

PERMANENT MISSION OF THE
SOCIALIST REPUBLIC OF VIET NAM
to the United Nations Office,
the World Trade Organization
and Other International Organizations at Geneva



MISSION PERMANENTE DE LA
REPUBLIQUE SOCIALISTE DU VIET NAM
auprès de l'Office des Nations Unies,
de l'Organisation Mondiale du Commerce
et des autres Organisations Internationales à Genève

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The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office, the World Trade Organization and Other International Organizations in Geneva presents its compliments to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights and with reference to the letter Ref. UA VNM 4/2017 dated 28 June 2017, has the honour to hereby transmit to the latter the reply of Viet Nam (01 attachment).

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office, the World Trade Organization and Other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 18 September 2017

Special Procedures Branch
Office of the United Nations High Commissioner for Human Rights
GENEVA

**REPLY OF VIET NAM TO THE JOINT URGENT APPEAL
FROM SPECIAL PROCEDURES REF. UA VNM 4/2017**

1. On allegations concerning Le My Hanh

On 02 May 2017, Ms. Le My Hanh reportedly had a clash with a group of 05 individuals at her place of residence, [REDACTED] District 2, Ho Chi Minh City. [REDACTED], who was staying with Ms. Hanh at the same place, were also reportedly injured due to the clash. On 03 May 2017, Le My Hanh submitted a request for medical examination and filed a complaint against those who attacked her. [REDACTED] also lodged a complaint against these individuals but refused to undergo injury assessment. As for [REDACTED] since she has left her place of residence, no injury assessment could have been made.

The police of District 2, Ho Chi Minh City handled the complaints, opened an investigation, examined the scene and requested an injury assessment for Le My Hanh in accordance with applicable laws. Investigation helped identify five suspects, namely [REDACTED]

Three suspects, namely [REDACTED] were called to the police station for interviewing. Meanwhile, the other two suspects have left their places of residence and their whereabouts are yet to be determined. The three suspects confirmed that they attacked Le My Hanh and filmed the event to upload onto the internet, for the reason that Le My Hanh uploaded distorted information and images on Facebook.

The Center for Forensic Medical Examination under Health Department of Ho Chi Minh City on 25 May 2017 issued the result of medical examination for Le My Hanh which was conducted on 03 May 2017 as follows: "The paraclinic diagnosis does not jibe with the clinical diagnosis, referral to the subdivision of the National Institute for Forensic Medicine in Ho Chi Minh City is suggested". On that basis, Le My Hanh was requested to retake the medical examination at the National Institute for Forensic Medicine but she refused.

As the levels of injuries of the victims are not determined, there are insufficient grounds to initiate criminal proceedings under Article 104 of the Criminal Code on

“Intentionally wounding or causing bodily harm upon another person”, which applies from a certain level of seriousness of injury. The three above-mentioned individuals were fined under Decree No. 167/2013/ND-CP on administrative sanctions in the fields of social security, order and safety, prevention and fighting of social evils, fire and domestic violence and Decree No. 174/2013/ND-CP on administrative sanctions in the fields of post and telecommunications, information technology and radio frequency.

The clash between Ms. Le My Hanh and these individuals was due to personal conflicts between them. In fact, the case has been duly handled by the Police of District 2, Ho Chi Minh City in accordance with applicable laws and regulations.

2. On allegations concerning Nguyen Ngoc Nhu Quynh

2.1. On the legal basis for the arrest and trial of Nguyen Ngoc Nhu Quynh

Nguyen Ngoc Nhu Quynh was arrested and tried for her violations of laws, but not for campaigning, documenting and reporting on the environmental harm caused by Formosa steel plant.

Acts committed in violation of law by Nguyen Ngoc Nhu Quynh includes the use of social networking websites (Facebook, personal blog page) to write and disseminate 82 documents containing false information, distorting the State’s policies and laws; denying the revolutionary history of Viet Nam, causing division to national unity, inciting others to overthrow the national administration, etc. Especially, taking advantage of such events as the HD-981 exploratory oil rig (May 2014), the environmental incident in the central coastal area (April 2016), Nguyen Ngoc Nhu Quynh incited others to illegally assemble, disturbed public disorder and safety and threatened national security. Despite being reminded numerous times about her violations and afterwards got fined under the relevant regulations on administrative violations, Nguyen Ngoc Nhu Quynh still kept continuing such acts.

