



**PERMANENT MISSION OF THE REPUBLIC OF THE PHILIPPINES
TO THE UNITED NATIONS AND OTHER INTERNATIONAL
ORGANIZATIONS, GENEVA**

NV-EPG-02-2017

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights – Special Procedures Branch and, with reference to the letter dated 31 July 2017 from Ms. Natacha Foucard, Officer-in-Charge of the OHCHR Special Procedures Branch (on the joint communication AL PHL 9/2017 dated 31 July 2017 from four Special Procedures mandate holders on the alleged abusive labor practices of United Seemac Co.), has the honor to provide the response of the Government of the Philippines by i) highlighting the Government's policies and programs to protect and provide assistance to its nationals living and working abroad as well as to prevent violations of human and labor rights, ii) providing an overview on the case, and iii) updates on the measures taken by the Philippine Government relative to the case, as follows:

- The Government of the Philippines acknowledges receipt with appreciation, of the joint communication from Special Procedures (AL PHL 9/2017) on alleged labor practices of United Seemac company, a Saudi construction operator.
- The Philippines is grateful for the contribution of Filipino migrant workers to national development and their efforts in improving the situation of their families back home. Thus, it is with much distress that the Philippine Government takes cognizance of the difficult situation of a group of Filipinos in Saudi as illustrated in the joint communication.
- There is an estimated 2.2 million overseas Filipino workers (source: Philippine Statistics Authority as of 2016) who worked abroad at any one time during the April-September 2016 period, the Government has developed migration and labor-related policies through the years and put in place mechanisms to protect the wellbeing of Overseas Filipino Workers (OFWs).
- The Government applies the one-country team approach, involving key offices of the Philippine Government assigned abroad in Philippine Foreign Service Posts (FSPs), including the Department of Labor and Employment (DOLE), Overseas Workers Welfare Administration, the Department of Foreign Affairs, among others. The 2015 Joint Manual of Operations in Providing Assistance guides the FSPs' actions for Migrant Workers and Other Filipinos Overseas, particularly those in distress.
- The DOLE takes a lead role in threshing out disputes arising from labor relations. Such disputes are under the jurisdiction of the Philippine Overseas Labor Office (POLO). Issues include non-payment of salaries, inadequate working and living conditions and non-renewal or delayed renewal of work permits.

- If a worker gets arrested for non-possession of proper visas, it becomes a police or immigration issue and therefore, an Assistance-to-Nationals (ATN) matter. The Assistance-to-Nationals Section of the Philippine FSPs handle aforementioned cases.
- There are established measures and mechanisms in place at FSPs to prevent violations of human and labor rights. Some of the Government's measures are as follows:
 1. The POLO evaluates all job orders and contracts of OFWs for verification. Before the POLO verifies the contract, it ensures that the company is compliant with the minimum labor standards of both the Philippines and the host country. It also ensures that the foreign placement agency (or the foreign recruitment agency) and its Philippine recruitment agency counterpart are of good standing with the Philippine Overseas Employment Administration (POEA). POLO representatives are mandated to inspect the premises of the company and the living quarters provided to Filipino workers.
 2. To ensure that distressed workers have access to appropriate remedies, all Philippine FSPs have been equipped with a 24/7 ATN mobile hotline, which OFWs may contact anytime to seek assistance. Appropriate support services such as conducting rescue, provision of temporary shelter, provision of food and other basic needs, medical and hospital assistance, facilitating placement of police blotter, settlement of labor problems, repatriation, and if warranted, assistance in the filing of charges against the perpetrators is extended.
 3. The Philippines negotiates labor agreements with countries hosting OFWs. Cognizant of the phenomenon of mixed migration, the Government has also entered into at least 35 bilateral and multilateral agreements with various countries, including Saudi Arabia, to combat trafficking in persons and help protect and promote the rights of millions of Filipino migrant workers abroad. All FSPs are mandated to exert all efforts necessary to protect OFWs against abuses and exploitation. FSPs also make representations with relevant agencies of the host government in order to raise issues relative to abuse against OFWs.
 4. Philippine FSPs may utilize the Legal Assistance Fund (LAF) to hire legal counsels to file cases against abusive employers and human rights violators. Victims may also avail of the ATN Fund to defray the cost of immigration fees, exit permits, and airline tickets (for repatriation). The Department of Foreign Affairs' Office of the Undersecretary for Migrant Workers Affairs (OUMWA) administers both LAF and ATN Fund.

