stated in 5. below, business enterprises are requested to provide remedy when they cause or contribute to adverse human rights impacts. Even if the business, products, and services of a business enterprise are only directly linked to adverse human rights impacts, the business enterprise are requested to strive to use its leverage²³ with other business enterprises that have caused or have been contributing to adverse human rights impacts.

2.2 Approach to efforts to respect human rights

2.2.1 Management’s commitment is significant.

Efforts to respect human rights should be implemented by overall business enterprise activities, including recruitment, procurement, manufacturing, sales and others. To fully meet the responsibility to respect human rights, the entire business enterprise needs to be involved in the activities. Therefore, it is essential that management, including top executives, commit to engaging in activities to respect human rights and continue to address the activities proactively and voluntarily.

²² The term “human rights defenders” refers to people who, individually or with others, act to promote or protect human rights in a peaceful manner. A specific example of a human rights defender is a local attorney, etc. who lawfully raises a problem with the fact that the land to which indigenous people have the right was taken from them illegally. According to the report created by the UN Working Group on the issue of human rights and transnational corporations and other business enterprises, “The UN Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders” (https://www.ohchr.org/sites/default/files/2022-02/Formatted-version-of-the-guidance-EN_0.pdf), globally, human rights defenders suffer attacks and threats in some cases on the grounds that they express concerns over adverse human rights impacts and this trend appears to have become stronger recently. Business enterprises should pay attention not to expose human rights defenders to undue risks by initiating frivolous legal proceedings or reporting human rights defenders to authorities as a means of intimidating them.

²³ When using their leverage, business enterprises need to pay attention not to conflict with the Competition Law (Act on Prohibition of Private Monopolization and Maintenance of Fair Trade or Act against Delay in Payment of Subcontract Proceeds, etc. to Subcontractors in Japan). The same applies hereinafter.

2.2.2 Potential adverse human rights impacts can exist with any business enterprise.

Any business enterprise always has potential adverse human rights impacts, and it is difficult to eliminate all impacts despite engaging in activities to respect human rights. For this reason, on the assumption of potential adverse human rights impacts, it is important for each business enterprise to consider how to identify, prevent, and mitigate the potential adverse impacts and communicate their efforts.

In order to identify adverse human rights impacts accurately, 2.2.3 Dialogues with stakeholders and 5.1 Grievance mechanism below are helpful.

2.2.3 Dialogues with stakeholders are important for activities to respect human rights.

Dialogues with stakeholders help business enterprises understand the actual status and causes of adverse human rights impacts through their processes and facilitate ways to address adverse human rights impacts correctly and to build a trustworthy relationship with stakeholders. Therefore, it is important to hold dialogues on the overall activities to respect human rights, including human rights due diligence.²⁴

The Guidelines indicate specific activity methods and their examples concerning dialogues with stakeholders in each section. As stated in 2.1.2.3 above, stakeholders include business partners, labour unions, workers' representatives, and other actors.

2.2.4 Having an approach to addressing adverse human rights impacts sequentially based on the order of priority is important.

Based on the UN Guiding Principles and other international standards, business enterprises need to implement efforts to respect human rights as their final goal [i] for their business enterprise, their group companies, and suppliers, etc., [ii] concerning internationally recognized human rights, [iii] not only for adverse human rights impacts that the business enterprises cause or contribute to, but also adverse human rights impacts that are directly linked to their business, products, and services, etc.

However, for many business enterprises, it is difficult to implement all activities immediately in consideration of human and economic resource restrictions and other factors.

²⁴ Based on Section 11 of the ILO MNE Declaration, business enterprises should take fully into account the established general policy objectives of the countries in which they operate. Their activities should be in consistent with their development priorities and social aims. To this effect, consultations should be held between multinational enterprises, the government and the national employers' and workers' organizations concerned. These dialogues enable business enterprises to build relationships of trust in host countries and to play an active role in contributing to social and economic progress.

Business enterprises should therefore give priority to adverse human rights impacts with the higher level of severity first²⁵, while recognizing the final goal of the activities to respect human rights. If there are multiple adverse human rights impacts with high severity, the priority may be given to addressing the adverse human rights impacts that they cause or contribute to and address them in the business enterprises and with business partners with which the business enterprise is in a direct contractual relationship²⁶ first. In this case, it is necessary to extend the actions to adverse human rights impacts occurring at indirect business partners and such impacts only directly linked to their company's business, etc.²⁷

There is no single correct answer for efforts to respect human rights. Each business enterprise needs to consider appropriate efforts in light of its status, etc. This approach is important not only for setting the order of priority, but also for overall activities to respect human rights.

2.2.5 It is important that each business enterprise engages in efforts to respect human rights together.

As stated in 1.3 above, all business enterprises have the responsibility to respect human rights regardless of their size and sector, etc. When each business enterprise engages in activities to respect human rights, it is assumed that business enterprises can request their suppliers, etc. to engage in specific activities.

In this case, it is important for business enterprises not to relegate to companies in a direct contractual relationship all the activities to respect human rights at the companies' business partners but to engage in activities to respect human rights together.

Example: A business enterprise invites its suppliers to workshops for the company and its group companies in order to share excellent practices for activities to respect human rights.
Example: A business enterprise holds a meeting with business partners to exchange opinions on issues related to human rights for which activities should be regularly strengthened, establishes a common understanding between them, and uses it for activities to respect human rights at each company level.
Example: In consideration of having implemented activities to respect human rights based on the international standards, a business enterprise introduces activity methods and good practices for activities to be used as a reference to business partners that have not fully engaged in the activities.

If a business enterprise requires business partners to engage in activities to respect human rights in a form where the enterprise gives an excessive burden to the business partners unilaterally by

²⁵ As stated in 4.1.3 below, if there are multiple adverse human rights impacts with the same high level of severity, it is reasonable to address adverse human rights impacts with high probability first.

²⁶ Business partners that are considered to be substantially in a direct contractual relationship are also included.

²⁷ It is an example of the idea of priority order in cases where there are multiple adverse human rights impacts with high priority. This does not necessarily mean to rule out other ideas.

using its contract standpoint when the business enterprise places an order on products and services, it may conflict with the Act against Delay in Payment of Subcontract Proceeds, etc. to Subcontractors and the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade.²⁸ Business enterprises that request business partners to engage in efforts to respect human rights need to strive to consider individual and specific circumstances and fully exchange information and opinions with business partners so that the business enterprises gain understanding and consent from them.

3. Human rights policy (Details)

Business enterprises should express their commitment to meet their responsibility to respect human rights inside and outside the business enterprise through a human rights policy that fulfills the five requirements shown in the following table. Corporate commitments that obtain the approval of management are a clear and comprehensive policy to determine corporate actions and are very important.

[i]	It is approved at the most senior level of the business enterprise.
[ii]	It is informed by relevant internal and/or external expertise ²⁹ .
[iii]	It stipulates the business enterprise’s human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services.
[iv]	It is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties ³⁰ .
[v]	It is reflected in the operational policies and procedures ³¹ necessary to embed it throughout the business enterprise.

3.1 Points of attention for establishing a human rights policy

Business type and size, etc. vary by business enterprise and the type of human rights on which adverse impacts may occur and the severity of the assumed adverse human rights impacts also vary by business enterprise. When establishing a human rights policy, it is necessary to identify the human rights on which the business enterprise may have impacts first.

