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HUMAN RIGHTS COUNCIL  
Working Group on the Universal Periodic Review  
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**DRAFT REPORT OF THE WORKING GROUP ON THE  
UNIVERSAL PERIODIC REVIEW**

**Japan\***

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## Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its second session from 5 to 19 May 2008. The review of Japan was held at the 10th meeting on 9 May 2008. The delegation of Japan was headed by H.E. Mr. Yoshitaka Akimoto, Ambassador in charge of United Nations Affairs, Ministry of Foreign Affairs. For the composition of the delegation, composed of 16 members, see annex below. At its 14th meeting held on 14 May 2008, the Working Group adopted the present report on Japan.
2. On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Japan: Djibouti, France and Indonesia.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Japan:
  - (a) A national report submitted in accordance with paragraph 15 (a) (A/HRC/WG.6/2/JPN/1);
  - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/2/JPN/2);
  - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/2/JPN/3).
4. A list of questions prepared in advance by Denmark, France, Latvia, the Netherlands, Sweden and the United Kingdom of Great Britain and Northern Ireland and was transmitted to Japan through the troika. These questions are available on the extranet of the UPR.

## I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

### A. Presentation by the State under review

5. At the 10th meeting, on 9 May 2008, Ambassador Yoshitaka Akimoto of Japan introduced the national report and indicated that Japan intended to make a positive contribution towards the improvement of human rights, while taking into consideration each country's situation, such as its history, traditions, and keeping in mind Japan's basic approach of "dialogue and cooperation." Japan noted its strong support of the value of the rule of law and that it became a State party to the Rome Statute of the International Criminal Court in 2007.
6. Responding to various written questions submitted in advance, Japan stated its willingness to cooperate with Special Rapporteurs, including arranging visits to the country as time permits. Japan was also studying the relationship between the provisions of the Optional Protocol to the Convention against Torture protocol and domestic legislation, including on how the "visits" mentioned in the protocol will be carried out in practice. It stated that it regards the Hague Convention on the Civil Aspects of International Child Abduction and the Convention on Jurisdiction, Applicable Law, Recognition, and

Cooperation in respect of Parental Responsibility and Measures for the Protection of Children as effective tools for children's rights and welfare, and will continue to study the possible conclusion of the two conventions by giving due consideration to, inter alia, the current social system, and the cultural situation of Japan.

7. Japan attached great importance to human rights education, based on the conviction that in order for all people to enjoy human rights and live contented lives, each citizen must fulfil his or her responsibility to uphold the freedoms and rights guaranteed to them, and at the same time must correctly understand and respect other people's human rights. It referred to initiatives taken. Regarding the human rights of foreign residents in Japan, it is responding to various needs by establishing Human Rights Counseling Offices for Foreign Nationals with interpretation services at some Legal Affairs Bureaus. It was explained that in March 2002, the Ministry of Justice submitted the Human Rights Bill to establish a new Human Rights Commission which was not completed because of the dissolution of the lower house in October 2003, and the Ministry of Justice continued to review the Bill. Japan explained, inter alia, that it has been striving to realize a society without any form of racial or ethnic discrimination and that in order to prevent such human rights violations it pursues the strict implementation of relevant domestic laws and promotes activities for raising public awareness. Regarding the question about discrimination against women, Japan explained, inter alia, that opinions were asked from all levels of civil society, including NGOs, for the preparation of the Second Basic Plan for Gender Equality and that their opinions would be heard when revising the Basic Plan in the future. On the question of the marriageable age in Japan, it was explained that in February 1996, the Legislative Council of the Minister of Justice submitted an outline of a Bill to Revise Part of the Civil Code suggesting that the marriageable age should be 18 years for both men and women. Japan stated that this issue constitutes an important subject involving the marriage system and the concept of a family and since there were various opinions across all levels of civil society, close attention was being paid to trends in public opinion.

8. On the question of the treatment of detainees, it was explained that Japan has been making active efforts to improve its criminal justice proceedings, through the enactment of a law in 2005 and another law in 2006 to completely revise the legislation governing the treatment of sentenced inmates, and the treatment of pre-sentenced inmates, respectively. With regard to the police detention system, it was explained that the necessity of detention was strictly examined by the police, a prosecutor, and a judge in due order, and that a judge decides on its necessity and the placement of the detention for a maximum of 10 days. A prosecutor and a judge respectively review the necessity of the extension of the detention, and a judge order is also necessary for the extension, which cannot exceed 20 days in total. The Delegation stated that the substitute detention system was indispensable to carrying out prompt and effective investigations. At the police detention facilities, investigative officers were not allowed to control the treatment of detainees; detention operations were conducted by the detention division of the facility, which is not involved in investigations at all. The Delegation also explained that, regardless of the type of crime committed, detainees can have consultations with their lawyer at anytime and there is no official watch person during the meeting and no time limitation. Under the Penal and Detention Facilities Act, a new system has been introduced to make up a third party committee to inspect detention facilities and to state their opinions on the management of the facilities. In addition, a complaints mechanism has been developed in order to ensure the appropriate treatment of detainees. With regard to the treatment of the inmates in the penal institutions, the

Delegation explained that the new law provided additional care for the loan of clothing and supply of food as well as for raising the standards guaranteeing adequate hygiene and medical care. Japan indicated that it was trying to settle the issue of over-crowded prisons by constructing new penal institutions.

9. The Delegation explained that the majority of Japanese people considers the death penalty to be unavoidable in case of extremely vicious crimes, and in view of the current situation in which heinous crimes such as mass murder and abduction-murder continue to take place, the Government believes that the application of the death penalty is unavoidable, and, therefore, the abolition of the death penalty is inappropriate. It was stated that Japan cannot support the resolution adopted by the General Assembly seeking a moratorium on executions as a precedent leading to the abolition of the death penalty. Japan is not considering either granting a moratorium on executions or abolishing the death penalty. It was stressed that sentences of death are handed down only after very cautious trials by courts.

10. Responding to another question, the Delegation explained that those members of the general public called *saiban-in*, are to participate in deciding conviction or acquittal, and sentencing with equivalent weight being given to their opinion as to that of the professional judge from May 2009. It further indicated that sufficient explanation will be given by the professional judge to the *saiban-in* regarding legal knowledge and trial procedures before and throughout the trials. Under this new system, an appropriate decision is expected to be reached through discussions between judges and *saiban-in* and fair trials are expected to take place through cooperation between them.

