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外務省大臣官房総務課
公文書監理室

行政文書の開示の実施について（通知）

令和　4年11月29日付け「行政文書の開示の実施方法等申出書」を受領しましたので、下記の文書を開示します。

記

1　開示請求のあった行政文書の名称等

外務省が、国連の恣意的拘禁作業部会に提出した、カルロス・ゴーン被告人に対する措置は「恣意的拘禁」に当たらないとする説明資料（令和2年１１月２０日付の異議申立書を含むが、これに限らない。）

2　開示請求番号　2020-00527

3　本件に関する問い合わせ先

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本件に関するお問い合わせの際には、上記２の開示請求番号をお知らせください。

以　上

Reply of the Government of Japan to the Request for Information from the Secretariat of the Working Group on Arbitrary Detention (Case of Mr.Carlos Ghosn)

Regarding the request for information from the Secretariat of the Working Group on Arbitrary Detention dated 18 October 2019 (Case of Mr. Carlos Ghosn) sent to the Permanent Mission of Japan to the United Nations and other international Organizations in Geneva, the Government of Japan provides the following response.

1. It is difficult for the Government of Japan to provide specific information on the case described in the request because the requested information is on a specific case concerning which a trial is scheduled to be held.

Generally speaking, Japan, as a state party to various human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), has faithfully fulfilled the obligations stipulated in those treaties.

With regard to systems for and implementation of criminal proceedings based on relevant laws and regulations such as the Code of Criminal Procedure in Japan, appropriate proceedings are established to reveal the true facts of cases while guaranteeing fundamental human rights.

In addition, treatments of detainees awaiting a judicial decision at penal institutions are applied with respect for their human rights.

Therefore, the Government of Japan considers that there are no grounds for criticism that these systems and their implementation are in violation of ICCPR or fall under the category of arbitrary detention.

Some of these systems are described below in detail.

2. The source alleges that the detention of and measures taken against Mr. Ghosn were intended to obtain a confession from him.

In Japan, both the Constitution of Japan and the Code of Criminal Procedure stipulate that the accused shall not be convicted when the confession is the only piece of incriminating evidence (paragraph 3, Article 38 of the Constitution of Japan and paragraph 2, Article 319 of the Code of Criminal Procedure) and public prosecutors never solely rely on confessions even in cases where there are no disputes. Rather, prosecutors in Japan institute prosecution only when they believe there is a high probability of achieving a conviction based on legitimate evidence, after collecting sufficient objective evidence as well as supportive evidence.

Similarly, public prosecutors also try to prove that a crime was committed based on sufficient objective evidence during a trial.

In addition, involuntary confession may not be admitted as evidence (paragraph 2, Article 38 of the Constitution of Japan and paragraph 1, Article 319 of the Code of Criminal Procedure), and various procedures are introduced to ensure validity and transparency in investigations. (Article 301-2 of the Code of Criminal Procedure, etc.)

Detention of a suspect is permitted only during the period stipulated under the law after strict judicial reviews. (Article 60 and 208 of the Code of Criminal Procedure, etc.)

More specifically, in order to guarantee fair procedures for the suspect, the Code of Criminal Procedure provides for the following.

(1) The suspect may not be detained unless he/she has been informed of the case and a statement has been taken from him/her. (Article 61 and 207 of the Code of Criminal Procedure)

(2) After detention, the suspect may request the court to disclose the grounds for detention in an open court. (Article 82, 83 and 207 of the Code of Criminal Procedure)

(3) The suspect or the accused under detention, for example, may request the revocation of detention (Article 87 and 207 of the Code of Criminal Procedure) and make quasi-appeals, etc. (Article 429 of the Code of Criminal Procedure)

To ensure the right to defense, in addition to the above provisions (1) through (3), in Japan, a suspect is allowed to appoint a defense counsel immediately after being arrested and to meet with the defense counsel without anyone else present (paragraph 1, Article 39 of the Code of Criminal Procedure, etc.).

Despite the existence of these provisions, the source alleges that Mr. Ghosn "was not brought before a judge" during the period of arrest and detention (from paragraph 33 to 35) and "was unable to appeal to a court to challenge his status and then continued detention" (from paragraph 36), and so on.

The Government of Japan cannot understand clearly why the source made such allegations which are not aligned with the systems provided under the Code of Criminal Procedure in Japan.

Furthermore, the source alleges that the Japanese authorities leaked the related information to the media intentionally beforehand.

However, it should be said that such allegations are based on speculation because no grounds for them are provided.