During this review, it is expected that human rights policies will be established that reflect more actual conditions by collecting knowledge from internal departments (e.g. marketing, human

²⁸ From the perspective of building preferable transaction relationships between parent companies and their subcontractors in Japan, various guidelines for promoting appropriate subcontracting transactions, etc. posted by the Small and Medium Enterprise Agency, etc. on its website (<https://www.chusho.meti.go.jp/keiei/torihiki/guideline.htm>) may be helpful.(available in Japanese)

²⁹ “Expertise” includes, for example, the advice of experts and confirmation of reliable materials.

³⁰ “Other relevant parties” includes, for example, organizations that are directly linked to the business of the enterprise, investors, and stakeholders that may be affected in the business involved in critical adverse human rights risks.

³¹ “Operational policies and procedures” include, for example, a code of conduct and procurement guidelines.

resources, legal affairs/compliance, procurement, manufacturing, business planning, and research and development) and by holding dialogues and discussions with stakeholders who are familiar with the enterprise's industry, circumstances of raw materials to be procured and countries from which raw materials are procured, etc. (e.g. labour unions/worker representatives, NGOs, employers organizations, industry organizations).

Example: Before establishing a human rights policy, identify the stakeholders that may suffer adverse human rights impacts and how the stakeholders exist in relation to the business of the enterprise. Collect information, such as internal problem cases, etc., hold dialogues with labour unions and discussions with experts, and list and organize issues related to human rights that are considered to be important in the enterprise's group business. Then, obtain the advice of human rights experts concerning the parts that are identified to have high risks, and reflect this knowledge in the policy.

The human rights policy expresses the basic idea of a business enterprise concerning overall efforts to respect human rights and is closely related to the corporate management philosophy. Each business enterprise establishes a unique human rights policy based on its management policy and thereby ensures consistency between the human rights policy and management philosophy, and embeds the human rights policy internally.

3.2 Points for attention after establishing a human rights policy

Establishing and publishing a human rights policy is not the end of the process. Business enterprises are requested to embed their human rights policy throughout the business enterprise and to practice the human rights policy concretely in their efforts. For this reason, it is important to disseminate³² the human rights policy internally and to reflect the details of the human rights policy in a code of conduct and procurement guidelines. In addition, it is useful to revise the human rights policy as needed in consideration of the results of human rights due diligence and other factors.

4. Human rights due diligence (Details)

4.1 Identification and assessment of adverse impacts

The first step of human rights due diligence is to identify and assess any actual or potential adverse human rights impacts in which an enterprise may be involved. For this purpose, it is helpful

³² Procedures for "dissemination" are not always necessary in all cases in addition to "publication." However, for example, it is considered to be appropriate to take actions for "dissemination" in addition to "publication" with stakeholders who are considered to be important in light of the severity of adverse human rights impacts.

to have dialogues with stakeholders, including employees, labour union/workers' representatives,³³ civil society organizations, human rights defenders and local residents.

4.1.1 Specific processes

Specific processes of identification and assessment of adverse impacts are as follows. On the premise of these processes, it is necessary to grasp information on suppliers and other entities. In order to ensure the traceability of products and services of the enterprise.

(a) Identification of the business fields with material risks³⁴

Identify the business fields where the probability of adverse human rights impacts is high and the risk is significant. For the identification of such business fields, the risk factors of the table below³⁵ may be considered.

Risk factors	Description	Reference ³⁶
Sector risks	Global risks that are prevalent within a sector as a result of the characteristics of the sector, its activities, its products and production processes.	[Sector risks or product and service risks] “Human Rights Guidance Tool for the Financial Sector” (UNEP) ³⁷ “OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector” (OECD) ³⁸ “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas THIRD EDITION” (OECD) ³⁹
Product and service risks	Risks related to materials used in development or use of specific products and services and risks related to development or production process of specific products and services	“Practical actions for companies to identify and address the worst forms of child labour in mineral supply chains” (OECD) ⁴⁰ “OECD-FAO Guidance for Responsible Agricultural Supply Chains” (OECD) ⁴¹

³³ In light of the ILO MNE Declaration Section 10(e), for effective identification and evaluation of adverse human rights impacts, particularly concerning labour issues, emphasis should be placed on freedom of association and collective bargaining, which enables the ongoing and meaningful process of dialogues between labour and management and improvement of working conditions through social dialogue.

³⁴ Enterprises with limited business areas, particularly small enterprises may omit identification of business area.

³⁵ Created in reference to Q20, etc. of the OECD Guidance

³⁶ This table lists major documents of international organizations, which can provide useful information when identifying business fields with high risks of adverse human rights impacts. Because these documents were created in different contexts and with different purposes and do not necessarily focus on Japanese society and enterprises, it is necessary to conduct study in accordance with the conditions unique to Japan and the enterprise rather than totally depend on these documents. In addition to the documents of international organizations, various documents have been disclosed and can be used as needed.

³⁷ <https://www.unepfi.org/humanrightstoolkit/index.php>

³⁸ <https://doi.org/10.1787/9789264290587>

³⁹ <http://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>

⁴⁰ <https://mneguidelines.oecd.org/Practical-actions-for-worst-forms-of-child-labour-mining-sector.pdf>

⁴¹ <https://www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm>

Risk factors	Description	Reference ³⁶
Geographic risks	Conditions in a particular country which may make sector risks more likely. (such as governance [e.g., strength of inspectorates, rule of law, level of corruption), socio-economic context [e.g., poverty and education rates, vulnerability and discrimination of specific populations])	<p>“Due Diligence for Responsible Corporate Lending and Securities Underwriting: Key considerations for banks implementing the OECD Guidelines for Multinational Enterprises” (OECD)⁴²</p> <p>“OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector” (OECD)⁴³</p> <p>[Geographic risks]</p> <p>“Ending child labour, forced labour and human trafficking in global supply chains” (ILO, etc.)⁴⁴</p> <p>“Children's Rights and Business Atlas” (UNICEF, etc.)⁴⁵</p> <p>“Countries” (OHCHR)⁴⁶</p>
Enterprise-level risks	Risks associated with a specific enterprise, such as weak governance, a poor history of conduct in relation to respecting human rights.	

(b) Identification of the process where adverse impacts arise

Specify how adverse human rights impacts can occur at each process of your business. If business areas with material risks have been identified in (a) above, start identification from these fields.

(c) Assessment of the enterprise’s involvement in adverse impacts

To decide on an appropriate response, assess the enterprise’s involvement in adverse human rights impacts. In particular, assess whether or not the enterprise has caused or contributed to (or may cause or contribute to) adverse impacts and whether or not adverse impacts are directly linked (or may be directly linked) to your business, products or services.

(d) Prioritization

If it is difficult to immediately address all adverse human rights impacts identified and assessed, consider their prioritization. The details are described in 4.1.3 below.

⁴² http://www.env.go.jp/policy/JP_Due-Diligence-for-Responsible-Corporate-Lending-and-Securities-Underwriting.pdf

⁴³ <https://www.oecd.org/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector-9789264252462-en.htm>

⁴⁴ https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_716930.pdf

⁴⁵ <https://www.childrensrighsatlas.org/country-data/workplace/>

⁴⁶ <https://www.ohchr.org/en/countries>

4.1.2 Points of attention for the process to identify and assess adverse impacts

4.1.2.1 Ongoing impact assessment

Because the conditions of human rights are constantly changing, assessment of human rights impacts should be repeated periodically. In addition to the periodic assessments, an impact assessment should be implemented in the following cases (non-periodic impact assessment), for example:⁴⁷

- (a) prior to a new activity or business relationship;
- (b) prior to major decisions or changes in the operation (e.g., market entry, product launch, policy change, or wider changes to the business);
- (c) in response to or anticipation of changes in the operating environment (e.g., growing security concerns due to rising social tensions);

In an impact assessment, the information obtained through the grievance mechanism can be used as described in 5.1.