11. On the question of civil society cooperation in the process of drafting the national report, the Delegation indicated, inter alia, that the Ministry of Foreign Affairs posted information on the UPR system and process on its website, and asked for opinions of NGOs and ordinary citizens about the government report and that as a result, it received opinions from 11 NGOs and 214 ordinary citizens. Additionally, the Delegation stated that Japan recognized that there was still room for improvement, and stated that in the international community, due to globalization and environmental changes, new challenges were being faced and that Japan will continue its contribution to achieve better results for the human rights in the international community, in close cooperation with the United Nations, regional communities, other national Governments, and civil society.

## **B. Interactive dialogue and responses by the State under review**

12. During the ensuing interactive dialogue, statements were made by 42 delegations. Several delegations noted with appreciation and supported Japan's initiatives to promote the human rights of people affected by leprosy. Numerous delegations also welcomed the initiatives taken by Japan to promote human rights education among civil servants. A number of delegations highlighted the international cooperation provided by Japan in various fields, including the socio-economic sector.

13. Algeria recommended that Japan ensure that the interrogation of detainees in police custody or in substitute prisons are systematically monitored and recorded and that the Code of Criminal Procedure is harmonized with article 15 of the Convention against

Torture (CAT). In accordance with article 14 (3) of the International Covenant on Civil and Political Rights (ICCPR), the right of defence to have access to all relevant material needs to be upheld. Algeria also recommended that Japan implement the calls by, inter alia, the Human Rights Committee and the Committee on the Rights of the Child to establish human rights institutions in accordance with the Paris Principles as soon as possible. Algeria recommended that Japan review, inter alia, the land rights and other rights of the Ainu population and harmonize it with the United Nations Declaration on the Rights of Indigenous Peoples. Algeria recommended that the procedures for reviewing asylum decisions be harmonized with CAT and other relevant human rights treaties, and that the State provide legal aid for migrants who need it. Algeria asked for information on how Japan proposes to address the issue of entertainment visas provided to women, as expressed by the Committee on the Elimination of Discrimination against Women, as well as the issue of violence against women and girls.

14. While noting the efforts made by Japan to combat trafficking in women, the Philippines hoped that the Government will further enhance programmes aimed at redress and protection of the human rights of victims of trafficking and asked about the measures in place to address the demand factor in cases of trafficking of human beings. The Philippines also referred to the bill being reviewed for the creation of an independent national human rights institution in accordance with the Paris Principles and hoped for its speedy adoption. While expressing support for Japan's efforts to promote greater understanding, tolerance and respect for the human rights of minorities and migrants, the Philippines asked Japan to provide more information on their strategies in this respect and suggested that the Government increase opportunities for intercultural and inter-religious dialogue and cooperation at the local levels. Philippines also encouraged Japan to further develop appropriate strategies and programmes to counter the negative effects of '*ijime*' or bullying in schools.

15. The Democratic People's Republic of Korea said that military sexual slavery represents crimes against humanity with no statutory limitations and referred to the resolutions of human rights mechanisms which called on Japan to acknowledge legal responsibility for the Japanese Military Sexual Slavery of 200,000 people, bring the perpetrators to justice and compensate the victims. Reference was also made to the serious concerns expressed and recommendations made by two human rights treaty bodies and to the resolutions adopted by parliaments of many countries and the European Parliament, which called on Japan to address this problem. The Delegation recommended that Japan take concrete measures to address, once and for all, the Japanese Military Sexual Slavery and other violations committed in the past in other countries, including Korea. The Delegation referred to the conclusions of the Special Rapporteur on contemporary forms of racism that there existed discrimination against Koreans in Japan in such areas as political participation, employment, housing, marriage, and education. It also referred to concerns expressed by three treaty bodies on the enforced change of Korean names into Japanese, the refusal to recognize Korean schools, the inequalities in access of Koreans to higher education institutions. The Delegation recommended that Japan take measures to eliminate all forms of discrimination against Koreans. It also expressed concern at the continued distortion of history in Japan, since this is indicative of the refusal to address past violations and the danger of its reoccurrence, and recommended immediate measures to address the

situation, as also called for by the Special Rapporteur on contemporary forms of racism.

16. Belgium referred to the reports of treaty bodies concerning the inadequacy of appeal proceedings against death sentences and asked about the expected impact of the 2009 reform of the judicial system with the introduction of popular juries. It also asked about the Government's position on recent parliamentary initiatives to enable judges to propose alternatives to the death penalty, such as life imprisonment without early release. Belgium also noted concerns about the prolonged detention in police stations '*daiyo kangoku*', the high conviction rate and that several recent cases have indicated that forced confessions have been made, giving rise to regrettable judicial errors. Belgium recommended that in order to avoid the police and the judiciary putting excessive pressure on an accused person to confess: (i) there should be more systematic and intensive work to bring the risk of forced confession to the attention of the police, (ii) interrogation monitoring procedures should be reviewed, (iii) the use of prolonged police detention should be re-examined and (iv) the Criminal Code should be reviewed to ensure its conformity with article 15 of the Convention against Torture.

17. Malaysia noted with interest the various achievements made by the Government in protecting the rights of persons with disabilities, including the Barrier-free Spirit, and wished to learn more about the cooperation between the public and private sectors in providing disabled-friendly facilities in the public sphere detention as well as about the detention of foreigners, including the *Daiyo Kangoku* (substitute prison).

18. China welcomed the implementation of comprehensive legal support and awareness activities, including on child abuse and child pornography. China also referred to some historic issues mentioned in reports of the Special Rapporteur on violence against women, the Committee on the Elimination of Discrimination against Women, the Committee against Torture and several NGOs. It also noted that the Special Rapporteur on contemporary forms of racism has requested the Japanese Government to eliminate racial discrimination and xenophobia. China hoped that the Japanese Government will seriously address those concerns and adopt effective measures to implement the recommendations of those mechanisms.