Given that such allegations without supportive evidence are found in this document, the Government of Japan recommends that the Working Group carefully consider the credibility of the information from the source.

3. As described above, Japan has faithfully fulfilled the obligations stipulated in human rights treaties, including the ICCPR.

The Government of Japan considers the domestic laws in Japan and their implementation to be appropriate in light of international standards.

In conclusion, the criminal proceedings to be applied to Mr. Ghosn do not violate human rights treaties concluded by Japan, including the ICCPR, and the measures taken against Mr. Ghosn cannot be considered as arbitrary detention.

[Reference Articles]

The Constitution of Japan

Article 38

(1) No person shall be compelled to testify against himself.

(2) Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence.

(3) No person shall be convicted or punished in cases where the only proof against him is his own confession.

Code of Criminal Procedure

Article 39

(1) The accused or the suspect in custody may, without any official being present, have an interview with, or send to or receive documents or articles from defense counsel or prospective defense counsel upon the request of a person entitled to appoint defense counsel (with regard to a person who is not an attorney, this applies only after the permission prescribed in Article 31, paragraph (2) has been obtained).

(2) With regard to the interview or the sending or receiving of documents or articles prescribed in the preceding paragraph, such measures may be provided by laws and regulations (including the Rules of Court; the same applies hereinafter) as are necessary to prevent the flight of the accused or the suspect, the concealment or destruction of evidence, or the sending or receiving of articles which may hinder safe custody.

(3) A public prosecutor, public prosecutor's assistant officer or judicial police official ("judicial police official" means both a judicial police officer and a judicial constable; the same applies hereinafter) may, when it is necessary for investigation, designate the date, place and time of the interview or sending or receiving of documents or articles prescribed in paragraph (1) only prior to the institution of prosecution; provided however, that such

designation must not unduly restrict the rights of the suspect to prepare for defense.

Article 60

(1) The court may detain the accused when there is probable cause to suspect that the accused has committed a crime and when:

(i) the accused has no fixed residence;

(ii) there is probable cause to suspect that the accused may conceal or destroy evidence;

(iii) the accused has fled or there is probable cause to suspect that the accused may flee.

Article 61

The accused may not be detained unless said accused has been informed of the case and a statement has been taken from the accused; provided however, that this does not apply if the accused has fled.

Article 82

(1) The accused under detention may request the court to disclose the grounds for detention.

(2) The defense counsel, legal representative, curator, spouse, lineal relative, sibling or other interested party of the accused under detention may also request the disclosure prescribed in the preceding paragraph.

(3) The requests prescribed in the preceding two paragraphs lose their effect when bail is granted or execution of detention is suspended or rescinded or when the detention warrant becomes ineffective.

Article 83

(1)Grounds for detention must be disclosed in an open court.

(2) The court is convened in the presence of a judge and a court clerk.

(3) The court may not be convened without the presence of the accused and the defense counsel of the accused; provided however, that this does not apply when the accused cannot personally attend the court because of illness or other unavoidable reasons and has no objection, or when the accused has no objection to defense counsel not appearing.

Article 87

(1) When the grounds for or necessity of detention no longer exist, the court must, upon the request of a public prosecutor, the accused under detention, the defense counsel of the accused, legal representative, curator, spouse, lineal relative or sibling or ex officio, make

a ruling to rescind the detention.
(2) The provisions of Article 82, paragraph (3) apply mutatis mutandis to the request prescribed in the preceding paragraph.

Article 89

The request for bail must be granted, except when:
(i) the accused has allegedly committed a crime which is punishable by the death penalty, life imprisonment, life imprisonment without work, or a sentence of imprisonment or imprisonment without work whose minimum term is one year or more;
(ii) the accused was previously found guilty of a crime punishable by the death penalty, life imprisonment, life imprisonment without work, or a sentence of imprisonment or imprisonment without work whose maximum term was in excess of ten years;
(iii) the accused allegedly habitually committed a crime punishable by imprisonment or imprisonment without work whose maximum term was three years or more ;
(iv) there is probable cause to suspect that the accused may conceal or destroy evidence;
(v) there is probable cause to suspect that the accused may harm the body or property of the victim or any other person who is deemed to have knowledge essential to the trial of the case or the relatives of such persons or may threaten them;
(vi) the name or residence of the accused is unknown.