Through ongoing impact assessments in this way, the priority of adverse impacts to be addressed will be reviewed naturally. It is desirable to consider the results of impact assessments not only for prevention or mitigation of adverse impacts but also in general decision making of business activities.

Example: Conduct regular questionnaire surveys, interviews, etc. of workers of the enterprise's factory to assess potential adverse human rights impacts (e.g., working in a dangerous work environment). In this process, make sure that workers can submit their answers without being viewed by the employer.

Example: While holding briefing sessions for suppliers on CSR procurement policy, ask them to answer an annual self-assessment survey. Based on the survey results, look into risks concerning human rights and the environment in the supply chain. In order to ensure the suppliers' understanding of the self-assessment survey and their substantial (not formal) answers, have dialogues with suppliers when conducting the self-assessment survey.

Example: When providing loans for projects involving compulsory purchase of land of local residents, identify and assess potential adverse impacts of the project on local residents. Include dialogues with local residents in the process.

4.1.2.2 Vulnerable stakeholders

When assessing adverse human rights impacts, it is desirable to pay special attention to potential adverse impacts on vulnerable individuals, namely, individuals from groups or populations that

⁴⁷ Non-periodic impact assessment should be implemented in the case of so-called M&A (mergers and acquisitions). However, unlike due diligence for understanding the various risks involved in a single transaction in the M&A context, human rights due diligence should be implemented continually through periodic and non-periodic impact assessments. It is unnecessary to adopt the same assessment method for periodic and non-periodic impact assessments.

may be at heightened risk of becoming socially vulnerable or marginalized.⁴⁸ This is because such individuals are more likely to be affected by severe adverse impacts.

Though assessment needs to be made for specific and individual cases, it is likely that foreigners, women, children, persons with disabilities, indigenous people,⁴⁹ or ethnic, racial, religious or linguistic minorities become vulnerable. It needs attention that one person may have the intersectionality of such attributes (e.g., foreign woman), which can further increase their vulnerability.⁵⁰

Example: Implementing a survey (interview, etc.) of foreigners, including technical intern trainees, on general human right issues involving vulnerable workers (e.g., wage discrimination for the single reason of being a foreigner), changes in the working environment under the impact of COVID19 and other issues. Use easy-to-understand language for the survey subjects.

Example: When providing a loan to a project that can cause adverse impacts on the human rights of indigenous people (e.g., land development requiring relocation of indigenous people), confirm the measures of the planned loan destination to prevent or mitigate adverse impacts, and implement a field survey by a specialized department of the enterprise.

4.1.2.3 Collection of relevant information

Business enterprises need to collect relevant information for identification and assessment of adverse impacts.⁵¹ The methods may include dialogues with stakeholders (e.g., consultation with labour union, worker representatives, NGOs, etc.), use of a grievance mechanism, surveys of local business partners (e.g. on-the-spot inspection of the local working environment, interviews of workers or employers), document inspection (e.g., sending of questionnaires to local partner companies and inspection of contracts and other internal documents and public information⁵²).

What method is appropriate is judged based on the type, etc. of the information to be collected. For example, in order to accurately understand adverse human rights impacts, enterprises should seek to have direct dialogues with their stakeholders who are subject to potential adverse impacts.

Example: Through dialogues with NGOs, check information on actions of the material supplier candidates, which includes seizure of land of indigenous people in relation to the materials.

Example: Based on the database of cases of human rights abuses, an enterprise identifies sectors and regions generally vulnerable to adverse human rights impacts (e.g., forced labour, child labour) and checks the conditions at its suppliers, etc.

⁴⁸ See the UN Guiding Principles 18

⁴⁹ “UN Declaration on the Rights of Indigenous Peoples” adopted in 2007 notes “No relocation shall take place without the free, prior and informed consent (FPIC) of the indigenous peoples concerned.”

⁵⁰ For example, “Gender dimensions of the Guiding Principles on Business and Human Rights: report of the Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises (<https://digitallibrary.un.org/record/3822962>) is informative concerning the gender perspective.

⁵¹ When collecting and providing relevant information, it is necessary to be careful not to violate applicable laws for protection of personal information and contractual obligation of confidentiality.

⁵² Information provided by public or international organizations is particularly useful.

4.1.2.4 Considerations in conflict-affected areas

In areas of armed conflict, widespread violence or serious harm against people by criminal groups⁵³ it is necessary to pay attention to the following points:

- (a) Employees and other stakeholders are likely to suffer serious adverse impacts on their human rights.
- (b) The fact that parties to conflicts who are influential in the area and likely to abuse human rights are involved in various activities in the area makes it more difficult to determine whether their activities are closely related to the business activities of the enterprise. As a result, the likelihood that usual business activities can unintentionally contribute to conflicts. will increase.
- (c) As described in 4.2.2 below, special considerations are necessary when a business enterprise withdraws from conflict-affected areas.

In the areas with specific circumstances as mentioned above, human rights due diligence in accordance with the high risk (hereinafter “heightened human rights due diligence”⁵⁴) should be conducted.

Example: The enterprise was engaged in a joint venture with a local enterprise in a conflict-affected area, but heightened human rights due diligence found that the local enterprise was closely connected to an opposition party widely using force on the general public and abusing human rights, and that the profits of the joint venture was providing significant funds for human rights abuses by the party. Consequently, the enterprise withdraws from the joint venture after making due consideration of the impacts of the withdrawal on the stakeholders.

Example: When an enterprise was providing information services jointly with a local company in conflict-affected areas, a party to conflicts forced the local company to provide information obtained through the operation. In response, the enterprise implements heightened human rights due diligence and re-assess the adverse human rights impacts on its business.

4.1.3 Prioritization criteria for addressing adverse impacts

4.1.3.1 Approach to prioritization

As described in 4.1.1 above, if it is difficult to immediately address all identified adverse human rights impacts, it is necessary to prioritize the response.⁵⁵

⁵³ Enterprises should treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate. This is the same in conflict-affected areas.

⁵⁴ Materials related to heightened human rights due diligence include a report of the Working Group on the issue of human rights and transnational corporations and other business enterprises: “Business, human rights and conflict-affected regions: towards heightened action” (<https://www.ohchr.org/en/documents/thematic-reports/report-business-human-right-and-conflict-affected-regions-towards>) and “Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide” (<https://www.undp.org/publications/heightened-human-rights-due-diligence-business-conflict-affected-contexts-guide>) the United Nations Development Programme.

⁵⁵ Even in this case, it is requested to address adverse impacts of lower priority as the end goal in the medium- to long term.

Priority is decided based on the severity of the adverse impacts. It is requested to start with the most severe impact.⁵⁶ If there are multiple potential adverse impacts with the same level of severity, it is reasonable to start from the one with higher probability.⁵⁷

Because priority may change as the situation changes, it is important to carry out ongoing impact assessment as specified in 4.1.2.1 above.

4.1.3.2 Criteria of severity

The severity of the adverse human rights impacts is judged by their scale, scope and irremediable character (see the table below). In other words, severity is judged based on the level of the adverse human rights impact and not on the level of adverse impacts on the business management (management risk).