As acts of Nguyen Ngoc Nhu Quynh have shown signs committing the offence of 'conducting propaganda against the State' under Article 88 of the Penal Code, the Police of Khanh Hoa Province prosecuted and arrested her for investigation. On 29 June 2017, the People's Provincial Court of Khanh Hoa heard Nguyen Ngoc Nhu Quynh's case at first instance and sentenced Quynh to 10 years imprisonment for 'conducting propaganda against the State' under Article 88 of the Penal Code. The

prosecution, arrest, investigation and trial of Nguyen Ngoc Nhu Quynh have been carried out in accordance with relevant national laws and regulations of Viet Nam. All her rights as a suspect and an accused have been fully ensured in accordance with applicable laws and regulations, including the right to medical care, treatment and check-up, the right to defense counsel of her own choosing and access to her counsels, receiving family visits and family supplies. At the first instance trial, there were 4 counsels defending Nguyen Ngoc Nhu Quynh.

In Viet Nam, the freedom of speech and expression, the freedom of peaceful assembly are enshrined in the Constitution and laws and guaranteed in practice; no one is arrested or tried for exercising these freedoms properly. However, like other countries in the world, any breach of laws by any individual entails his or her liability under the relevant laws. This is totally in line with international human rights treaties to which Viet Nam is a party, including the International Covenant on Civil and Political Rights which does not tolerate the acts of infringing upon national security, public order, social morals or rights and freedoms of others.

2.2. On actions taken by the Government in follow up to the Opinion No. 27/2017 of the Working on Arbitrary Detention (WGAD) concerning Nguyen Ngoc Nhu Quynh

Viet Nam has always shown its cooperating spirit in working with the Working Group. Regarding the communication Ref. 2017/VTM/CASE dated 31 January 2017, Viet Nam has replied the Working Group fully and in due course. In its reply, Viet Nam has provided the legal grounds for the arrest of Nguyen Ngoc Nhu Quynh and all other relevant information, including the ensuring of her rights as a suspect during detention. At the same time, the reply of Viet Nam also contains detailed information which refutes inaccurate allegations and false information in the communication that misrepresent the nature of case. As a result, Viet Nam objects the Opinion No. 27/2017 of WGAD and regrets that WGAD did not take into account the information from the Vietnamese Government.

While awaiting the appellate trial, Nguyen Ngoc Nhu Quynh is still ensured all the rights she is entitled to under relevant laws and regulations, her health is currently in normal condition. In the coming time, Viet Nam will continue to provide the WGAD

with relevant information concerning this case and hope that the WGAD will take due note of such information.

3. On measures taken by the Government to investigate the environmental incident occurred in the central coastal area of the country and to address its negative impacts

A serious environmental incident occurred in the central coastal area of Viet Nam (affecting Quang Binh, Ha Tinh, Thua Thien Hue and Quang Tri provinces) in April 2016, causing tremendous losses to the economy and maritime environment and having negative impacts on the livelihoods of people affected and social security. As soon as the incident occurred, the Government has drastically taken measures to identify causes of the incident, provide assistance and stabilize the lives of people in the affected areas, and assess the extent of economic, social and environmental damages. The Government has instructed relevant authorities and scientific agencies to analyze the incident and to establish the facts in a prudent, scientific, accurate and objective way in compliance with applicable laws and regulations with a view to identifying the cause and the liability for damages.

A national committee of scientific and technological experts chaired by the President of the Vietnamese Academy of Science and Technology was urgently established by the Ministry of Science and Technology to conduct thorough analysis to identify the causes of the incident. About a hundred experts from more than thirty Vietnamese research institutes and universities together with foreign experts from Germany, USA, Israel, and Japan collaborated to find the causes. The process of analyzing and identifying the cause of the incident was carefully carried out, with independent reviews by foreign experts, and led to the finding that the major source of pollution originated from Vung Ang area of Ha Tinh province, where toxins were spread by the North-South sea currents and caused the mass death of fishes and other sea creatures, especially those living at the bottom of the sea.