19. Canada recommended that Japan finalize the legislation needed to establish a national human rights institution in accordance with the Paris Principles. Referring to reports indicating, inter alia, a high prevalence of gender-based violence and child abuse, Canada recommended that Japan continue to take measures to reduce the incidence of violence against women and children, inter alia, by ensuring that law enforcement officials receive human rights training, and funding recovery and counselling centres for victims of violence. Canada referred to studies showing that an increase in international marriages has resulted in an increase in complex divorce and custody cases and noted that there is no formal mechanism to deal with international child custody cases. It recommended that Japan develop a mechanism to ensure the prompt return of children who have been wrongfully removed from or prevented from returning to their habitual place of residence, and also examine the possibility of acceding to the 1980 Hague Convention on Civil Aspects of International Child Abduction. Canada also recommended that Japan take measures to eliminate discrimination based on sexual orientation and gender identity. It

referred to reports which indicate the prevalent use of prolonged detention of arrested persons, including detention after they appear before a court and up to the point of indictment and recommended that Japan institute mechanisms to enhance procedural guarantees for the detention of detainees. While recognizing measures already taken by Japan, Canada recommended that it continue its efforts to combat trafficking in persons with a special emphasis on women and children. It also recommended that Japan issue a standing invitation to special procedures.

20. Tunisia noted with interest, inter alia, the creation of research and training institutes for judges, police officers and civil servants and the organization of workshops for civil servants. It also highlighted Japan's attention to cooperation with developing countries, including its exemplary promotion of economic, social and cultural rights in those countries. Tunisia asked for further information on Japan's technical cooperation with developing countries to assist them to strengthen their judiciary systems and train officials.

21. The United Kingdom of Great Britain and Northern Ireland recommended that Japan urgently review the use of the death penalty with a view to a moratorium and abolition. While welcoming some progress made recently in improving conditions for prisoners and the independent monitoring provided by the Criminal Institutions Monitoring Committee and hoping that the recently established Detention Facilities Visiting Committee will prove equally successful, the United Kingdom recommended that Japan implement the relevant recommendations of the Committee against Torture with regard to external monitoring of police custody and that it ratify the Optional Protocol to CAT as soon as possible. It also recommended that Japan review the *Daiyo Kangoku* system in order to ensure that the detention procedure is consistent with its obligations under human rights law. It also wished to know whether the Government is intending to take further measures in response to the concerns raised on these issues in other reports provided for this review. It further recommended that civil society be fully involved in the follow-up process to the UPR at the national level.

22. While noting the information provided by Japan, Luxembourg indicated that four men had been hanged in Japan just one month ago and noted that 20 hangings have been carried out since the end of the *de facto* moratorium on 25 December 2006. Luxembourg indicated its concern about the recent increase in the number of death sentences handed down, that approximately 100 persons are now on death row, that those who are sentenced to death learn that their execution is due to take place only a couple of hours before the sentence is carried out and that relatives are warned only after the hanging has taken place. Referring to relevant recommendations of human rights mechanisms, Luxembourg recommended that Japan not carry out the death penalty and re-apply a moratorium on executions with a view to abolishing the death penalty in accordance with the resolution adopted in this regard last December by the General Assembly. Luxembourg asked what specific measures Japan intended to take so as to make progress with the public and within the National Assembly about the need to reintroduce a moratorium on executions and for the abolition of the death penalty in law, as well as Japan's intentions to ratify the Second Optional Protocol to the International ICCPR, aiming at the abolition of the death penalty and the Optional Protocol to the Convention against Torture.



23. Portugal expressed concern about the growing number of persons sentenced to death. In 2007, 46 persons were sentenced to death, the largest number since 1980, and since the beginning of 2008, 7 persons have been executed. Portugal asked how Japan intended to follow up on the recommendation of the Human Rights Committee that Japan take measures towards abolishing the death penalty and that, in the meantime, the penalty should be limited to the most serious crimes. Portugal recommended that a moratorium on executions with a view to abolishing the death penalty is established and that Japan signs the Second Optional Protocol to ICCPR. Portugal referred to the concern of the Committee on the Elimination of Discrimination against Women at the persistence of deeply rooted and rigid stereotypes in Japan regarding the role and the responsibility of women and men in the family and the society, which are reflected in women's situation in the labour market, educational choices and low participation in political and public life and recommended that Japan repeal all legal provisions that discriminate against women and that it sign and ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

24. Poland noted with interest the innovative measures taken by the Japanese Government for the protection of human rights in the context of their violation on the Internet and noted that with the increasing role of Internet in globalized societies, such issues are of utmost importance. Poland found the experience of Japan on this matter extremely valuable, asked it to provide more detailed information and recommended that Japan share its experience in this regard with other States.

25. Egypt would appreciate more information on the views of the Government with regard to the right to development and of its efforts to promote this right at both national and international levels.

26. France made reference to the death penalty, indicating that Japan should envisage taking measures in this regard, particularly following the adoption by the General Assembly of the resolution on the universal moratorium on the use of the death penalty. France also referred to the issue of discrimination against women, encouraging Japan to continue taking measures against this type of discrimination, and in particular to raise the age of marriage to 18 for women as for men. Noting that article 14 of the Constitution prohibits racial discrimination, France indicated that no law provides for any remedies in this respect, and asked Japan about its plans to remedy this situation or overcome this gap in the next few years. On the issue of the 'comfort women', France indicated that in the light of the many recommendations put forward by several committees on this subject, it would like to encourage Japan to find a long-lasting solution to this problem of women who were forced into prostitution during the Second World War.

27. Albania noted Japan's role during the negotiations and the adoption of the International Convention on the Protection of All Persons from Enforced Disappearance and recommended that Japan complete the internal processes as soon as possible to ratify it, and also recommended that Japan ratify, as soon as possible, the First and Second Optional Protocols to ICCPR, the Optional Protocol to CAT and the Optional Protocol to the Convention on the Elimination of Discrimination against Women. Albania expressed concern that more than 100 prisoners are on death row in Japan and recommended that the

Government examine as a priority the introduction of a formal moratorium on the implementation of death penalty.