Criterion	Description	Examples of considerations
[i] Scale	Gravity of the adverse human rights impact	<ul style="list-style-type: none"> • Character and background of the abuse • Mode of the abuse • Situation of the victims
[ii] Scope	Scope of the adverse impact	<ul style="list-style-type: none"> • Number of the people affected by the adverse impact • Size of the group or community affected by the adverse impact
[iii] Irremediability	Difficulty of restoring to a situation equivalent to the situation before the impact	<ul style="list-style-type: none"> • Degree of potential possibility to remedy for the adverse impact (for example, remedy by compensation or recovering from the damage) • Degree of rapidity of actions required to restore the individuals or environment affected to a situation equivalent to their situation before the adverse impact

4.2 Prevention or mitigation of adverse impacts

In order to meet their responsibility to respect human rights, business enterprises need to avoid causing or contributing to adverse human rights impacts through their business activities and to prevent or mitigate such adverse impacts. Even if business enterprises do not cause or contribute to adverse human rights, they need to seek to prevent or mitigate adverse human rights impacts directly linked to their operations, products or services through their business relationships.

Business enterprises need to appropriately work to prevent or mitigate adverse human rights impacts that are identified and assessed under the ultimate responsibility of the management after clarifying the responsible departments and persons.

⁵⁶ See the UN Guiding Principles 24

⁵⁷ Low probability does not lower the assessed severity of the impact. Adverse impacts with high severity should be addressed with high priority. However, it may be allowed to exclude adverse impacts with little probability (namely, adverse impacts with only abstract possibility) from considering adverse impacts to be prevented or mitigated.

4.2.1 Types of measures to be considered

4.2.1.1 Where the business enterprise causes or contributes to adverse human rights impacts

If the enterprise causes or contributes to adverse human rights impacts, it should take measures to prevent or mitigate the adverse human rights impacts that it caused or contributed to in the following ways, for example:

- (a) Ensure that the actions that cause or contribute to adverse impacts cease (e.g., changing product design so as not to use harmful substance) and prevent actions that may cause or contribute to adverse impacts in the future.
- (b) In the case of actions that may be difficult to stop immediately due to operational, contractual or legal issues, create a roadmap for how to stop the actions causing or contributing to adverse impacts and stop the actions in stages.

When business enterprises consider appropriate measures to be implemented, they are expected to have dialogues with their stakeholders.

Example: In spite of explicit prohibition by law, passports of technical intern trainees were retained in a business enterprise and a contract to manage their savings was concluded. Because this practice was discovered, the enterprise checked for such practice in its other departments and suppliers, made its illegality known to all and demanded its termination.

Example: Specific procedures of procurement (e.g., order planning based on the consultation with suppliers in accordance with their production facilities and capacity; ordering with the quantity and delivery time of the prior agreement and not changing quantity or delivery time without consent of the supplier) are stipulated in the procurement policy and training is implemented periodically for employees of procurement-related departments.

In cases where the business enterprise is contributing to adverse impacts or that are caused by another entity, it may be difficult to completely remediate the adverse impacts by measures taken by the business enterprise alone. However, after stopping the actions contributing to the adverse impacts, the enterprise should use its leverage to mitigate any remaining impacts to the greatest extent possible by working on the parties involved, etc.

Example: Waste water from a counterparty's plant polluted a lake, causing health damage to local residents. The pollution was caused by a harmful substance generated because the counterparty used a chemical substance that the business enterprise had sold to the counterparty together with another chemical. In response, the business enterprise explained cautions when the counterpart's plant uses the chemical substance sold by the enterprise and worked on the counterparty to observe the cautions to prevent generation of the harmful substances.

4.2.1.2 When the business enterprise's operations are directly linked to adverse human rights impacts

When the enterprise does not cause or contribute to adverse impacts, but there are adverse human rights impacts directly linked to its operations, products or services, the enterprise may not be able to address the adverse impacts themselves. However, the enterprise should strive to prevent or mitigate the adverse impacts by using its leverage on the entities that cause or contribute to the

adverse impacts, securing and strengthening its leverage, or providing support in the ways below, for example, depending on the situation.

[Examples of using or strengthening leverage]

Example: Check the employment records of the supplier where child labour was discovered and analyze the factors of the employment of children by the supplier. Based on the results, ask the supplier to establish an appropriate management system to prevent the employment of children, which includes thorough checking of identity documents. In addition, cooperate with NGOs supporting the improvement of the study environment of the children who had to work due to poverty.

Example: An on-the-spot survey of an overseas supplier found normalization of excessively long working hours violating the local labour law. The enterprise expresses serious concerns to the supplier and demands immediate improvement of the violating conditions.

Example: Before entering a new business relationship, employ an external research company to determine whether the prospective partner complies with the basic policy of procurement of the business enterprise, and conclude a contract that includes provisions to guarantee efforts for human rights by the partner.

Example: Multiple enterprises procuring materials from a supplier having a large share in the industry set and share common human rights requirements for the supplier to increase their leverage. If a concern related to the requirements is found, the enterprises jointly use their increased leverage with due consideration to the competition law and urge the supplier to implement effective measures to prevent or mitigate the adverse impacts.

[Examples of support]

Example: Ask suppliers for self-assessment based on the content of the supplier code of conduct and evaluate the submitted answers. Based on the result, consult with the suppliers on how to improve the lower rated items.

Example: When suppliers execute initiatives to prevent or mitigate potential adverse human rights impacts, support them by promising continued procurement under certain conditions.

4.2.1.3 Disengagement

Disengagement ends the relationship of the business enterprise with the adverse human rights impacts but does not remediate the adverse impacts themselves. In fact, it could further worsen the adverse human rights impacts by making it more difficult to keep an eye on the adverse impacts, or by worsening the financial status of the counterpart enterprise, which may lead to unemployment of its employees.

For this reason, if there are or can be adverse human rights impacts, the enterprise should seek to prevent or mitigate the adverse impacts while at first maintaining the relationship with the supplier, etc., rather than immediately disengaging from the business relationship. Disengagement should be considered as a last resort and implemented only when it is found appropriate.⁵⁸

On the other hand, there are cases where disengagement is not appropriate or, even when it is appropriate impossible or practically difficult to implement. Whether disengaging or not

⁵⁸ Cases where disengagement may be considered include: repeated failure attempts at preventing or mitigating the adverse impacts; the adverse impacts are irremediable; no reasonable prospect of change.

disengaging, the severity of the adverse human rights impacts must be considered and responsible responses are expected as shown in the table below.

disengaging / Not disengaging	Examples of responsible responses
Disengaging from the business relationship	<ul style="list-style-type: none"> • Articulate phased measures for disengagement upfront with the business partner • Provide detailed information about adverse human rights impacts based on which the decision of disengagement was made so that the business partner can make appropriate responses. • Where feasible, provide sufficient notice of the disengagement to the business partner.
Continuing the business relationship	<ul style="list-style-type: none"> • Continue to monitor the situation of the business partners • Periodically review the appropriateness of continuing the business relationship • Explain how the decision to continue the business relationship align with the human rights policy of the business enterprise; what is underway to use leverage for mitigating the adverse impacts, and; how to continue to verify the situation of the business partner.

Example: An inappropriate situation is found in which, a supplier forces its technical intern trainees to conclude a contract to pay the penalty for their nonfulfillment of the technical intern training contract and takes away their passports. The business enterprise demands the supplier to check the facts and report an improvement in the situation, but is unable to find satisfactory improvements. In response, the business enterprise decides to terminate procurement from the supplier, while cooperating with and providing information to supervising organizations supporting a change of the intern training sites and transfer.

Example: An on-the-spot survey of a supplier in another country finds that excessively long working hours violating the local labour law have become standard practice. The business enterprise expresses serious concern to the supplier and demands immediate improvement of the violating conditions. If the supplier repeats similar violations in spite of this demand, the business enterprise will disengage from the business relationship when it is found appropriate after careful examination.