Competent authorities of Viet Nam promptly investigated and concluded that the Hung Nghiep Formosa Ha Tinh Steel Corp discharged toxic chemical wastes into the sea and caused the disastrous environmental incident. On 28 June 2016, the company admitted its liability for the incident, publicly apologized to the Government and the Vietnamese people, committed to compensate economic losses, to assist in career

change for the local people, to treat pollution and conduct environmental restoration for the affected area with an amount of 500 millions USD, to provide guarantee of non-repetition and undertook to assume full responsibility and liability under Vietnamese legislation if violations reoccur.

For more than one year, the Government has implemented measures to address the negative impacts of the incident, including regular checkups of monitoring results, regular evaluation of qualities of marine water, marine sediment, coral reef, seagrass and seafood resources, regular evaluation of seafood quality, especially creatures living at the bottom, destroying unsafe seafood, imposing administrative sanctions on Hung Nghiep Formosa Ha Tinh Steel Corp and monitoring the implementation of remedial measures as well as waste discharge activities of the company, disciplining governmental agencies and officials weak in performing State management of environmental protection, implementing policies to support fishermen and other affected people in relevant provinces and distributing compensation to them, etc. All these activities are made known to the public.

On the allegation that independent investigations of toxicity levels of the affected waters have been prevented by the Government:

The Vietnamese Government does not prohibit independent research activities in the environmental field in Vietnam. However, these activities must be conducted in accordance with applicable laws and regulations and by qualified professionals. Regarding the environmental incident of April 2016, some individuals have taken advantage of the incident, of the names of "independent investigators", "environmental activists" or "environmentalists" to disseminate false, unverified information to cause confusion, to incite people against the government and to call for illegal assembly to disturb public order. These acts are in violations of laws and must be sanctioned in accordance with applicable laws.

4. On measures taken to ensure that human rights defenders can exercise their rights in a safe and conducive environment without fear of harassment or persecution

In Viet Nam, everyone can take part in the promotion and protection of human rights in accordance with applicable legislation. Article 14 of the Constitution of 2013

stipulated that “...human rights and citizens’ rights in the political, civil, economic, cultural and social fields shall be recognized, respected, protected and guaranteed in accordance with the Constitution and law. Human rights and citizens’ rights may not be restricted unless by a law in case of necessity for reasons of national defense, national security, social order and safety, social morals and public health”. Article 25 of the Constitution clearly provided that: “Citizens have the rights to freedom of opinion and expression, freedom of the press, the right of access to information, the right to freedom of assembly and associations and the right to protest...”

All acts of harassment, assault or violation of human rights and citizens’ rights are strictly prohibited by laws. Accordingly, acts of violation of lawful rights and freedoms of others will be sanctioned in accordance with applicable laws and regulations. Depending on the nature and severity of the violations, the sanctions may range from administrative fines to criminal prosecution. The Penal Code of 2015, which will be effective from 01 January 2018, has Chapter No. XV on offences against human rights and citizen’s rights and freedoms, defining 11 offences, including illegal arrest, detention, or imprisonment of a person (Article 157), infringement upon other’s place of residence (Article 158), infringement upon citizen’s right to peaceful assembly and right to freedom of association (Article 163), infringement upon right to complain and denounce (Article 166), infringement upon right to freedom of speech, right to freedom of the press, right of access to information, and right to protest of citizens (Article 167), etc. Besides the legislative measures, Vietnam has actively disseminate information on the media with a view to raising awareness of its people about human rights and citizens’ rights, about respect for others’ legitimate rights and interests. Seminars, workshops, training courses have been organized to enhance the capacity and knowledge of law enforcement officials. Abuses of positions and powers to infringe upon human rights and citizens’ rights are strictly prohibited.

However, Vietnamese laws prohibit the abuse of rights and freedoms to break national security or to infringe upon others’ rights and legitimate interests. This is totally in line with international human rights treaties to which Viet Nam is a party, including the International Covenant on Civil and Political Rights./.