



No. 52101/ 720

PERMANENT MISSION OF THAILAND
5, Rue Gustave-Moynier
1202 GENEVA

24 August B.E. 2559 (2016)

Dear Sirs and Madams,

I wish to refer to your joint letter ref. AL THA1/2016 dated 25 February 2016 on the alleged violation of migrant workers' human rights in the Thai poultry industry.

In this connection, I have the honour to transmit herewith the clarification on the above-mentioned case, as received from the authorities concerned in Thailand. I hope that the information provided would address your concerns on this subject.

In reassuring you of Thailand's continued commitment to cooperating with all Special Procedures under the Human Rights Council to promote and protect the human rights of migrant workers, I remain,

Yours sincerely,

(Thani Thongphakdi)

Ambassador and Permanent Representative

Mr. Pavel Sulyandziga

Chairperson of the Working Group on the issue of human rights and transnational corporations and other business enterprises;

Mr. François Crépeau,

Special Rapporteur on the on the human rights of migrants;

Ms. Urmila Bhoola,

Special Rapporteur on contemporary forms of slavery, including its causes and consequences;

Ms. Maria Grazia Giammarinaro,

Special Rapporteur on trafficking in persons, especially women and children,

Office of the High Commissioner for Human Rights, **OHCHR REGISTRY**

GENEVA.

26 AUG 2016

Recipients :.....*SPB*.....

.....
.....
.....

Attachment

Clarification on the alleged violation of migrant workers' human rights in the Thai poultry industry

Outcome of labour employment inspection in concerned poultry industry and relevant prosecution of perpetrators

From December 2015 to January 2016, the Department of Employment and Department of Labour Protection and Welfare, Ministry of Labour, conducted an inspection on the employment process in the poultry industry. The inspection found that all migrant workers were employed and recruited legally through a Memorandum of Understandings (MOU) and received payment and welfare according to the employment contract and relevant laws. No records of illegal migrant workers were found employed in the poultry industry.

Furthermore, the Department of Employment and Department of Labour Protection and Welfare conducted an inspection in all poultry factories. The results of the investigation are as follows:

Urgent plan Conduct inspection in six alleged poultry factories within two weeks

Short-term Conduct inspection of 80% of all poultry processing factories by collecting information from the Department of Livestock Development and Department of Industrial Works

Mid-term Call on all poultry processing factories to comply with Good Labour Practice (GLP) to help build confidence in Thailand's exports of chicken in the international community

No.	Industry/Address	Date of Inspection	Number and nationality of labour	Outcome
1.	Charoen Pokphand Foods Public Employer Limited (Saraburi Branch) Address: 150 Moo 7 Mitraparb Road, Tarn Diew, Kaeng Khoi District, Saraburi, Thailand	03/12/2015	Thai 3,993 Cambodian 1,173 Total 5,166	1. The Employer recruits Cambodian workers itself without using any recruitment agencies. 2. There is a written employment contract between the employer and employee. This contract is executed in duplicate, with each party holding one copy. 3. The Employer does not make any wage deduction, except for contribution to social insurance funds. Payment document are written in Cambodian language. Employees cannot loan money. 4. The Employer encourages their employees to apply as a member of the Labour Welfare Committee in their factory. Moreover, the Employer is preparing to launch a capacity-building project called "Happy Workplace" and is encouraging all employees to join. 5. From the inspection, the Employer abides by the rules

No.	Industry/Address	Date of Inspection	Number and nationality of labour	Outcome
2.	Charoen Pokphand Foods Public Employer Limited (Minburi Branch) Address: 48 Moo 9, Sansab, Minburi, Bangkok, Thailand	14/01/2016	Thai 2,923 Myanmar 316 Total 3,239	and principles stipulated in the Labor Protection Act B.E.2541 (1998). 1. The Employer does not recruit any Cambodian workers. The Employer recruits Myanmar workers itself without using any recruitment agencies and is responsible for all recruitment fees since it is one of the welfare services that employees receive. No wage deduction is made after. 2. The Employer does not confiscate migrant labours' passports, identification documents, or work permits. Employees hold their original copy, while the contract is executed in duplicates, with each party holding one copy. 3. The Employer only deducts employees wage for social insurance funds and tax payment (if any). The Employer provides social insurance for all employees. 4. The Employer encourages all Myanmar labour to apply as a member of the Labour Welfare Committee at the factory without any discrimination. 5. According to the inspection made by officers from the Department of Employment and Social Security Office, employment of children under the age of 18, forced labour and debt bondage were not found. 6. The inspection suggests that the Employer abides by the rules and principles in accordance with the Labor Protection Act B.E.2541 (1998).
3.	Saha Farms (Lopburi) Address: 99 moo 8 Saraburi- Lomsak Road Huayhin, Chaibadal Lopburi Thailand 15130	04/12/2015	Thai 1,789 Myanmar 2,624 Cambodian 91 Laotians 3 Total 4,507	1. A written memo between the Employer and employees is made indicating that the Employer will withhold wages, including 300 THB for cost of utilities, overtime wage for one hour in exchange for breakfast and dinner, and 20 Baht contributed to Saijai Saha Farms fund, which aims to arrange funerals for