Example: If a loan customer in another country is found to be causing adverse human rights impacts, such as forced labour and child labour, the business enterprise demands the customer to stop and prevent recurrence of the actions causing the adverse impacts. If measures are not taken after a certain period of time, the enterprise decides, after due consideration of the potential adverse impacts to the stakeholders of stopping the loan, not to provide new loans after the completion of the current loan contract.

There can be human rights abuses with the involvement of the ruler of the state or ruler of the region where the business activities take place. In such cases, for example, there may be a concern that the business activities of the business enterprise in the region and profits of its business partner with which the ruler is deeply involved may provide funds through tax payment, etc. to the human rights abuse conducted with the involvement of the ruler. However, because it may not be easy to determine the existence and extent of the relationship of its business activities in the region with the human rights violation, a suspicion of a human rights abuse with the involvement of the ruler does not immediately require suspension or closure of

its business in the region. Nevertheless, it is necessary to carefully examine the relationship,⁵⁹ and as a result, the business enterprise may reach a decision to suspend or close the business operation.

Regarding product and service transactions, there may arise suspicion that human rights are being abused with the involvement of the state or ruler, in the production or supply process. In such a case, if the enterprise cannot confirm the actual state of the human rights abuse because it cannot gain cooperation of the parties concerned due to the involvement of the ruler, or, if the actual state of the human rights abuse was confirmed but the business enterprise cannot prevent or mitigate adverse human rights impacts by using its leverage while continuing the business relationship, it is necessary to consider disengagement.

Example: In a region where international organizations, etc. present suspicion of abuse of the human rights of ethnic minorities with the involvement of the government, a business enterprise demands its business partners who are using local factories to submit a document certifying that the factories are not using forced labour of ethnic minorities. Because no valid evidence is presented, on-the-spot inspections are not accepted and there is no prospect for improvement, the enterprise suspends transactions with the partner.

4.2.2 “Responsible withdrawal” from conflict-affected areas

In general, there may be cases where enterprises suddenly have to withdraw from conflict-affected areas due to the sudden worsening of conditions and other factors. In such a case, alternative business enterprises may fail to appear through new entry or acquisition, making it impossible for consumers to obtain products or services necessary to live, and it may become more difficult for employees laid-off by the withdrawing business enterprise to find a new job.⁶⁰

For this reason, when considering suspension or termination of business activities in such an area, the business enterprise needs to make a more careful and responsible judgment than that of the usual conditions, implementing heightened human rights due diligence. Of course, to secure its employees’ safety, a business enterprise may need to temporarily suspend its operation and evacuate employees or withdraw promptly from the area in some cases. However, it is necessary to give the maximum possible consideration to the potential human rights risks for the stakeholders affected by the withdrawal in making the decision whether to withdraw or not. It is desirable that the judgment can be adequately explained to the stakeholders.

For this reason, if conflicts may occur, it is important to consider a withdrawal plan beforehand. This facilitates identifying and assessing adverse human rights impacts and considering mitigation

⁵⁹ Heightened human rights due diligence should be implemented as in the case of conflict-afflicted areas.

⁶⁰ In addition to these concerns, circumstances surrounding local residents may become more vulnerable due to unemployed workers who join an armed force because of the difficulty to make a living, and damage to medical and social infrastructure, for example. These matters are important as a background that worsens the adverse human rights impacts in conflict-afflicted areas.

measures. If withdrawal becomes necessary, the enterprise can withdraw in a responsible way that minimizes adverse impacts on the stakeholders to the greatest extent possible. Mitigation measures may include: having dialogues with employees on safety concerns and taking countermeasures based on the results, and helping employees continuously earn an income during the crisis.

There is a limit to the ability of a business enterprise to predict the threat of conflict. Nevertheless, even if the prediction is not possible when the beginning of a conflict is confirmed, which may include increased activities of an opposition party and violence to the general public, business enterprises are expected to promptly analyze risks and start preparations, including withdrawal planning, while at the same time examining potential adverse impacts of the withdrawal on their stakeholders.

Example: A business enterprise that is engaging in business to support power supply to local residents in a conflict-affected area tries to find ways to continue operations after the occurrence of a conflict, etc. Because of the difficulty, the business enterprise decides to withdraw from the area after the period of contractual obligation to continue the business expires. The enterprise promptly notifies the decision to the parties involved and operates the business until withdrawal, lest it should have an adverse impact on the power supply.

Example: A business enterprise is operating a joint venture with a local enterprise, but finds that the local enterprise is closely connected with an opposition party that started to use force widely on the general public and abuse human rights, and that the profits of the joint venture are providing a significant fund for the abuse of human rights by the organization. The enterprise will dissolve the joint venture after due consideration of the withdrawal's impacts on stakeholders.

When considering “responsible withdrawal” in the cases described here, it is useful to ask the Government of Japan, international organizations, the Japan External Trade Organization (JETRO) and other organizations for information and consultation.

4.2.3 Addressing systemic issues

Systemic issues refer to problems that are prevalent within a context and are driven by root causes outside of the business enterprise's control, but that nonetheless increase the risk of adverse impacts within the enterprise's own operations or supply chain. Examples of systemic issues include poor access to schools and high rates of poverty, which can increase the risk of child labour and discrimination of minority groups.

Although business enterprises are not responsible for solving systemic issues, because efforts of business enterprises to address such issues can be effective for preventing or mitigating adverse human rights impacts in some cases, they are expected to make efforts to address such issues. Specifically, in addition to the efforts by individual enterprises, joint initiatives of multiple industries and participation in support projects by international organizations, NGOs, etc. can be also helpful.

While paying attention not to use or encourage the situation causing systemic issues and making efforts individually or in an industry group, enterprises should examine whether they can continue the business responsibly in a situation with systemic issues.

The Government of Japan has made and will make efforts to solve systemic issues at the society level in cooperation with other governments, international organizations and other parties.

Example: Enterprises accepting technical intern trainees cooperate with a supervising organization to confirm with the technical intern trainees and sending organizations whether or not there are heinous intermediary agents or the trainees have paid inappropriate costs, for example. Enterprises accepting technical intern trainees from Socialist Republic of Viet Nam, in particular, prompt sending organizations to use the platform pertaining to sending of technical trainees as agreed between the Japanese and Vietnamese governments, when the platform starts operation.

Example: Recognizing that the local socioeconomic situation is a factor of child labour, enterprises join an organization aiming to establish a responsible supply chain of the products manufactured using child labour globally and, as part of their initiatives, work to increase the income of local people and help children go to school.

4.3 Tracking effectiveness of the efforts

Business enterprises need to track whether they have effectively identified, assessed, prevented and mitigated adverse human rights impacts, and make continued improvement based on the results.

4.3.1 Tracking methods

Before assessment, it is necessary to collect information widely. For example, in addition to various internal data (including information obtained through its grievance mechanism), a business enterprise can collect information from its stakeholders inside and outside of the business enterprise, including stakeholders who are or can be adversely affected.

Specific methods are chosen based on the business environment and scale of the enterprise, type and severity of the target adverse impacts, etc. Specific examples include: interviews of its employees, suppliers, etc.; use of questionnaires; visits to frontlines, including factories of the business enterprise and suppliers; audits; and surveys by a third party.

By using various kinds of information, business enterprises can track effectiveness more objectively and accurately.

Example: Implement an initiative to prevent and mitigate identified potential adverse impacts on the company's employees (e.g., improvement of occupational health and safety, elimination of discrimination in the workplace) and assess the situation before and after the initiative in order to measure its effects.

