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PERMANENT MISSION OF THAILAND
5 Rue Gustave-Moynier
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No. 52101/329

21 May B.E. 2558 (2015)

Dear Sirs and Madam,

I wish to refer to the letter from H.E. Mr. Thani Thongphakdi, Ambassador and Permanent Representative of Thailand to the United Nations Office in Geneva, No. 52101/240 dated 2 April B.E. 2558 (2015), providing you with information concerning the killings of Mr. Somsuk Kohkrang and Mr. Chai Bunthonglek; the attempted killing of Mr. Suwit Jeh-Soh and his family; the alleged temporary incommunicado detention of Mr. Pianrat Boonrit; and alleged threats made against environmental and land rights defenders and community members.

In this connection, I would like to forward herewith more details on the cases as received from the relevant authorities and compiled by the Ministry of Foreign Affairs of Thailand.

Mr. Michael K. Addo,

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

Mr. John Knox,

Independent Expert on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment,

Ms. Hilal Elver,

Special Rapporteur on the right to food,

Mr. David Kaye,

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,

Mr. Maina Kiai,

Special Rapporteur on the rights to freedom of peaceful assembly and of association,

Mr. Michel Forst,

Special Rapporteur on the situation of human rights defenders,

Mr. Christof Heyns,

Special Rapporteur on extrajudicial, summary or arbitrary executions,

Mr. Baskut Tuncak,

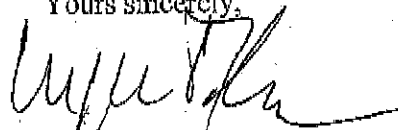
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes,

GENEVA.

- 2 -

I hope that the additional information will help further address your concerns. Should any update be received from Bangkok, I shall convey it to you in due course. The Permanent Mission of Thailand remains at your disposal should you require any further clarification.

Yours sincerely,



(Kriekpan Rockchamrong)

Chargé d'affaires a.i.

Ambassador and Deputy Permanent Representative

Clarification by the Royal Thai Government on the case relating to the killings of Mr. Pitan Thongpanang, Mr. Somsuk Kohkrang and Mr. Chai Bunthonglek; the attempted killing of Mr. Suwit Jeh-Soh and his family; the temporary incommunicado detention of Mr. Pianrat Boonrit; and the threats made against environmental and land rights defenders and community members.

Facts of the cases (Questions 1 – 8)

The killing of Mr. Pitan Thongpanang

- Mr. Pitan Thongpanang and his father, Mr. [REDACTED], worked for a mining company in Nobpitam district, Nakhon Si Thammarat Province. Such mining company was granted a concession from the Government with the permission to use the land for a given period of time. After the concession of the said company ended in 2003, Mr. [REDACTED] was hired as the caretaker of the land of the mining operation. While acting as the caretaker, Mr. [REDACTED] and his son had utilized some piece of land for plantation and farming for their own benefits. At the same time, they personally claimed that some part of land were to be issued community land title in the future and thus managed to sell those lands to the villagers. Those transactions, however, were made without legitimate documents that would grant them any rights to ownership or to utilize the land.
- On 6 September 2013, the concession was granted to mining company again for the same piece of land.
- On 28 May 2014, Mr. [REDACTED] together with other villagers, filed for an injunction order to the Administrative Court against the said company. In September 2014, the Court issued an injunction order to suspend the company's operation, which resulted in a large number of local employees of the company jobless.
- On 8 September 2014, Mr. Pitan Thongpanang was charged with encroachment of the forest land in two lawsuits.
- Communications between Mr. Pitan and Government security officers were made with an aim to seek possibility to reconcile and settle disputes among the company, his families, and villagers. Nevertheless, stakeholders concerned continued to come up with contradicting claims without any sign of their readiness to accommodate in order to reach any mutually satisfied solutions.
- Mr. Pitan Thongpanang was found shot to death on 30 November 2014 while he was driving a motorcycle on an isolated road. The police promptly investigated the killing of Mr. Pitan, which resulted in search warrants issued by the Court on 5 December 2014 for the police to look for evidence in the houses of a number of suspects. Further legal proceedings would commence right away once sufficient evidence are found.
- The police suspects that his killing could have resulted from a long standing conflict involving Mr. Pitan's activities, which caused consequential damages to various parties in land frauds and the suspension of the company's operation.