28. Following the interventions, Japan noted that the Government pursues the goals of ensuring equal rights and opportunities for foreigners, respecting foreigners' culture and values, and promoting mutual understanding to realize a society in which Japanese and foreigners can live together. With regard to measures to prevent trafficking in persons, Japan provided information, inter alia, on special provisions enabling victims of trafficking to stabilize their legal status, and that they are provided with medical treatment. An anonymous reporting line was established in 2007 to assist victims, and leaflets with information are published in nine languages. If victims wish to return to their home countries, Japan closely coordinates with interested agencies to support this and with other countries on these issues. The Ministry of Justice has developed protection systems to address the issue of bullying in schools, including the establishment of the Children's Rights Hotline and the circulation of Children's Rights SOS lettercards to all elementary and secondary schools. The Ministry of Education, Culture, Sports, Science and Technology is promoting the activities of the local schools and the boards of education through such activities as the provision of guidance and seminars, organizing model programmes to solve problems of bullying and violence at school, and supporting the school counselling system. With regard to the situation of women in the labour market, the Government referred to amendments to the Equal Employment Opportunity Law and other laws, which took effect in April 2007. Detrimental treatment of female workers due to pregnancy and child birth is prohibited, even if such treatment does not include dismissal, and a new provision was introduced to prohibit indirect discrimination. Japan expected that the proportion of women occupying leading positions in all spheres of society will increase to at least 30 per cent by 2020. In the 2007 elections of the House of Councillors 43 female parliamentarians were elected, which marked an increase from 13.6 percent in 2004 to 17.8 percent in 2007.

29. Japan pointed out that in the Pyongyang Declaration, the leaders of Japan and the Democratic People's Republic of Korea agreed on the basic principle that both Japan and the Democratic People's Republic of Korea would mutually waive all properties and claims and those of their nationals that had arisen from causes which occurred before 15 August 1945. Japan noted that it seeks to normalize its relationship with the Democratic People's Republic of Korea in accordance with the declaration, to comprehensively resolve outstanding issues of concern, including abductions, nuclear and missile issues, and settling an unfortunate past. The Delegation noted that the numbers the representative of the Democratic People's Republic of Korea had mentioned were totally groundless. Japan stressed its efforts, based on its Constitution and the International Convention on the Elimination of All Forms of Racial Discrimination, to realize a society where there is no discrimination due to race, ethnic groups or others and its active work towards the elimination of racial discrimination in the United Nations and other forums. The Government noted that foreigners who wish to obtain Japanese nationality are not requested to change their names to Japanese names, and stated that foreigners can decide on their names on their own after naturalization. It also noted that various foreigners' schools, including Korean schools, are accepted as miscellaneous schools by the prefectures and that there is no discrimination between other miscellaneous schools and Korean schools. Japan

considered that any human rights violations based on sexual or gender identity cannot be ignored, and it seeks to eradicate discrimination on the basis of sexual orientation through educational activities. The Government noted that sex re-assignment, surgery or other treatment for gender identity disorder are recognized as due medical practices. Changing registration of gender is possible by judgment by the family court, if the person concerned fulfils certain conditions. The Government noted it has not yet acceded to the individual communications procedure under any international treaty, and that it is currently considering this matter while it has not yet reached any decision.

30. Slovenia expressed concern, inter alia, about discriminatory provisions in the civil code and asked Japan to provide more information on the concrete steps the Government's Gender Equality Bureau is taking in order to promote non-discrimination and a 'gender-free' society. It recommended that Japan adapt national legislation and bring it into line with the principles of equality and non-discrimination. Regarding the requirement for the full integration of a gender perspective in all stages of the UPR, Slovenia asked about Japan's compliance on this matter and recommended that Japan systematically and continuously integrate a gender perspective in the follow up process to the review. Slovenia asked Japan to provide more information on the right to conscientious objection.

31. Mexico requested further comments from the Government concerning the projects or measures considered for the increased harmonization of legislation with its international obligations, including as regards (i) the criminalisation of torture by taking into account all the elements of article 1 of CAT, and (ii) the principles and provisions of the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination against Women. Mexico recommended the establishment of a national human rights institution. It also recommended that Japan re-consider the establishment of a moratorium on the use of the death penalty. Mexico recommended that Japan consider ratifying the Optional Protocol to CAT, the Optional Protocol to the Convention on the Elimination of All forms of Discrimination Against Women, the Convention on the Rights of the Persons with Disabilities as well as to recognize the competence of the Committee on the Elimination of Racial Discrimination to receive and consider individual communications. With respect to the international standards concerning the rights of the child and women, Mexico would appreciate information on measures that may currently be applied concerning civil rights and protection against violence and trafficking and the necessary support for these victims.

32. The Netherlands highlighted Japan's accession to the International Criminal Court and asked how it will respond to the recommendations made by the international community and various human rights mechanisms with regard to Japan's military sexual slavery practices during the Second World War. It also asked how Japan will ensure that convictions under the new lay judge system for 2009 will meet all the legal requirements and safeguards for a fair trial, and how the lay judges will be trained, especially if they are involved in cases where the death penalty is requested. The Netherlands recommended that the possibility of life sentence without parole be added to the range of penalties for heinous crimes and that abolition of the death penalty be considered. It also recommended that Japan adhere to the Hague Convention of 1980.

33. Brazil thanked Japan for its full support and participation in the Third World

Congress Against Sexual Exploitation of Children and Adolescents, to be held in Rio de Janeiro in November 2008. While recognizing measures taken by Japan in various other fields of human rights, it asked Japan about the main concrete steps taken in the promotion and the fulfilment of the rights of the child and of women, about the policy, steps and forward-looking measures taken regarding the issue of torture, the human rights of migrants, and for combating racism and all forms of discrimination, and for further comments on its policy regarding death penalty. Brazil recommended that Japan consider adhering to the compliant procedures of the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination and that it ratify the Optional Protocol to the Convention against Torture. It recommended that Japan consider establishing legislation defining and prohibiting discrimination in all forms and recommended that it consider a standing invitation to the special procedures.

34. The Islamic Republic of Iran indicated that it shared the concerns expressed by United Nations human rights mechanisms on a number of human rights violations in Japan and asked about the concrete measures taken to tackle those problems. It strongly recommended that the Government adopt, as a matter of urgency, a national law against racism, discrimination and xenophobia and set up an independent mechanism for investigating complaints of human rights violations.