No.	Industry/Address	Date of Inspection	Number and nationality of labour	Outcome
				workers and their family members. 2. The Employer has its employees work overtime every day, ranging from one-two hour(s) each day, without consent of the employee. Payment of the overtime is made with breakfast instead of a wage. 3. The Employer informs labour inspectors from Lopburi Province Office of Labour Protection and Welfare that they employ children aged 15-18. 4. The Employer does not provide annual leave for employees who have only worked for one year. The Employer does not pay any wage for holiday or leaves. <u>Operation by Labour Inspectors</u> Order no. 1/2559 dated 6 January B.E. 2559 (2016) has been issued by Labour inspectors from Lopburi Province Office of Labour Protection and Welfare. Details are as follows: 1. If the Employer requires employee to work overtime, the employee's prior consent is required on each occasion 2. The Employer must pay overtime wages in accordance with laws and regulations. 3. The Employer must provide annual leaves not exceeding six working days for an employee who has been continuously working for one year, as well as pay wages for annual leave equivalent to wages of a working day (Employer has since complied with the Order.)

No.	Industry/Address	Date of Inspection	Number and nationality of labour	Outcome
4.	4.1 Laemthong Poultry Co., Ltd. 4.2 Laemthong Protein Foods Co., Ltd. Address: 1/10 Moo 8, Km.223, Mittraphap Road, Sungneon, Nakhon Ratchasima Thailand 31070	15/12/2015	4.1 Thai 693 Cambodian 21 Myanmar 1,583 Total 2,297 4.2 Thai 360 Myanmar 259 Total 619	1. The Employer recruits migrant workers through the legal channel (MoU) and from those who have legally registered. 2. The Employer provides housing in the factory where employees are allowed to walk in and out without any detention. 3. The Employer has made a wage deduction, amounting to 200 Baht per month, for housing facilities. 4. The Employer does not employ children under the age of 15. <u>Operation by Labour Inspectors</u> Order no. 2/2559 and no. 3/2559 dated 23 January B.E. 2559 (2016) has been issued by Labour inspectors from the Nakhon Ratchasima Province Labour Office of Labour Protection and Welfare, ordering the two industries to strictly comply with Section 76 of the Labor Protection Act B.E.2541 (1998).
5.	5.1 Laemthong Food Products Co., Ltd. (Branch 1) Address: 87 Moo 9, Bhudmonthon 5 Road, Rai-Khing, Sampran, Nakhon Pathom Thailand 73110 5.2 Laemthong Food Products Co., Ltd. (Further) (Branch 2)	11/01/2016	5.1 Thai 196 Myanmar 660 Total 856 5.2 Thai 89 Myanmar 164 Total 253	1. Migrant workers at both branches of Laemthong Food Products consist of 824 Myanmar workers, divided into three groups: 1) 174 recruited legally through legal channels (MoU) 2) 96 hold temporary work permits pending Nationality Verification process and 3) 554 holders of passports and work permits. 2. No wage deduction is made when employee use the restroom for more than 15 minutes 3. At Branch 1, the Employer will not hold a meeting with the welfare committee unless requested with an appropriate reason and more than one-half of the total number of the committee members or the labour union must agree.