The killing of Mr. Somsuk Kohkrang

- According to testimonials collected by the police, at the end of 2013, Mr. Somsuk Kohkrang or Somsuk Kohklang, along with villagers, trespassed oil palm plantation of a private company. Mr. Somsuk Kohklang acted as a focal point of some groups of villagers in coordinating with the Government officials.

- However, Mr. Somsuk has come into conflict with another group of villagers and found to obstruct the harvest of oil palms of such group causing loss of their income.
- On 3 December 2014, Mr. Somsuk Kohklang was shot while riding on a motorcycle on an isolated road on his way from oil palm plantation. The incident was reported to the police on the same day.
- On the day of the incident, Mr. [REDACTED] not testify against Mr. [REDACTED], his fellow villager, who is a member of the opposition group of villagers. Three days after the incident, however, Mr. [REDACTED] testimony then indicated that Mr. [REDACTED] was seen 100 meters from the spot, where Mr. Somsuk was shot to death.
- Efforts have been made twice (in 29 January 2015 and 6 February 2015) by the Police in the request for the Court to issue an arrest warrant for Mr. [REDACTED]. But such requests were denied by the Court due to insufficient evidence.
- On 18 February 2015, the police searched Mr. [REDACTED] house in Krabi province but could not find enough supporting evidences.
- The search for more evidences will continue.

The attempted killing of Mr. Suwit Jeh-Soh and his family

- It is the police's primary responsibility to protect the safety of the community and people living in it.
- The police patrol can be requested for a specific area that needs special care and surveillance. In this case, the police have exercised efforts to provide protection to Mr. Suwit Jeh-Soh and his family upon request based on risk assessment and available resources. Mr. Suwit Jeh-Soh can always ask for extra surveillance if there is necessity to do so.
- Location of a police station is determined by Royal Thai Police's administration taking into account many factors ranging from density of population in an area and crime rates to geographical proximity to regional police hubs as well as budget and resources available. Admittedly, there are some remote areas that maybe far from where the police are being stationed. Although the police patrol system together with better telecommunication networks have enable the police services today reach and cover much wider areas than in the past, still there is always a need for more attention and better supervision in some areas.

The killing of Mr. Chai Bunthonglek

- Mr. Chai Bunthonglek was a member of Khlong Sai Pattana Community, a community in Surat Thani that has been actively campaigning for the right to land.
- The legality of the occupation and utilization of land in Surat Thani of an oil palm private company was challenged by Agricultural Land Reform Office (ARLO). While the Court is undergoing the trial, Mr. Chai and Khlong Sai Pattana Community encroached that piece of land in question and used chemical substance to destroy large area of oil palm plantation.
- Mr. Chai Bunthonglek was killed on 11 February 2015.
- The police launched the investigation promptly after the incident with the assumption that the owner of the plantation's anger over the damaged oil palms might be the cause of Mr. Chai's murder.
- On 26 February 2015, two weeks after Mr. Chai Bunthonglek was killed, the police arrested two suspects. They are now facing the trial.

The temporary incommunicado detention of Mr. Pianrat Boonrit

- Mr. Pianrat Boonrit is the leader of Southern Peasants' Federation of Thailand (SPFT) who was reported to be involved in the land dispute in Nakhon Si Thammarat. The said land was initially granted concession to a private company to grow oil palm until the Cabinet Resolution, which decided to allocate more than half of the said land to villagers for the right to use the land for farming.
- According to the police, Mr. Pianrat Boonrit led 28 families of villagers to trespass the piece of land, which was allocated to the private company for the palm oil business operation. Mr. Pianrat Boonrit allegedly damaged oil palms grown by the company and illegally cultivated his own plantation in the same piece of land. Mr. Pianrat Boonrit was notified of his illegal action.
- Provincial Internal Security Operational Command (ISOC) invited Mr. Pianrat Boonrit in for a talk to examine the above-mentioned fact that lasted for three days. He was also asked to cooperate with the Government and to discontinue his action that would damage the said piece of land and incite further conflict in the area.

The killings of Ms. Montha Chukaew and Ms. Pranee Boonrat

- Ms. Montha Chukaew and Ms. Pranee Boonrat were shot to death while riding on a motorcycle in an early morning of 19 November 2012. The murder was reported and promptly investigated by the police.
- The Police, later on, identified and arrested two suspects in November 2012. Legal proceedings were launched against the said suspects and their cases are under consideration of the Court of First Instance.
- According to the police, the murder could have resulted from Ms. Montha and Ms. Pranee activities to claim for their right to a piece of land, which belonged to a private company. By doing so, both of them trespassed the said piece of land and damaged a private company's oil palm plantation.