35. The United States of America expressed the hope that Japan's commitment to democracy and the protection and promotion of human rights would serve as an example for others and wished to know what protections the Government has put in place to ensure that abuses do not occur in immigration detention centres. It also asked whether Japan will allow international monitors to examine the immigration detention centres and make recommendations to strengthen protections, and recommended that Japan permit international monitors to examine immigration centres.

36. Germany noted that the Committee on the Elimination of Racial Discrimination had expressed concern about the lack of information on the situation of minority women in Japan, the multiple forms of discrimination and the marginalization this group may face with respect to education, employment, health, social welfare and exposure to violence, including within their own communities. It also noted that this Committee had requested Japan to provide disaggregated data on the situation of minority women. Germany asked about the follow-up to this request and recommended that Japan address the problems faced by women belonging to minorities. Germany also made reference to the concerns expressed by the Committee against Torture about the systematic use of the *Daiyo Kangoku* substitute prison system for the prolonged detention of arrested persons. It also noted that non-governmental organizations had expressed concern regarding the non-regulation of the length of interrogations, restricted access of lawyers to their clients, and non-recording of sessions of interrogation.

37. The Republic of Korea noted with satisfaction various legislative developments and commended Japan on its provision of significant financial contributions and technical cooperation. It referred to concerns expressed by various human rights mechanisms about the issue of "comfort women", which they considered had not been adequately addressed

and their recommendations to Japan on this matter. The Republic of Korea called on the Government to respond sincerely to the recommendations of the United Nations mechanisms (Special Rapporteur on violence against women, the Committee on the Elimination of Discrimination against Women and the Committee against Torture) on the issue of “comfort women” during the Second World War. It noted with concern the conclusion of the Special Rapporteur on contemporary forms of racism that racial discrimination and xenophobia do exist in Japan, in particular against three groups, including the Korean minority. Noting the recommendation in the United Nations report regarding the revision of history textbooks, the Republic of Korea wished to emphasize the importance of correct history education in Japan, which is a crucial factor in fostering future-oriented relations with neighbouring countries.

38. Latvia highlighted in particular Japan’s official development assistance to women’s education, health, economic and social participation and encouraged it to continue its engagement with the special procedures and asked if it would be ready to extend a standing invitation to all special procedures in the future.

39. Turkey noted the high legal standards in Japan for the protection of vulnerable groups, in particular children, elderly and the people with disabilities. It noted that there are specific legal provisions aimed to protect the children from abuse, prostitution and child pornography and encouraged Japan to take further steps related to recovery and counselling services for victims. Turkey noted that along with a tradition of respect for the elderly, some legal provisions have been introduced to protect their rights, which constitutes a good example. Regarding human rights institutions, Turkey wished to know whether the Bill by the Ministry of Justice is likely to be completed soon and of the next procedural steps to be followed. Regarding corporal punishment of children, it noted that the existing law does not cover punishment at home and wished to learn whether there is any plan to extend the scope of the concerned legislation. Turkey expressed its support for the previous interventions about the abolition of the capital punishment in Japan.

40. Guatemala noted that racism and discrimination still exist in the Japanese society, indicating that the fight against all forms of discrimination and the protection of minorities, and especially vulnerable groups, required an appropriate legislative framework and therefore urged Japan to consider introducing a definition of discrimination in its criminal law. In the area of protection of the human rights of migrants and the fight against xenophobia, Guatemala noted the recommendation of the Special Rapporteur on contemporary forms of racism in favour of abolishing the system established by the Migration Office of the Ministry of Justice, calling upon citizens to proceed to anonymous denunciations on its website, of migrants suspected of being in an irregular situation, and recommended that it be abolished because this might constitute an incitation to racism, racial discrimination and xenophobia. With regard to the situation of indigenous peoples, Guatemala urged Japan to seek ways to initiating a dialogue with its indigenous peoples so that it can implement the United Nations Declaration on the Rights of Indigenous Peoples.

41. Switzerland wished to receive information about the measures taken to respond to the concerns expressed by the international human rights mechanisms about the circumstances surrounding the death penalty, such as for example the conditions in which

those under death rows are detained. Based on the resolution of the General Assembly adopted on a basis of a broad majority, Switzerland recommended that Japan join the large number of States that have adopted a moratorium on executions or abolished the death penalty.

42. Bangladesh noted, *inter alia*, that Japan has been an important financial contributor to the work of OHCHR, and that Japan is the largest donor of official development assistance in absolute figures, a large part of which goes to the social sector. It recommended that Japan continue to provide financial assistance to countries in need of socio-economic development and that Japan extend its support to the global efforts in the realization of the right to development as stipulated in the Millennium Development Goal 8.

43. Ukraine with deep appreciation pointed out that Japan, as one of the largest donors of official development assistance, is rendering assistance to Ukraine for the mitigation of the consequences of the Chernobyl catastrophe and providing the right to normal life to the population in the affected areas. Ukraine noted with satisfaction the measures regarding the rights of the child and encouraged Japan to continue its efforts in this area. Ukraine was impressed by Japan's activities aiming at raising awareness and about education on human rights, including for civil servants, and asked, *inter alia*, about the efficiency of these activities and the impact on the human rights situation.

44. Azerbaijan noted that Japan is one of the destination countries of migrant workers and asked, *inter alia*, whether Japan is considering becoming a party to the Convention on the Rights of Migrant Workers and Members of Their Families. It asked for the Government's views on the recommendation of some treaty bodies to make void some legal provisions in Japan, which in their opinion discriminate against women and Japan's views on implementing the recommendation of the Committee on the Rights of the Child to amend its legislation to eliminate any discrimination against children born out of wedlock.