Example: While receiving the results of self-assessment of human rights efforts by counterparty factories, implement on-site investigation (interviews of employees, labour union or worker representatives, the management, etc. and checking of the state of occupational health and safety) by a third party organization and assess the report of the organization. In addition, grasp the state of efforts by suppliers based on their answers and confirm the improvement plans of the suppliers whose efforts are found insufficient.

Because efforts for respect of human rights may be difficult to assess in appropriate quantification in many cases, tracking of their effectiveness should be done based on appropriate qualitative and quantitative indicators. Examples of such indicators include: percentage of impacted stakeholders engaged who feel that adverse impacts have been adequately addressed and the rate of recurring issues related to the identified adverse impacts.

4.3.2 Incorporation of effectiveness tracking in an internal process

Enterprises can incorporate the procedures of effectiveness tracking in their internal process. This will contribute to establishment of efforts for respect of human rights in the business enterprises.

For example, the perspective of human rights may be incorporated in the procedures, such as audits and site visits, which have been conducted from the viewpoints of the environment and health and safety.

Example: Add the effects of the initiatives of the business enterprise to improve adverse human rights impacts (e.g., unjust discrimination on the ground of race or sex in the workplace) to the targets of the periodic internal audits by the internal audit section.

Example: Implement periodic inspection of suppliers, etc. by a responsible department on items related to human rights in addition to the environment and occupational health and safety. By analyzing and comparing the results with past results, the responsible department examines whether adverse impacts are addressed effectively, while important items are referred and reported to the management meeting and the board of directors.

4.3.3 Use of the tracking results

By using tracking results, business enterprises can examine whether or not the countermeasures taken were effective in preventing or mitigating the adverse human rights impacts and whether there are more effective countermeasures.

If the assessment results show that the countermeasures are ineffective or insufficient, the enterprise can understand why the expected effect was not obtained by analyzing the variety of information obtained in the tracking process. This is useful for improvement of efforts for respect of human rights.

4.4 Communication and information disclosure

Business enterprises should be able to explain that they meet their responsibility to respect human rights. When facing an allegation of human rights abuse, especially expressed by stakeholders that can be adversely affected, it is essential for the enterprise to be able to explain the measures it has taken.

Even when an actual abuse of human rights is identified, disclosure of the information on the efforts for human rights will not reduce the enterprise value. On the contrary, it raises the enterprise value because it shows its willingness to improve and its transparency, and it should receive

recognition from its stakeholders. Business enterprises are expected to communicate and disclose information proactively.

Contents and scope of information disclosure are left to the discretion of the business enterprise according to the situation.⁶¹

4.4.1 Content of the information that is explained or disclosed

4.4.1.1 Basic information

It is most important that business enterprises convey basic information on human rights due diligence when they address their adverse human rights impacts. Examples of such information is shown below.

Measures taken to establish the human rights policy across the enterprise; identified area of material risk; identified (or prioritized) severe adverse impacts or risks; criteria of prioritization; information on actions to prevent or mitigate risks, and; information on tracking effectiveness

4.4.1.2 Approach to addressing adverse impacts

If there is a risk of significant adverse human rights impacts, the business enterprise should explain how it will address the adverse impacts, and the explanation should provide sufficient information to evaluate the appropriateness of the action of the business enterprise to address the specific human rights impacts in which it is involved. When providing such information, however, the business enterprise needs to pay attention to the confidentiality of the personal information of the affected stakeholders and confidential information of its suppliers, etc.

4.4.2 Approaches to communication and information disclosure

Business enterprises need to provide information in a way accessible for intended receivers of the information.

- (a) For disclosure to the general public, information may be posted on the website of the enterprise, or disclosed in an integrated report, sustainability report, CSR report, or human rights report, for example. This kind of information provision can be periodic or non-periodic, but it is desirable to be at least once a year.

⁶¹ “Corporate Governance Code” (<https://www.jpx.co.jp/equities/listing/cg/tvdivq0000008jdy-att/nlsgeu000005lnul.pdf>) of Tokyo Stock Exchange, Inc. stipulates that “sustainability issues, including social and environmental matters” for which companies should take appropriate measures as provided in Principle 2.3 include respect of human rights (Supplementary Principle 2.3.1) in its revision in June 2021. Furthermore, “General Principle 3” and its “Notes” of the code provide that listed companies should appropriately make information disclosure in compliance with the relevant laws and regulations, but should also strive to actively provide information beyond that required by law, including non-financial information, such as ESG (environmental, social and governance) matters.

- (b) Particularly for disclosure of information to stakeholders who will be or are affected by an adverse impact, online and other interviews may be used.

5. Remedy (Details)

If a business enterprise has recognized that it caused or contributed to adverse human rights impacts, the business enterprise should implement a remedy or cooperate in the implementation of a remedy.

If adverse human rights impacts are only directly linked to its operations, products or services, the business enterprise is not responsible for implementing a remedy. However, as described in 4.2.1.2, it needs attention that the business enterprise should strive to prevent or mitigate the adverse impacts by working on the enterprise that causes or contributes to the adverse impacts.

The appropriate type or combination of remedies varies depending on the nature and the scope of the adverse impact. An appropriate remedy from the viewpoint of the stakeholders suffering the adverse human rights impact should be provided. Specific examples may include apologies, restitution, rehabilitation, and financial or non-financial compensation, as well as establishment or statement of a recurrence prevention process, and request for recurrence prevention to the suppliers, etc.

Example: It is found that rent and utility costs are deducted without agreement with the technical intern trainees and that extra pay for night-shift is not paid adequately in the business enterprise. The business enterprise provides a thorough explanation about the deduction and reaches an agreement with the technical intern trainees based on their free will, while immediately paying the money unpaid.

Example: A business enterprise that received a grievance about discrimination on the ground of sex in the business enterprise asked its labour union to provide information on concerns about discrimination in the business enterprise, while at the same time holding labour-management consultation to consider and implement measures to prevent discrimination in the future.

Example: When investigating the working environment of workers in the business enterprise, have its labour union accompany the investigation to identify adverse impacts with workers' viewpoint more in mind, and consider remedies based on the results.

Example: An overseas supplier of the business enterprise does not allow establishment of a labour union. An arbitral body demonstrated an award that establishment should be allowed, but the supplier did not follow the arbitral award. Employees of the supplier consulted with the business enterprise and the business enterprise urged the supplier to follow the award.

Remedy mechanisms are roughly divided into remedies provided by non-State entities, including business enterprises, and remedies provided by a State, as described 5.1 and 5.2 below. Considering the characteristics of the respective mechanisms, business enterprises and stakeholders choose and use an appropriate mechanism according to the individual specific cases.

5.1 Grievance mechanism

Business enterprises should enable a remedy that is an important element of the responsibility for respect of human rights by establishing a grievance mechanism that is a series of processes to

address grievances and disputes pertaining to the business enterprises and their stakeholders, or through participation in a grievance mechanism established by an industry organization and others.

Through these grievance mechanisms, individuals and groups can show concerns about adverse impacts caused by business enterprises and seek a remedy. Business enterprises can use the information and suggestions obtained through the grievance mechanisms to identify and address adverse human rights impacts.

Example: A business enterprise has a hotline that can be used also by employees of domestic and overseas suppliers. In light of a large number of consultations about a specific human right abuse in the workplace of a specific overseas supplier, the business enterprise calls the attention of the supplier’s management and asked it to set up a grievance committee.