Overview of the Case

The United Seemac Company for Trading & Contracting (Seemac) is a Saudi Arabian company engaged mainly in government-funded projects.

Without prejudice to actions that may have been taken by the Kingdom of Saudi Arabia to regulate and monitor companies in its jurisdiction, the Philippines, through the Philippine Embassy in Riyadh, Saudi Arabia visited on three occasions the company's offices. The company noted its challenge of collecting payments from various government contracts, as a reason for its financial difficulty. The company also noted that the withholding of passports

of its employees was meant for safekeeping and these will be released to the workers if there is a need to renew it, or if the transfer of sponsorship is the effect of due repatriation.

The POLO in Riyadh, Kingdom of Saudi Arabia was visited by OFW [REDACTED] and other 74 workers sometime in November 2016 to relay issues of non-payment of salaries, non-issuance of final exit visas, failure to renew *iqamas* and unjust withholding of passports, lack of food and unhygienic accommodation. The non-renewal of *iqama* or resident permit was supposedly due to its system of being blocked from the *absher* system of the internet portal of the Ministry of Interior. In addition, the lack of funds to pay for the renewal of resident permits was also a challenge cited by the company, adding that it has many expatriates on its payroll.

It is unfortunate that OFWs have been detained when asked by police authorities about their *iqamas*. This is one of the flaws of the system, that expatriate workers unnecessarily get punished when the root cause is the failure of the employer to renew their resident permits/visa.

The release or transfer of sponsorship is not a right in the Kingdom of Saudi Arabia, based on the *kafala* or sponsorship system. We note, however, that recently official press releases state that transfer of sponsorship even without the approval of the sponsor can be done if any of the following situations happen: company is under red category of *nitaqat* (Saudization policy); the *iqama* has expired without the company renewing it or when the salaries have not been paid for three months or more (in case of skilled workers, it is not clear whether the non-payment of salary has to be continuous or intermittent is acceptable). In the latter, some employers evade the three-month threshold by paying one month salary on the third month and skip again for two months, and so on.

We further note that in the Kingdom of Saudi Arabia, providing food depends on agreement with the workers, in general. Provision can be in the form of a cash allowance or workers may avail themselves of food in the company-run canteens, where workers queue during designated meal times. In the case of the Seemac, its system is giving out cash allowance to workers. Due to liquidity issues, however, the company is not able to provide the monthly food allowance to workers, including OFWs.

Based on information from the Philippine Embassy in Riyadh and coordination with Mr. [REDACTED] some workers were beginning to be repatriated but they could only collect reduced salaries and benefits. He has also requested for certification from the Embassy, through POLO-Riyadh, that the aforementioned workers have been stranded from November 2016 until the present.

Measures Taken Relative to the Case

The POLO in Riyadh has adopted stricter measures to improve its verification system, including the determination of the existence of business or its capacity to provide the salary and benefits of workers. However, the verification process could not predict the economic downturn in Saudi, as well as the oil price and other conflicts in its neighboring countries.

It has proposed the initiation of labor cases but the affected workers have hesitated to do so considering that the process takes a long time, and sufficient funding is needed to cover at least the basic necessities of workers while the labor case is ongoing. Currently, the POLO in Riyadh has tried to provide for the needs of the distressed workers, particularly food provisions.

The Special Procedures Branch is also informed that the Philippine Government's reintegration programs are in place for repatriated domestic workers, and these have benefitted many distressed workers.

The Philippine Government has also stepped up its efforts to educate its people on the rights of migrant workers, including domestic workers, and the vital role they play in making all other types of work possible. This is due to its awareness to pro-actively promote positive public perceptions of migrant domestic workers and raise recognition of their positive social and economic contributions to nation building, while combating discriminatory attitudes and gaps in terms of their rights and protections, both in law and practice.

As a way forward, the Philippine Government is looking into providing for the needs of the distressed Filipino migrant workers. Augmentation of personnel, such as interpreters, personnel with social work, nursing, or paralegal backgrounds, among others, are planned to support the efforts of the Government relative to the situation of the Filipino migrant workers.

The Philippine Government will continue to focus on ensuring migrant workers' welfare and more importantly, respecting and protecting their human rights. The Philippines is committed to the effective implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The Permanent Mission of the Republic of the Philippines to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights – Special Procedures Branch the assurances of its highest consideration.

Geneva, 05 January 2018

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Attention : The Special Procedures Branch