45. Following the interventions, Japan noted significant changes including in the social environment, and that child prostitution, child pornography and child abuse are becoming more serious and referred to measures taken in order to address such changes, *inter alia*, to recent legislation passed on these issues. Japan referred to a statement released by the Government in August 1993, which recognized that the issue of "comfort women" had severely injured the honour and dignity of many women, and extended apologies and remorse. Japan stressed that the statement was its consistent basic position. Japan stated that it has been dealing with the issue of reparation, property and claims concerning the Second World War, including the issue of "comfort women", in good faith, pursuant to the San Francisco peace treaty, bilateral peace treaties, and other relevant agreements. In this way, such issues, including that of "comfort women", have been legally settled with the countries of the parties to these treaties. It also mentioned the activities of the Asian Women's Fund (AWF), which was established in 1995 and dissolved in March 2007, and its efforts for the projects of the AWF to facilitate feasible remedies for former "comfort women" who had reached advanced ages by such means as contributing about 4.8 billion yen from its national budget. Japan stated that letters from the Prime Minister were delivered to the former "comfort women" through the activities of the AWF. Japan stressed that it would continue its efforts to promote understanding of the sympathy of the Japanese people represented by

the AWF and actively cooperate in the activities for caring the former “comfort women” succeeding the purpose of the AWF. The Government expressed its readiness to continue to have a dialogue with the treaty bodies on this issue.

46. The Government recognized as a historical fact that the Ainu people indigenously inhabited northern Japan, in particular Hokkaido, and that the Ainu is a minority as stipulated in article 27 of ICCPR. Japan promoted the enhancement of the lives of the Ainu people, the Ainu culture, based on the Ainu Cultural Promotion Law, and disseminated information about Ainu traditions. Regarding the question on immigration detention centres, the Government noted that due attention is paid to the human rights of the detainees, and the cases where officials were accused to have committed violence mostly happened coincidentally in the course of those official’s controlling the violation of the rules in those facilities. Detainees can submit complaints against their treatment to the Minister of Justice. Additionally, to prevent violence at penitentiary institutions, Japan provides officers with education to promote necessary human rights protection measures, and establishes complaints mechanisms and inspection committees. Medical services are provided to prisoners by doctors, and prisoners are transferred to medical prisons to receive necessary medical treatment. The Government is working to enhance the quality of these services. The Government explained its system of authorization of history text books which were written and edited in the private sector, and reviewed by experts at the Textbook Approval Research Council at the Ministry of Education, Culture, Sports, Science and Technology, which decided on the books permitted for use in schools.

47. Jordan commended Japan on the effort to establish a legal and institutional framework for the promotion of human rights and asked about the challenges that it faces in protecting the victims of trafficking.

48. Italy noted that corporal punishment, although legally prohibited in schools, continues to be widely practiced and asked what measures had been taken to address the concerns expressed by the Committee on the Rights of the Child in this regard and recommended that Japan expressly prohibit all forms of corporal punishment of children and promote positive and non-violent forms of discipline. Italy asked for more information on the comprehensive reform of the 1908 Prison Law, in particular how it responds to the observations of the Committee against Torture. Regarding concerns about the conditions of persons detained on death row, Italy recommended that Japan, following General Assembly resolution 62/149, progressively restrict the use of death penalty and reduce the number of offences for which it may be imposed, and establish a moratorium on executions with a view to abolishing the death penalty.

49. Argentina commended Japan on the efforts it made, noting that it is close to ratifying the International Convention for the Protection of All Persons from Enforced Disappearance so as to achieve its early entry into force.

50. The Russian Federation noted that a number of human rights treaty bodies and special procedures have repeatedly expressed concern regarding the lack of a definition of the concept of discrimination and also noted the discriminatory provisions concerning women, in particular with respect to the minimum age for marriage as well as the period

that must elapse after divorce before women can re-marry. It asked about the measures taken in this area. It also expressed concern about the situation of foreign women who are experiencing domestic violence. The immigration status of these women depends on their cohabiting with their spouses and because of fear of being repatriated these women do not search help and do not take steps to file for separation or divorce. It wished to know how the rights of foreign women are protected. According to the information of the Special Rapporteur on contemporary forms of racism, in Japan there are still cases of racial discrimination and xenophobia affecting national minorities, foreigners and migrants. Minorities are in a vulnerable economic and social situation with respect to employment, access to housing, marriage, pension coverage, access to health facilities and education and the State institutions. Russian Federation asked about steps taken to combat the manifestation of racial discrimination and xenophobia.

51. Qatar asked Japan to explain what steps are being undertaken with a view to establishing the national human rights institution and recommended that Japan continue its efforts to establish an institution in accordance with the Paris Principles. Qatar also noted that in spite of efforts to promote and protect the rights of women, discrimination still existed and asked what measures and policies Japan intended to take to eliminate all forms of discrimination against women.

52. Sri Lanka noted that Japan has demonstrated its firm belief that capacity-building should constitute the main element in assisting efforts to improve the human rights situation. Sri Lanka asked Japan to elaborate more on its National Youth Development Policy and share its plans with regard to the formulation of this new policy.

53. Mauritania highlighted, inter alia, the actions take by Japan for the promotion of human rights of specific groups of persons and requested that Japan provide additional information on measures to ensure the rights of elderly workers.

54. Romania welcomed Japan's outstanding progress in combating trafficking in human beings and asked it to further elaborate on additional measures taken to ensure that victims of violence receive appropriate protection and support regardless of nationality and residence. Romania appreciated efforts made to enforce the revised version of the Equal Employment Opportunity Law. Since women's income remains lower than that of men, Romania asked what measures Japan considers taking in order to better implement this law, to further fight against discrimination based on sex, and to combat sexual harassment.

55. In its intervention, Slovakia focused on the status of refugees and asylum-seekers in Japan and noted the recommendations of the Committee against Torture in that regard. While welcoming the enhancement of the fairness and neutrality of the refugee recognition procedures by the introduction of a refugee examination counsel system in 2005, Slovakia recommended that it establish an independent body to review asylum applications.

56. Viet Nam was pleased to note, in regard to the rights of older persons, that Japan as an aging society has taken many measures to ensure a better life, both physical and mental, for this particular vulnerable group which could serve as a basis for sharing experience and best practice with others. Viet Nam wished more detailed information in this respect.



57. Pakistan noted the strategy of ensuring protection and promotion of human rights of all citizens and the efforts for human rights education reflect the importance that Japan attaches to this important issue. Pakistan asked Japan about the measures planned to integrate a gender perspective in the follow up-to the UPR.