Article 198

(1) A public prosecutor, public prosecutor's assistant officer or judicial police official may ask any suspect to appear in their offices and interrogate said person when it is necessary for the investigation of a crime; provided however, that the suspect may, except in cases where said person is under arrest or under detention, refuse to appear or after said person has appeared, may withdraw at any time.
(2) In the case of the interrogation set forth in the preceding paragraph, the suspect must be notified in advance that said person is not required to make a statement against said person's will.
(3) The statement of the suspect may be recorded as a written statement.
(4) The written statement set forth in the preceding paragraph must be inspected by the suspect or read to said person for verification, and if said person makes a motion for any addition, removal or alteration, said person's remarks must be entered in the written statement.
(5) If the suspect affirms that the contents of the written statement are correct, said suspect may be asked to attach a signature and seal to it; provided however, that this does not

apply when the suspect refuses to do so.

Article 204

(1) When a public prosecutor has arrested a suspect through an arrest warrant or has received a suspect who was arrested upon an arrest warrant (excluding such suspect as is referred in accordance with the preceding Article), prosecutor must immediately inform the suspect of the outline of the suspected crime and the fact that the suspect may appoint defense counsel and then, giving the suspect an opportunity for explanation, said prosecutor must immediately release the suspect when believing that it is not necessary to detain the suspect, or must request a judge to detain the suspect within 48 hours of the suspect being placed under physical restraint when believing that it is necessary to detain the suspect; provided however, that if the public prosecutor has instituted prosecution during the time limitation, said prosecutor does not be required to request detention.

(2) (omitted)

(3) When a public prosecutor informs a suspect of the fact that the suspect may appoint defense counsel in accordance with the provisions of paragraph(1), said prosecutor must also inform the suspect that, if a request for further detention of the suspect is made, the suspect may request the judge to appoint defense counsel when the suspect is unable to personally appoint defense counsel because of indigence or other reasons and that when requesting the judge for appointment of defense counsel the suspect must submit a report on personal financial resources; and if the suspect's Financial Resources are equal to or above the base amount, the suspect must have first requested a bar association (the bar association to which the request of Article 31-2, paragraph (1) in accordance with Article 37-3, paragraph (2) is to be made) to appoint defense counsel.

(4) If a public prosecutor does not request detention or institute prosecution within the time limitation set forth in paragraph (1), said prosecutor must release the suspect immediately.

Article 207

(1) The judge who has been requested for detention pursuant to the provisions of the preceding three Articles has the same authority as a court or a presiding judge regarding the disposition thereof; provided however, that this does not apply to bail.

(2) When informing the suspect whose detention has been required of the alleged facts of the crime, the judge set forth in the preceding paragraph must inform the suspect that the suspect may appoint defense counsel and that when the suspect is unable to personally appoint defense counsel because of indigence or other reasons, the suspect may request

that defense counsel be appointed for said person; provided however, that this does not apply when the suspect already has defense counsel.
(3) (omitted)
(4) When a judge informs a suspect of the fact that the suspect may request that defense counsel be appointed for said person in accordance with the provisions of paragraph (2), said judge must also inform the suspect of the fact that the suspect must submit a report on personal financial resources when requesting that defense counsel be appointed; and if the suspect's Financial Resources are equal to or are above the base amount, the suspect must have first requested a bar association (the bar association to which the request of Article 31-2, paragraph (1) in accordance with the provisions of Article 37-3, paragraph (2) is to be made) to appoint defense counsel.
(5) If a judge has received the request for detention set forth in paragraph (1), said judge must promptly issue a detention warrant; provided however, that when the judge deems that there are no grounds for detention or when a detention warrant cannot be issued pursuant to the provisions of paragraph (2) of the preceding Article, said judge must immediately order the release of the suspect without issuing a detention warrant.

Article 208
(1) When a public prosecutor has not instituted prosecution against a suspect regarding a case in which the suspect was detained pursuant to the provisions of the preceding Article within ten days of the request for detention, said prosecutor must immediately release the suspect.
(2) When a judge deems unavoidable circumstances to exist, said judge may extend the time period set forth in the preceding paragraph upon the request of a public prosecutor. The total period of such extensions must not exceed ten days.