Grievance mechanisms can achieve their purpose only when the intended users recognize, trust and use it. To this end, grievance mechanisms should meet the following requirements:⁶²

Legitimate	Fair operation enabling trust from the stakeholder groups for whose use they are intended
Accessible	Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access, which may include language, literacy, and fears of reprisal ⁶³
Predictable	Providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of processes and outcomes available and means of monitoring implementation
Equitable	Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in the grievance process on fair, informed and respectful terms
Transparent	Keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake
Rights-compatible	Ensuring that both outcomes and remedies are in accordance with internationally recognized human rights
A source of continuous learning	Drawing on relevant measures to identify lessons for improving the mechanisms and preventing future grievances and human rights abuse
Based on engagement and dialogue	Consulting with the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances

Example: Setting up a grievance mechanism that can be used not only by an enterprise’s own employees but also by the employees of direct or indirect suppliers.
 Example: Developing jointly with other enterprises a smartphone application (multilanguage) for foreign workers to consult with a third party on abuses of their human rights

⁶² Based on the UN Guiding Principles 31

⁶³ Users should not suffer any disadvantage for using a grievance mechanism.

5.2 State-based remedy mechanism

As described in 5.1 above, enterprises should establish their own grievance mechanisms or participate in a grievance mechanism, but the government has also established grievance mechanisms.

Specifically, there are trials in courts as a judicial process, while non-judicial processes include: the individual labour dispute resolution systems of the Ministry of Health, Labour and Welfare (MHLW); Japanese National Contact Point⁶⁴ composed of the Ministry of Foreign Affairs, MHLW and METI based on the OECD Guidelines for Multinational Enterprises; human rights counseling, investigation and remedy procedures at the Legal Affairs Bureaus of the Ministry of Justice; and Native Languages Consultation at the Organization for Technical Intern Training.⁶⁵

⁶⁴ <https://www.mofa.go.jp/mofaj/gaiko/csr/housin.html>

⁶⁵ When a legitimate charge is made to the contact point, the business enterprise should sincerely consider response through the contact point as a means for solution.

No.	Question	Answer
1.	<p>The Guidelines (Section 1.3) state that “regardless of the company size, sector, etc., all business enterprises (...) engaging in business in Japan...should strive in efforts to respect human rights...,” but does that mean we need to make efforts for the sake of human rights by following international standards for business and human rights, even though we do not operate internationally? If so, why?</p>	<p>The Guidelines apply to all business enterprises engaging in business in Japan, even companies that do not operate internationally.</p> <p>As laid out in the UN Guiding Principles and other international standards supported by the Japanese government and other national governments, business enterprises have a responsibility to respect human rights, and the human rights that business enterprises are to respect cover those of stakeholders within the business enterprises or their domestic operations, without being limited to international operations. As such, even if a business enterprise does not operate internationally and all of its direct business partners are domestic companies, the business enterprise should strive in activities to respect human rights in line with international standards to the fullest extent possible.</p> <p>Also, even if a business enterprise is not directly engaged with companies in other countries, it may have any number of indirect international connections through its supply chains. For this reason, business partners are increasingly asking for efforts to respect human rights. To respond to those requests appropriately, business enterprises should make efforts to meet international standards such as the UN Guiding Principles.</p>
2.	<p>The Guidelines (Section 1.3) indicate that business enterprises and their group companies need to respect human rights. In conducting human rights due diligence in a foreign country where a group company is located, should the group company in that country take the lead in conducting the human rights due diligence, or should the head office in Japan do so?</p>	<p>This should be considered from the perspective of what is the most effective way to respond to adverse impacts on human rights.</p> <p>For example, while local group companies might have geographic advantages, in many cases, it would be difficult for them to deal with these matters effectively on their own because of human resource constraints and other factors. It would be thus desirable for the head office in Japan, while taking into consideration the circumstances of the various group companies, to provide support as necessary for them to undertake human rights due diligence, and for the head office and group companies to share information and cooperate closely to most effectively address adverse impacts on human rights.</p>
3.	<p>The targets for efforts to respect human rights include “suppliers, etc.” (companies</p>	<p>A business enterprise needs to prevent and mitigate not only the adverse impacts on their direct business relationships but also (i) adverse impacts caused by the business enterprise itself, (ii) adverse impacts contributed to by the business enterprise itself,</p>

	<p>in supply chains in and outside Japan and other business partners) (Section 1.3), but should we target preventing and mitigating adverse impacts for Tier 2 suppliers and beyond with whom we have no direct business relationship? To what extent should we cover suppliers?</p>	<p>and (iii) adverse impacts directly linked to the business enterprise’s operations, products, or services (on point (iii), they need to make efforts to prevent and mitigate these). As such, all adverse impacts covered by (i), (ii) and (iii) should also be targeted for Tier 2 suppliers and beyond.</p> <p>However, for many business enterprises, it is difficult to immediately engage in handling the adverse impacts for all direct and indirect business partners. Business enterprises should therefore give priority to adverse human rights impacts with the higher level of severity first. If there are multiple adverse human rights impacts with high severity, the priority may be given to addressing the adverse human rights impacts that they cause or contribute to and add address them in the business enterprises and with business partners with which the business enterprise is in a direct contractual relationship first. In this case, it is necessary to extend the actions to adverse human rights impacts occurring at indirect business partners and such impacts only directly linked to their company’s business, etc. Also, adverse impacts that should be targeted for prevention and mitigation are not limited to those identified through human rights due diligence by a business enterprise. For example, adverse impacts identified through concerns raised by stakeholders through grievance mechanisms should also be included as a matter of course.</p>
4.	<p>Why is it important to “engage in efforts to respect human rights together” (Sub-section 2.2.5)? Does corporate responsibility to respect human rights mean that companies with more human and economic resources bear a more significant economic burden in implementing them?</p>	<p>The corporate responsibility to respect human rights requires business enterprises to address both their own adverse impacts, those of their group companies, their suppliers, and so forth. Business enterprises can fulfill their responsibility to respect human rights not only by completing their response internally, but also by conducting joint efforts among business enterprises. It is expected that the specific content and methods of cooperation will be agreed on to determine what is desirable from the perspective of effectively addressing adverse impacts on human rights through dialogue and consultation among the parties concerned. For example, business enterprises may share their experiences and resources, or business enterprises with greater human and financial resources may bear the cost of other companies’ efforts to respect human rights.</p> <p>It should be noted that individual business enterprises are expected to implement efforts to fulfill their responsibility to respect human rights. It should also be noted, as stated in Sub-section 2.2.5 of the Guidelines, that if a business enterprise, in placing an order for products or services, takes advantage of its contractual position to unilaterally demand that its business partners make efforts to respect human rights in a way that imposes an excessive burden on them, it may conflict with the Act against Delay in Payment of Subcontract Proceeds, etc. to Subcontractors and the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade.</p>