58. Peru stated, inter alia, that it has a long-standing friendship and cooperation with Japan and that the number of Peruvian migrants in Japan is very high, the majority of whom are workers in a regular situation. It was concerned that Japan has not yet acceded to the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families and recommended that Japan ratify this international instrument. Peru attached particular importance to the rights of indigenous peoples and asked about measures being taken by Japan to disseminate the United Nations Declaration on the Rights of Indigenous Peoples and bring it to the wider attention of its people and about the measures adopted to ensure full respect of the human rights of the Ainu minority in Japan.

59. Japan stated that, in penal institutions, attention should be paid to helping inmates sentenced to the death penalty maintain emotional stability as well as to ensure secure custody. Inmates sentenced to death are notified of their execution on the day of the execution. Japan is concerned that inmates should become emotionally unstable and could suffer serious emotional distress if they are notified in advance of the exact date. For this reason, Japan believes that the current practice is inevitable. The Government did not have statistics on the number of death penalty sentences in 2007, and thus was unable to respond whether there was an increase since 1980 or not. With regard to calls for a moratorium on the death penalty, Japan considered that it would be very cruel to first give the expectation to the prisoners that they will not be executed, and later inform them that they will be executed. With regard to imprisonment without parole, Japan considered that this may be a cruel and problematic system that has the possibility to destroy the personal character of prisoners; therefore the introduction of such a system needs to be considered very carefully. On the question of the high rate of convictions, the Government noted that this is the aggregated result of the judgements given by each court, and that the criminal procedures are based on the very thorough investigation, very restrictive indictment based on the investigation and the proper proving at the trial, thus it does not consider high conviction rates as abnormal. The Government referred to its three-tier level trial system and cautious application of the death penalty. Japan did not consider that the high conviction rate indicates the possibility of a miscarriage of justice. It concluded that there is no need to consider the introduction of a moratorium or the abolition of the death penalty due to the high conviction rate. While it acknowledged criticism against the substitute detention system, the Government noted that it makes various efforts to ensure appropriate treatment of the detainees. It also pointed out that the system does not discriminate between Japanese and foreign detainees. Japan also noted operations of the substitute detention system continue to be improved. On the issue of the video-recording of interrogations, the Delegation stated that statements by the suspect is important in order to elucidate the truth in investigations and that the mandating to record all interrogation sometimes can hamper relations between the investigator and the criminal, and may serve to stop the suspect from telling the truth. Japan noted that a careful consideration is needed of the introduction of

such monitoring and video-taping. Japan also stated that the police has recently established several systems including the interrogation inspection. With regard to domestic violence, the Government referred to the Act on the Prevention of Spousal Violence and the Protection of Victims, and stated that Japan will endeavour to facilitate protection by granting victims a legal status of residence in accordance with the Immigration Control Act or by granting a change in the present status of residence. The Government based the country's refugee recognition procedure on the 1951 Convention on the Status of Refugees and followed the principle of non-refoulement. Japan has the intention to continue to strive for protection positively. A system of counsellors has been introduced, composed of experts of academia, NGOs and so on, to ensure impartiality and objectivity in the recognition of refugees. The Government informed that corporal punishment by teachers and principals is prohibited in the School Education Law and also that it promotes non-violent measures based on trust between the teachers and students. In the case that corporal punishment is actually carried out by school teachers, they are reprimanded through the appropriate procedures. In conclusion, the Government appreciated the constructive and valuable assessments, questions and comments by delegations, and noted it had been a valuable opportunity to review the human rights situation in Japan from an international point of view.

## II. CONCLUSIONS AND/OR RECOMMENDATIONS

### 60. **In the course of the discussion, the following recommendations were made to Japan:**

1. Consider ratifying/Ratify the First Optional Protocol to the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights (Albania), the Optional Protocol to the Convention against Torture (United Kingdom, Albania, Mexico, Brazil) the Optional Protocol to the Convention on the Elimination of Discrimination against Women (Portugal, Albania, Mexico, Brazil), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Peru), the Convention on the Rights of Persons with Disabilities (Mexico), the International Convention on the Protection of All Persons from Enforced Disappearance (Albania), the Hague Convention on Civil Aspects of International Child Abduction, 1980 (Canada, Netherlands); as well as to recognize the competence of the Committee on the Elimination of Racial Discrimination to receive and consider individual complaints (Mexico, Brazil); Sign the Second Optional Protocol to the International Covenant on Civil and Political Rights (Portugal);
2. Implement the calls by, inter alia, the Human Rights Committee and the Committee on the Rights of the Child to establish a human rights institution in accordance with the Paris Principles as soon as possible (Algeria); Finalize the legislation needed to establish a national human rights institution in accordance with the Paris Principles (Canada); Establish the national human rights institution (Mexico); Continue efforts to establish a national institution in accordance with the Paris Principles (Qatar);
3. Set up an independent mechanism for investigating complaints of violations of human rights (Islamic Republic of Iran);

4. Issue a standing invitation to the special procedures of the Human Rights Council (Canada, Brazil);
5. Respond sincerely to the recommendations of the United Nations mechanisms (Special Rapporteur on violence against women, the Committee on the Elimination of Discrimination against Women and the Committee against Torture) on the issue of “comfort women” during the Second World War (Republic of Korea);
6. Adapt national legislation to bring it into line with the principles of equality and non-discrimination. (Slovenia); Consider establishing legislation defining and prohibiting discrimination in all forms (Brazil); Consider introducing a definition of discrimination in its criminal law (Guatemala); Adopt, as a matter of urgency, a national law against racism, discrimination and xenophobia (Islamic Republic of Iran);
7. Repeal all legal provisions that discriminate against women (Portugal); and Encourage the continued taking of measures relating to discrimination against women in particular to raise the age of marriage to 18 for women as for men (France);
8. Address the problems faced by women belonging to minorities (Germany);
9. Take measures to eliminate all forms of discrimination against Koreans in Japan (Democratic People’s Republic of Korea);
10. Take immediate measures to address the situation of the continued distortion of the history in Japan, since this is indicative of the refusal to address past violations and the danger of its reoccurrence, and recommended immediate measures to address the situation, as also called for by the Special Rapporteur on contemporary forms of racism (Democratic People’s Republic of Korea);
11. Take measures to eliminate discrimination based on sexual orientation and gender identity (Canada);
12. Review urgently the use of death penalty with a view to a moratorium and abolition (United Kingdom); Not carry out the death penalty and re-apply a moratorium on executions with a view to abolishing the death penalty in accordance with the resolution adopted in this regard by the General Assembly (Luxembourg); Establish a moratorium on executions with a view to abolishing the death penalty (Portugal); Examine as a priority the introduction of a formal moratorium on the death penalty (Albania); Reconsider the establishment of a moratorium on the use of the death penalty (Mexico); Join the large number of States that have adopted a moratorium on executions or abolished the death penalty (Switzerland); Respect international standards that provide safeguards guaranteeing protection of the rights of those facing the death penalty, to progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed, and establish a moratorium on executions with a view to abolishing the death penalty (Italy); Add the possibility of a life sentence without parole to the range of penalties for heinous crimes and consider the abolition of the death penalty (The Netherlands); Support the previous interventions about the abolition of the capital punishment in Japan (Turkey);
13. Ensure that the interrogation of detainees in police custody are systematically monitored and recorded and that the Code of Criminal Procedure is harmonized with article 15 of the Convention against Torture and article 14, paragraph 3, of the International Covenant on Civil and Political Rights, and uphold the right of defence