Article 301-2 (TENTATIVE TRANSLATION)
(1) With regard to the following cases, when a public prosecutor requests the examination of a document admissible pursuant to Article 322, paragraph (1), which was, relating to the case, made in the course of the interrogation prescribed in Article 198, paragraph (1) (limited to the interrogation of a suspect under arrest or under detention; the same applies hereinafter in paragraph (3)), or made in the course of the opportunity for explanation prescribed in Article 203, paragraph (1), Article 204, paragraph (1) or Article 205, paragraph (1) (including cases to which these provisions apply mutatis mutandis pursuant to the provisions of Article 211 and Article 216; the same applies hereinafter in paragraph (3)), and contains an admission of a disadvantageous fact, and the accused or the defense

counsel files an objection relating to the request on the ground that the admission is suspected not to have been made voluntarily, the public prosecutor must request the examination of a recording medium on which the accused's statement and the circumstances surrounding the accused during the interrogation or the opportunity for explanation in which the document was made are recorded pursuant to paragraph (4) of this Article to prove that the admission has been made voluntarily; provided, however, that this does not apply if there is no such recording medium, by reason that no recording pursuant to the same paragraph has been made, on a ground prescribed in any of the items of the same paragraph, or because of other unavoidable circumstances.

(i) cases involving the crime which is punishable by death penalty, life imprisonment, or life imprisonment without work;

(ii) cases involving the crime, which is punishable by imprisonment or imprisonment without work whose minimum term is not less than one year, and causing death to a victim through an intentional criminal act;

(iii) cases other than those referred or sent by a judicial police officer (except for those listed in the preceding two items).

(2) If a public prosecutor does not request the examination of the recording medium prescribed in the preceding paragraph in violation of the same paragraph, the court must make a ruling to dismiss the request for the examination of the document prescribed in the same paragraph.

(3) The preceding two paragraphs apply mutatis mutandis in cases prescribed in any of the items in paragraph (1) when the accused or the defense counsel files an objection to the admissibility of a statement of a person other than the accused admissible pursuant to Article 322, paragraph (1), applied mutatis mutandis in Article 324, paragraph (1), which contains a statement of the accused (limited to that which contains an admission of a disadvantageous fact) which was , relating to the case, made in the course of the interrogation prescribed in Article 198, paragraph (1) or made in the course of the opportunity for explanation prescribed in Article 203, paragraph (1), Article 204, paragraph (1) or Article 205, paragraph (1), on a ground that the admission is suspected not to have been made voluntarily.

(4) When a public prosecutor or a public prosecutor's assistant officer, with regard to cases listed in any of the items in paragraph (1) (except for a case given in item (iii) of the same paragraph relating to cases which has been referred or sent and is expected to be referred or sent by a judicial police officer in light of the fact that the judicial police officer is investigating the case, or other circumstances), interrogates a suspect under arrest or under detention pursuant to Article 198, paragraph (1), or gives a suspect an opportunity

for explanation prescribed in Article 204, paragraph (1) or Article 205, paragraph (1) (including cases to which these provisions apply mutatis mutandis pursuant to the provisions of Article 211 and Article 216), the public prosecutor or the public prosecutor's assistant officer must record the suspect's statement and the circumstances surrounding the suspect on a recording medium by means of recording images and sounds simultaneously, except in the following circumstances;

(i) when recording cannot be made due to malfunction of recording equipment or other unavoidable circumstances

(ii) when it is deemed, through the suspect's behavior, including refusal of recording, that the suspect will not make a full statement if it is recorded.

(iii) when the case is deemed as related to a crime by a member of an organized crime group designated by a Prefectural Public Safety Commission pursuant to Article 3 of the Act to Prevent Illegal Activities by Members of Organized Crime Groups (No.77 of 1991)

(iv) in addition to the particulars prescribed in the preceding two items, when it is deemed that, because of a risk that, in light of the nature of the crime, behavior of those involved in the case, the characteristics of the group to which the suspect belongs and other circumstances, the body or property of the suspect or his/her relatives may be harmed, threatened or confused if the suspect's statement and the circumstances surrounding the suspect are revealed, the suspect will not make a full statement if it is recorded.

The same shall apply when a judicial police official, with regard to cases listed in item (i) or (ii) of paragraph (1), interrogates a suspect under arrest or under detention pursuant to Article 198, paragraph (1), or gives a suspect an opportunity for explanation prescribed in Article 203, paragraph (1) (including cases to which the provision applies mutatis mutandis pursuant to the provisions of Article 211 and Article 216)

Article 319

(1) Confession under coercion, torture, threats, after unduly prolonged detention or when there is doubt about said confession being voluntary may not be admitted as evidence.

(2) The accused may not be convicted when the confession, whether it was made in open court or not, is the only piece of incriminating evidence.

(3) The confession prescribed in the preceding two paragraphs includes admission of guilt regarding the charged offense.