5.	<p>The Guidelines (Section 3.1) state, “When establishing a human rights policy, it is necessary to identify the human rights on which the business enterprise may have impacts first.” But is it necessary to conduct human rights due diligence to establish a human rights policy?</p>	<p>Establishing a human rights policy does not require conducting human rights due diligence. On the other hand, since a human rights policy shows the management’s commitment to fulfilling its responsibility to respect human rights and serves as the basis for business efforts to respect human rights, it is necessary to ensure that the policy does not deviate from the enterprise’s actual situations. More specifically, it would be desirable to grasp information on the suppliers, other parties, and stakeholders in the enterprise’s business operations to understand the human rights the business enterprise could potentially be having an impact on.</p>
6.	<p>The Guidelines (Sub-section 4.1.1) state that it is necessary to grasp information on suppliers, etc., to ensure the traceability of products and services of the enterprise, but how should we handle cases where we cannot get information on all suppliers due to limited traceability?</p>	<p>While it is desirable to grasp information on all the business enterprises and other entities involved in the enterprise’s products and services, generally, the more such enterprises there are, the less easy it is to ensure full traceability. If traceability is poor, business enterprises may not be able to identify adverse human rights impacts or to prevent and mitigate those that require such. Indeed, poor traceability may increase the risk of adverse human rights impacts and create risks for business enterprises. In such cases, it is even more important to make an effort to understand the adverse human rights impacts of business enterprises with poor traceability through wide-ranging stakeholder engagement, the establishment and operation of appropriate grievance mechanisms, or in cooperation with stakeholder industry associations and so forth.</p> <p>In cases where traceability is poor, it is desirable to be able to explain externally the reasons why the suppliers’ traceability is limited.</p>
7.	<p>The Guidelines (Sub-sub-section 4.1.2.3) mention on-the-spot inspection as an example of the “survey of local business partners” to “collect relevant information” necessary for identification and assessment of adverse impacts. Is it always necessary to conduct a field survey?</p>	<p>As stated in Sub-sub-section 4.1.2.3 of the Guidelines, it is always necessary to conduct on-site inspections, although the appropriate method could vary depending on the type of information to be collected and other factors. However, for example, to check on the working environment at a factory, it is often challenging to do so without visiting the site. In that case, a field survey would be considered one of the most effective methods.</p> <p>On the other hand, even when it is desirable to conduct a field survey, there may be cases where it is practically difficult to conduct the survey. In such cases, a written survey or online dialogues with local stakeholders may also be considered. Even in cases where it is practically feasible to conduct a field survey, it may impose a heavy burden, so, for example, it may be necessary to conduct a survey on adverse impacts with high severity that should be prioritized for action. In addition, the burden associated with visiting the site may be reduced by requesting local experts to conduct the audits and provide support during the</p>

		enterprise’s on-site inspection. Even in such cases, however, it is advisable to avoid as far as possible entrusting it entirely to local experts.
8.	While efforts to respect human rights are said to lead to limiting management risk, how should we consider the relationship between the prevention and mitigation of adverse impacts (Section 4.2) and management risk?	A business enterprise needs to prevent and mitigate (i) adverse impacts caused by the business enterprise itself, (ii) adverse impacts contributed to by the business enterprise itself, and (iii) adverse impacts directly linked to the business enterprise’s operations, products, and services (on point (iii), it needs to make efforts to prevent and mitigate these). This is not related to the size of the management risk. This is because although efforts to respect human rights may end up reducing management risks, their real purpose is to prevent, mitigate and provide remedy for adverse human rights impacts.
9.	For adverse impacts only directly linked to a business enterprise’s operations, products, or services, the Guidelines state that a business enterprise should “make efforts” to prevent and mitigate the adverse impacts, unlike adverse impacts that it causes or contributes to (Section 4.2). Does it mean that companies do not bear a responsibility to respect human rights in “directly linked” cases?	Even in “directly linked” cases, business enterprises have a responsibility to respect human rights. However, unlike cases in which a business enterprise causes or contributes to adverse impacts, in “directly linked” cases, adverse human rights impacts may occur outside the scope of the leverage a business enterprise has, so that the business enterprise should “make efforts” to prevent or mitigate adverse impacts. More specifically, business enterprises should make efforts to prevent and mitigate adverse impacts by using their leverage. Or, if they lack leverage, then they should secure or strengthen leverage or provide support.
10.	The Guidelines (Sub-sub-section 4.2.1.3) indicate that disengagement should be considered a last resort. But if, for example, we have identified a serious adverse human rights impact at a supplier, in order to prevent an increased management risk (reputational risk and	Efforts to respect human rights are not aimed at reducing management risk, but only preventing and mitigating adverse impacts on human rights. As such, the idea of disengagement to limit any increase in management risk is not in line with the basic approach to respecting human rights. Although immediate disengagement would end the relationship of the business enterprise with the adverse human rights impacts, , the adverse impacts themselves would still remain. Careful attention should be given that disengagement could further worsen the adverse human rights impacts by making it more difficult to keep an eye on the adverse impacts, by worsening the financial status of the counterpart enterprise, which may lead to unemployment of its employees.

	other risks), should we disengage from the supplier?	
11.	The Guidelines (Section 4.4) state that “When facing an allegation of human rights abuse, especially expressed by stakeholders that can be adversely affected, it is essential for the enterprise to be able to explain the measures it has taken.” If concerns are raised that the business enterprise is abusing human rights, is it necessary to take measures?	If stakeholders are alleging human rights abuses, a business enterprise should be especially careful to consider the prevention and mitigation of adverse impacts. But if the results of a careful examination, when viewed objectively, show that there is no reasonable basis for the allegation of human rights abuses, then the business enterprise is freed from any need to take action. However, even in such cases, it is important to be able to explain the information it used and its decision-making process for determining that there were no reasonable grounds.
12.	Different ways to communicate and disclose information were mentioned in the Guidelines (Sub-section 4.4.2). Which methods are preferable?	It is important to use methods that are likely to easily reach out to the audience receiving the information, especially stakeholders who have been adversely impacted, but the Guidelines do not expect business enterprises to use any one prescribed method for communication and information disclosure. The methods that are the most accessible for the audience receiving the information will be those that are not only physically easy to access, but also are easy to understand. Further, factors such as the timing, format, language, and location that make the information effectively available and accurately understandable for the intended audience should also be considered.
13.	In cases where the business enterprise’s operations, products, or services are directly linked to an adverse impact, the Guidelines (Chapter 5) indicate that the business enterprise is not responsible for providing a remedy. How do we distinguish and determine cases such as	Whether “contributed” or “directly linked” applies is determined by considering a number of factors as a whole, such as (1) the degree to which another business enterprise caused the adverse impact, or the degree to which another business enterprise promoted or motivated the cause of the adverse impact (extent of contribution to adverse impact), (2) the degree to which the adverse impact or probability of the adverse impact was known or should have been known (extent of predictability), and (3) the degree to which the adverse impact has been mitigated or the risk of it arising has been lessened. However, there are many cases where it is difficult to distinguish between “contributed” and “directly linked.” In those cases, given that the intent behind the responsibility to respect human rights is to prevent or mitigate adverse impacts on human rights, it is desirable to treat these cases as “contributed” and prevent or mitigate adverse impacts, as well as offer remedy.

	those from cases where we have contributed to an adverse impact?	
14.	The Guidelines (Section 5.1) mention that “individuals and groups” can raise concerns about adverse impacts through a grievance mechanism. What should the scope of users of the grievance mechanism be?	Users of the grievance mechanism should not be limited to the business enterprise’s own employees but should include stakeholders that could be adversely impacted by the business enterprise. This includes business partners’ employees and labour unions, and residents adversely impacted by business activities. Note that according to the UN Guiding Principles, a grievance mechanism should be in place for receiving allegations regarding internationally recognized human rights.
15.	The Guidelines (Section 5.2) indicate that there is also a state-based remedy mechanism. If that mechanism is available, is the company then freed from the need to prepare a grievance mechanism?	A state-based remedy mechanism is one means to ensure access to a remedy for stakeholders that have experienced an adverse impact on human rights, but that does not mean that a state-based remedy mechanism is effective in all cases. For that reason, even when a state-based remedy mechanism does exist, business enterprises need to make it so that there is a grievance mechanism that adversely impacted stakeholders can use. It is important that adversely impacted stakeholders have a range of options regarding the remedy mechanisms they can access.