No.	Industry/Address	Date of Inspection	Number and nationality of labour	Outcome
	Address: 119 Moo 9 Buddhamonthon 5 Road, Rai- Khing, Samphran, Nakhonpathom Thailand 73210			4. At Branch 1, the Employer does not provide a physician to examine employees. 5. At Branch 1, the Employer has not established a security unit, thus there is no head of security unit. 6. At Branch 1, the Employer will not hold a meeting with the welfare committee unless requested with an appropriate reason and more than one-half of the total number of the committee members or the labour union must agree. 7. At Branch 2, the Employer does not provide a physician to examine employees. 8. At Branch 2, the Employer has not established a security unit, thus there is no head of security unit. <u>Operation by labour inspectors</u> 1. Order no. 1/2559 and no. 2/2559 dated 13 January B.E. 2559 (2016) has been issued by Labour inspectors of Nakhon Pathom Province Labour Office of Labour Protection and Welfare, ordering Laemthong Food Products Branch 1 and 2 to hold a meeting with the welfare committee. Moreover, the Employer must ask for permission to establish an official medical establishment instead of having a physician at the factory (Employer has since complied with the Order.) 2. Order no. 1/2559 dated 13 January B.E. 2559 (2016) has been issued by Safety inspector, ordering Laemthong Food Products Branch 2 to establish the security unit and appoint chief of the unit. However, Laemthong Food Products Branch 2 asked to extend the period of enforcement by 30 days (first time) since they are still seeking applicants to become security

No.	Industry/Address	Date of Inspection	Number and nationality of labour	Outcome
				officers. They also asked to extend the establishment of a security unit by 30 days (first time) since they would like to appoint one of the specialized security officers to become the chief of unit. 3. Order no. 2/2559 dated 13 January B.E. 2559 (2016) issued by Security inspector, ordering Laemthong Food Products Branch 1 to establish a security unit and appoint a chief of unit (Employer has since complied with the Order) 4. After a thorough inspection, the allegation against wage deduction of employees taking sick leave was not found. 5. Order no. 21/2559 dated 17 February B.E. 2559 (2016) issued by labour inspectors, ordering Laemthong Food Products Branch 1 to compensate overtime wage. (Employer has since complied with the Order) 6. Order no. 22/2559 dated 17 February B.E. 2559 (2016) issued by labour inspectors, ordering Laemthong Food Products Branch 2 to compensate overtime wage (the overtime wage have been paid). Moreover, the Employer has been prosecuted as they failed to comply with the Labor Protection Act B.E.2541 (1998). Governor of Nakhon Pathom Province approved to precede this case.
6.	Golden Line Business Co., Ltd Address: 99 Moo 4 Kunju , Bueng Sam Phan, Phetchabun, Thailand	24/01/2016	Thai 1,978 Myanmar 3,727 Total 5,705	1. The Employer has scheduled Monday to Saturday as working days and Sunday as a holiday. The working time does not exceed eight hours per day. Employee's consent must be obtained every time when they work overtime for 1-2 hours. 2. 5,032 daily employees were paid not less than 300

No.	Industry/Address	Date of Inspection	Number and nationality of labour	Outcome
				THB per day. 673 temporary workers were paid not less than 9,000 THB per month. The salary is normally paid on the 1st of every month through Krung Thai Bank accounts. 3. It is the responsibility of Myanmar workers to keep their own identification document and take care of all relevant fees during their stay. 4. The Employer has provided welfare services in accordance with the law. 5. The Employer failed to comply with Section 76 of the Labor Protection Act B.E.2541 (1998) by deducting wages of those who stay in the housing facilities in the factory. Investigation reveals that 300 THB was deducted each month for the cost of utilities. Although the wage deduction is not made to more than ten per cent, the purpose of the deduction does not apply to relevant welfare benefit for the employees. <u>Operation by labour inspectors</u> Order no. 12/2559 dated 1 February B.E. 2559 (2016) has been issued by labour inspectors of Phetchabun Province Labour Office of Labour Protection and Welfare, prohibiting Golden Line Business Co., Ltd and EY Corporate Advisory Services Co., Ltd from wage deduction, including monthly wages, overtime wages, and payment during holiday, in accordance with Section 76 of the Labor Protection Act B.E.2541 (1998) (Employer has since complied with the Order)

Labour Inspection System in Thailand to Identify Victims of Human Trafficking, debt bondage and inspection in human Rights violations and other labour rights.