Article 429

(1) A person who is dissatisfied with a decision rendered by a judge of a summary court may file a request with the district court with jurisdiction for said decision to be rescinded or altered, and a person who is dissatisfied with the decision rendered by a judge of another court may file a request with the court to which such judge is assigned for said decision to be rescinded or altered, when the judge renders one of the following decisions:

(i) A decision dismissing a motion for recusal;

(ii) A decision regarding detention, bail, seizure, or the return of seized articles;

(iii) A decision ordering detention pending expert evaluation;

(iv) A decision ordering a civil fine against or compensation of expenses for a witness, an expert witness, an interpreter, or a translator; or

(v) A decision ordering a civil fine against or compensation of expenses for a person who is to undergo a body search.

(2) Paragraph (3) of Article 432 shall apply mutatis mutandis to the request prescribed in the preceding paragraph.

(3) The district court or the family court to which the request prescribed in paragraph (1) was made shall render its ruling by judicial panel.

(4) The request to rescind or alter a decision as prescribed in item (iv) or item (v) of paragraph (1) shall be filed within three days after such decision has been rendered.

(5) Where the time limit for a request as prescribed in the preceding paragraph has not yet expired, or when such request has been filed, execution of the decision shall be suspended.

Act on Penal Detention Facilities and the Treatment of Inmates and Detainees

(Principles for the Treatment of Detainees Awaiting a Judicial Decision)

Article 31

When treating a detainee awaiting a judicial decision, special attention must be paid to the preventing their escape and preventing the destruction of evidence of a crime, and to the respect for their right of defense, while taking into consideration their status as a detainee awaiting a judicial decision.

(How Detainees Awaiting Judicial Decisions Are to Be Treated)

Article 35

(1) The treating (except in cases of exercise, bathing, visits, and other occasions provided for by Ministry of Justice Order; the same applies in paragraph (1) of the following Article and Article 37, paragraph (1)) of detainees awaiting judicial decisions (limited to those

committed to a penal institution; hereinafter the same applies in this Chapter) is to take place in the detainee's room both day and night, except for when it is deemed appropriate to do so outside of the detainee's room.

(2) Detainees awaiting a judicial decision (except those classified as an inmate sentenced to death) are to be kept in a one-person room if there is a risk of hindering the prevention of destruction of evidence of a crime, and even no risk is found, the room is to be a one-person room as much as is it is practical to do so, except for when it is deemed appropriate to accommodate them in a shared room.

(3) No detainee awaiting a judicial decision, if there is a risk of hindering the prevention of destruction of evidence of a crime, is permitted to make mutually interact with others, even in the outside of the detainee's room.

(Physical Exercise)

Article 57

Except Sundays and other days specified by Ministry of Justice Order, inmates must be provided with the opportunity to have adequate outdoor exercise as much as it is practical to do so, in order to maintain their health; provided, however, that this does not apply when it is impossible to provide this opportunity within the working hours of the penal institution due to circumstances such as an appearance on a trial date.

(Use of Restraining Ropes, Handcuffs, and Body Restraint Suits)

Article 78

(1) Prison officers may, pursuant to Ministry of Justice Order, use restraining ropes or handcuffs when either they escort inmates, or when an inmate is likely to commit any of the following acts:

(i) escaping;

(ii) self-harming or inflicting injury on others;

(iii) damaging facilities, equipment, or any other property of the penal institution.

(Visitors)

Article 115

When a person requests to visit a detainee awaiting a judicial decision (except those classified as either a sentenced person or an inmate sentenced to death; hereinafter the same applies in this Division), wardens of penal institutions are to permit the detainee awaiting a judicial decision to receive a visit except for when it is prohibited pursuant to the provisions of Article 148, paragraph (3) or the provisions of the next Section; provided,

however, that the foregoing does not apply where receiving a visit is not permitted by the provisions of the Code of Criminal Procedure.

(Attendance and Recording during Visits Other than Those from Defense Counsels, etc.)
Article 116
(1) Wardens of penal institutions are to have a designated staff member attend any of the visits to detainees awaiting a judicial decision, other than visits by a defense counsel, etc., or have the staff member make an audio or video recording of it; provided, however, when it is deemed that there is risk of neither disrupting discipline and order in the penal institution nor suppressing evidence, wardens of penal institutions may opt not to enforce the attendance or sound and video recording (referred to as "attendance, etc." in the following paragraph).
(2) Notwithstanding the provisions of the preceding paragraph, wardens of penal institutions must not enforce the attendance, etc. at a visit to a detainee awaiting a judicial decision of any of the persons set forth in Article 112, except for when there are special circumstances in which it is deemed likely to either disrupt discipline and order in the penal institution or lead to the destruction of evidence of a crime.