Question 9

Measures taken to ensure that anyone working on environmental and land rights issues can conduct peaceful and legitimate activities in a safe and enabling environment without fear for their safety.

- At national level, the Rights and Liberties Protection Department is the focal point for protection of human rights defenders. The Department is currently considering the possibility to establish a mechanism or a guideline for officers in order to effectively ensure safety of human rights defenders, as well as to ensure that they can carry out activities without physical danger, harassment or criminalization, in accordance with existing laws and regulations. The pros and cons of establishing such mechanism and guideline are being discussed among relevant agencies and NGOs.
- The Rights and Liberties Department also receives complaints of human rights violations including those relating to natural resource, unfair and forced eviction. Once a complaint is considered by the Department, the Department would take necessary actions or to refer to cases to relevant agencies for further action to address the matter.
- Human rights institutions including National Human Rights Commission frequently organizes trainings to law enforcement as well as the military, with a view to educate individual officers about human dignity, human rights and their role in preventing human rights violation.

Question 10**Compensation provided to the victims or their families**

- All persons who are victims of criminal action, either the injured party or family member (in case of death of the victim), are entitled to file for compensation under the Damages for the Injured Person and Compensation and Expense for the Accused in Criminal Cases Act B.E. 2544 (2001). The decision to provide compensation is based merely on *prima facie* evidences. The application does not require a Court judgment on the matter or the applicant to be proven innocent at the time of application.
- At present, the families of **Ms. Pranee Boonrat** and **Mr. Pitan Thongpanang** have already been granted compensation under this Act which gave them the highest amount of compensation to family in case of death of the victim.
- The application of **Mr. Chai Boonthonglek's** family is under the consideration as it has only been filed recently.
- The families of **Ms. Montha Chukaew** and **Mr. Somsuk Kohklang** have not yet filed for any compensation. However, the authority has ensured that both families are informed of their rights to file for compensation.

Questions 11 - 13

- **The Implementation of the UN Guiding Principles on Business and Human Rights**
- **Measures including policies, legislation, regulations and adjudication, the Government has put in place to prevent, investigate, punish and redress human rights abuses related to the activities of business.**
- **Guidance to business enterprises operating in Thailand and human rights due diligence process.**
- Right to freedom of expression and participation in the management of natural resource is guaranteed by the Constitution and people are encouraged to exercise such rights in accordance with the law.
- Provincial and national committee can be set up to examine and resolve local disputes or problems faced by the local communities. Individuals or communities have the right to take part in the formation of such committee by filing complaint to Damrongthama Centre at provincial level, or to the National Reform Council at national level. Complaints related to human rights abuses by either public or private sector are to be taken seriously.
- The Enhancement and Conservation of National Environmental Quality Act B.E.2535 (1992) has established the Environmental Impact Assessment – EIA mechanism in which the principle of public participation is fully respected. The EIA is compulsory for a project or an activity which may gravely impact livelihood of a community, environment, natural resource or public health. The EIA procedure establishes public hearing forums for the public including those who are or likely to be affected by the project in setting up scope of the EIA. Public opinions are also welcomed in further stages namely in the assessment and the request for the review of such assessment.
- In business sector, a number of researches were conducted in relation to corporate social responsibility (CSR) in Thailand, as the concept has become widely known to the public as well as

among large companies. Research results suggested that most of the Thai largest companies have recognized the importance to improve their exposure to CSR. As a consequence, CSR is increasingly becoming an important element in their brands and reputations and a strategic approach to CSR is believed to improve business benefits.

- Although, integrating principles of CSR into core business practice is a voluntary exercise for companies, an increasing number of stakeholders have been sending clear signals to companies about how they expect them to operate.
- In Thailand, both the Securities and Exchange Commission and the Stock Exchange of Thailand closely monitor publicly-listed companies and have annual awards for outstanding performance on corporate governance and corporate social responsibility.
- The Department of Industrial Works (DIW) supports and recognizes smaller players in the industry for their CSR efforts through the annual CSR-DIW awards. Expenses spent by a company on CSR activities that have contributed to the Government's efforts on preservation of forest, pollution control or public education, are tax-deductible.

Department of International Organizations
Ministry of Foreign Affairs
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