Under the Department of Labour Protection and Welfare, Ministry of Labour, amendments have been made to laws in order to strengthen the efficiency of labour inspection as well as to clearly define key legal terminology of “Forced labour” and “Debt bondage”. The Department also designed a labour inspection handbook in order to prevent and address problems of forced labour and debt bondage for frontline officers. Consequently officers who are in charge of inspection will be able to consider, identify and implement labour law and the Anti-Trafficking in Persons law efficiently and coherently. Presently, the Ad Hoc Committee to resolve issues in the justice system involving human trafficking cases is considering in more detail the inclusion of the definitions of “Forced labour” and “Debt bondage” in the Anti-Trafficking in Persons Act B.E.....

Cooperation between Thailand, Myanmar and Cambodia in order to impose sanctions against agents or recruitment agencies which procures Myanmar and Cambodian workers to work illegally and attempt wrongful exploitation which lead them to be victims of debt bondage.

The Ministry of Labour has amended the implementation of the Memorandum of Understanding (MOU) on Labour Cooperation and Agreement on Employment between Thailand and neighboring countries to increase efficiency of employment. The amendment will provide better protection to migrant workers, create transparency and prevent illegal employment and labour trafficking. In addition, the Department of Employment has amended the Employment and Job-Seeker Protection Act, B.E. 2528 (1985) in order to protect employment agencies and recruiters who are migrant workers to legally work in Thailand and abide by the law. The Act specifies that infringement of the law will result in a punishment. The Council of State is currently considering the amendment of the Act.

Furthermore, the Department of Employment has identified a system to import migrant workers from Laos, Cambodia and Myanmar under the MOU. The system requires employers, including corporations, who wish to employ migrant workers but do not wish to undergo the process themselves, to authorize licensed recruitment agencies to implement the process. Presently, there are 376 agencies who have requested to be licensed recruitment agencies for migrant workers.

Role of Government Sector to provide information on labour rights to enterprises in Thailand

In November 2015, the Ministry of Labour invited poultry processing and farming enterprises to discuss and suggest ways to address the problem of forced labour. The Ministry of Labour also announced to the enterprises and the press that the Ministry has dispatched a labour inspector team to intensively inspect poultry processing and farming businesses. Moreover, the Ministry called on all enterprises to implement Good Labour Practices (GLPs) and also to cooperate with the government sector to resolve these problems.

In January 2016, the Ministry of Labour invited representatives from Thai Broiler Processing Exporters Association to discuss and inform the management system of migrant workers in the poultry industry establishment as follows:

1. On the cost of importing migrant workers under the MOU, the Department of Employment is presently in the process of drafting the Decree on Providing Migrant Workers to Work Eligibly in Thailand B.E... This decree aims to control recruitment agencies including on all expenses of importing migrant workers, as well as appoint persons responsible for all expenses under the MOU which will create more transparency.

2. The Social Security Office informed that migrant workers are able to use their receipt form to substitute work permit in order to access medical care under the social security system.

3. Employers, through human resource officers, can assemble all relevant documents of migrant workers to renew their work permit. In this regard, they can assign human resource officers to renew the migrant workers' work permits or report on their place of residence to the Immigration Bureau's officers every 90 days, according to section 37(5) of Immigration Act B.E. 2522. The purpose of this exception is for the continuity of the production line and for the benefit of employees themselves. Also, migrant workers must agree with this condition on their first day of work and sign a contract with the employer; however, employers must return those documents to employees upon request.

Other government measures to identify victims of labour trafficking, labour exploitation, debt bondage, and other violations in business sectors which hire migrant workers, including remedy measures for those victims.

According to the Ministry of Social Development and Human Security's policy, the identification of victims is necessary in every case and must be done by a multidisciplinary team. The team will identify victims by conducting interviews to determine if the victims are trafficking victims. In this regard, all concerned agencies must perform the interview according to the *memorandum of understanding* on the code of conduct for concerned agencies. After the identification process, victims who need further support will be transferred to concerned agencies (details of the multidisciplinary team's operation as attached document no. 2)

Other information concerning policies, legislations, regulations, and state's verdicts to protect and combat human rights violation in business firms

The Ministry of Labour has assigned agencies under its mandate to cooperate among each other to prevent and combat labour trafficking in poultry businesses and related industries by developing an action plan on integrated labour inspection. The action plan is part of an activity under the Ministry of Labour's inspection team regarding preventing and combating labour trafficking. Moreover, labour inspection team must submit the operation report to the Command Center of Prevention of Human Trafficking on Labour and Monitoring Labour Situation (CCPL) on the 1st and 16th of every month, raise awareness among enterprises and concerned associations and develop publication to disseminate relevant information to all concerned business firms.