(Restrictions on Visits)
Article 118
(1) The date and time of visits to an detainee awaiting a judicial decision by the defense counsel, etc. is during working hours of the penal institution for the day except Sunday and other days specified by Cabinet Order.
(2) The number of visitors in a visit prescribed in the preceding paragraph is three or less.
(3) Even when a defense counsel, etc. requests to visit a detainee awaiting a judicial decision not on the basis of the preceding two paragraphs, wardens of penal institutions are to permit the detainee awaiting a judicial decision the receiving of visit except for when it does hinder the management and administration of the penal institution.
(4) Wardens of penal institutions may, pursuant to Ministry of Justice Order, impose restrictions on the visiting site that are necessary for either maintaining discipline and order or the management and administration of the penal institution as to the visit prescribed in paragraph (1).
(5) The provisions of Article 114 apply mutatis mutandis to the visit to a detainee awaiting a judicial decision by a person other than a defense counsel, etc. In this case, the phrase "twice per month" in paragraph (2) of the same Article is deemed to be replaced with "once per day."

Note: The English text of the above laws is an unofficial translation for the benefit of the reader. Please refer to the original Japanese version for accuracy.

/end/

The Government of Japan's objection against the Opinion No. 59/2020 adopted on August 28 by the Working Group on Arbitrary Detention regarding the case of the defendant, Mr. Carlos Ghosn

1. The Opinion No. 59/2020 of the Working Group that the measures applied to the defendant, Mr. Carlos Ghosn, by the Government of Japan constitute arbitrary detention is totally unacceptable. Japan objects to the Working Group's Opinion for the following reasons.

2. As explained in the written response to the request for information by the Working Group, Japan's criminal justice system sets out appropriate procedures and is administered properly to clarify the truth in criminal cases while guaranteeing the fundamental human rights of individuals concerned. In addition, detainees awaiting a judicial decision at institutions for detention receive treatments which respect their human rights. The criminal proceedings to be applied to Mr. Ghosn do not violate the human rights treaties concluded by Japan, including the International Covenant on Civil and Political Rights (ICCPR). Such criminal proceedings were carried out strictly in accordance with appropriate procedures stipulated in relevant laws while fully guaranteeing the rights of Mr. Ghosn. Therefore, Japan once again emphasizes that the measures applied to Mr. Ghosn cannot be considered as arbitrary detention.

3. At the end of 2019, Mr. Ghosn illegally fled from both Japan and his criminal trial in violation of the conditions he promised to comply with to the Japanese court. It is accepted under any nation's legal system that a suspect likely to destroy evidence and flee can be arrested and detained based on a warrant issued by the judicial authority. Flight from a criminal trial, in violation of the conditions a defendant promised to respect upon his or her release on bail, is not condoned under any nation's legal system. The Working Group has emphasized "that it expresses no view on the circumstances in which Mr. Ghosn fled the jurisdiction of the Japanese authorities, and that its opinion should not be construed as condoning or offering any justification for such a departure." However, Mr. Ghosn was arrested and detained based on a warrant issued by the court because he was considered likely to destroy evidence and flee. Mr. Ghosn then proceeded to actually flee the criminal trial itself. Given the situation, the very fact that the Working Group considers the case of Mr. Ghosn as "arbitrary detention" would: 1) encourage those who would stand criminal trial to entertain the idea that flight can be justified; 2) prevent the realization of justice and the proper functioning of the criminal justice system in each country; and [redacted]

4. In the first place, the Opinion is totally unacceptable as it contains obvious factual errors, including the following points.

- The opinion that, following his arrests, Mr. Ghosn was held for periods of 22 days, 10 days, 19 days, and 21 days respectively without being brought before a judge.
- The opinion that the provision of opportunities for Mr. Ghosn to challenge his detention before a court was delayed.

Regarding this point, the Government of Japan will make additional arguments as necessary.

5. In addition, under Japanese law, in order to protect the rights of the people concerned in criminal proceedings, Japan cannot provide to the Working Group information related to investigations and trials concerning any cases, including that of Mr. Ghosn, before

commencement of a trial. In the document submitted by Japan on April 9 this year, Japan explained such situation and pointed out that it would be inappropriate for the Working Group to make a decision regarding the case of Mr. Ghosn, who had illegally fled, based mostly on limited information and biased allegations from the source, [redacted]

[redacted]

[redacted] Therefore, Japan can by no means accept the Opinion of the Working Group. Japan conveys to the Working Group its intention to continue properly administering its criminal justice system.