- to have access to all relevant materials (Algeria); (i) Work more systematically and intensively to bring the risk of forced confession to the attention of the police, (ii) review interrogation monitoring procedures, (iii) re-examine the use of prolonged police detention and (iv) review the Criminal Code to ensure its conformity with article 15 of the Convention against Torture, in order to avoid the police and judiciary putting excessive pressure on the accused to confess (Belgium); Institute mechanisms to enhance procedural guarantees for the detention of detainees (Canada); Review the *Daiyo Kangoku* system in order to ensure that the detention procedure is consistent with its obligations under human rights law and implement the Committee against Torture's recommendation with regard to external monitoring of police custody (United Kingdom);
14. Continue to take measures to reduce the incidence of violence against women and children, inter alia, by ensuring that law enforcement officials receive human rights training, and to fund recovery and counselling centres for victims of violence (Canada);
  15. Continue the efforts to combat trafficking in persons with a special emphasis on women and children (Canada);
  16. Develop a mechanism to ensure the prompt return of children who have been wrongly removed from or prevented from returning to their habitual place of residence (Canada);
  17. Prohibit expressly all forms of corporal punishment of children and promote positive and non-violent forms of discipline (Italy);
  18. Take concrete measures to address, once and for all, the Japanese Military Sexual Slavery and other violations committed in the past in other countries including Korea (Democratic Peoples Republic of Korea);
  19. Review, inter alia, the land rights and other rights of the Ainu population and harmonize them with the United Nations Declaration on the Rights of Indigenous Peoples. (Algeria); Urge Japan to seek ways to initiating a dialogue with its indigenous peoples so that it can implement the United Nations Declaration on the Rights of Indigenous Peoples (Guatemala);
  20. Harmonize the procedures for reviewing asylum decisions with the Convention against Torture and other relevant human rights treaties and provide State legal aid for migrants who need it (Algeria);
  21. Permit international monitors to examine immigration detention centres (United States of America);
  22. Establish an independent body to review asylum applications (Slovakia);
  23. Abolish the system established to call upon citizens to denounce anonymously, on the Ministry's website, migrants suspected of being in an irregular situation (Guatemala);
  24. Continue to provide financial assistance for countries in need of socio-economic development and extend support for the global effort in the realization of the right to development as stipulated in the Millennium Development Goal 8 (Bangladesh);
  25. Share its experience with other States, on protecting human rights in the context of their violation on the Internet (Poland);
  26. Fully involve civil society in the follow-up to the UPR process at the national level (United Kingdom); and systematically and continually integrate a gender perspective in the follow-up process to the review (Slovenia).

61. The response of Japan to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eighth session.

62. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

### **Annex – Composition of the delegation**

The delegation of Japan was headed by **H.E. Mr. Yoshitaka Akimoto, Ambassador in charge of United Nations Affairs, Ministry of Foreign Affairs** and composed of 16 members:

- H.E. Mr. Makio Miyagawa, Ambassador, Deputy Permanent Representative of Japan
- Mr. Tetsuya Kimura, Director, Human Rights and Humanitarian Affairs Division, Foreign Policy Bureau, Ministry of Foreign Affairs;
- Mr. Shingo Nakagawa, Attorney, Human Rights and Humanitarian Affairs Division, Foreign Policy Bureau, Ministry of Foreign Affairs;
- Ms. Noriko Tanaka, Officer, Human Rights and Humanitarian Affairs Division, Foreign Policy Bureau, Ministry of Foreign Affairs;
- Mr. Hiroaki Sato, Office of International Affairs, Secretarial Division, Ministry of Justice;
- Ms. Satoko Ikeda, Attorney, International Affairs Division, Criminal Affairs Bureau, Ministry of Justice;
- Mr. Satoru Ohashi, Coordinator, Prison Service Division, Correcting Bureau, Ministry of Justice;
- Mr. Takashi Misawa, Attorney, Office of Human Rights Bureau, Ministry of Justice;
- Mr. Toyotaka Kawabata, Specialist, The Secretariat of the Refugee Examination Counselors, Adjudication Division, Immigration Bureau, Ministry of Justice;
- Mr. Katsuhiko Shibayama, Senior Superintendent, Director, Detention Management Division, National Police Agency;
- Ms. Mikiko Masuda, Police Superintendent, Deputy Director, International Affairs Division, National Police Agency;
- Mr. Katsutoshi Hatsumata, Assistant Manager of Division, Investigative Planning Division, Criminal Investigation Bureau, National Police Agency;
- Mr. Yoshikazu Nishimura, Police Inspector, Detention Management Division, National Police Agency;
- Ms. Yoko Kamada, Police Inspector, Investigative Planning Division, Criminal Investigation Bureau, National Police Agency;
- Mr. Akihiko Satomi, Senior Specialist, International Affairs Division, Minister's Secretariat, Ministry of Education, Culture, Sports, Science and Technology;
- Mr. Osamu Yamanaka, Counselor, Permanent Mission of Japan to the International Organizations in Geneva.

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