

(Translated from Chinese)

Receipt is hereby acknowledged of the letter of 27 September 2018 from the United Nations Human Rights Council's Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the situation of human rights in Cambodia; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights of indigenous peoples; and Special Rapporteur on the human rights to safe drinking water and sanitation (ref. AL CHN 18/2018). The Chinese Government wishes to make the following reply to that communication:

The Guangdong Hengfu Group Sugar Industry Co., Ltd. (hereinafter referred to as the Hengfu Group) mentioned in the communication is in fact a project of Huada Trading Co., Ltd. of the city of Zhanjiang (hereinafter referred to as Zhanjiang Huada) to invest in modern sugar-refining agricultural parks in Cambodia.

With regard to the four false accusations against Zhanjiang Huada, the specific circumstances are as follows:

1. Alleged damage to local farmland and forests and failure to compensate for the contamination of water sources during the period of the Company's concessionary lease.

As the Company builds roads, water management installations and sugarcane planting plots in the agricultural park, local farmers will inevitably be affected in the process. The Company is lawfully pushing back forests to reclaim concessionary land, clearing residual forestation and removing rubber trees from the residual forests by the Company, all within the scope of local laws and regulations. This may affect the income of local rubber tappers, but compensation has been provided to them on humanitarian grounds. Through consultation on an equal and voluntary basis with a government working group, equivalent land was substituted, or other compensation given, for the farmers' land used for the concession. Therefore, the accusation of damage to local farmland and forests or failure to compensate does not accord with the actual situation.

In connection with the false accusation that the Company polluted water resources and failed to provide compensation, there is a case of livestock poisoning and death which had a greater impact, the details of which are as follows:

On 15 March 2018, a livestock poisoning death occurred on the land concession of Heng You Company (a firm in Cambodia invested in by Zhanjiang Huada). Local groups went to the Royal Government of Cambodia and United Nations human rights and environmental protection bodies to claim that water had been contaminated by the discharge of pollutants from sugar refineries and the application of pesticides and that livestock had died after being poisoned by drinking that water. The environment and industry departments of the Royal Government of Cambodia attached great importance to this and immediately sent a special working team to conduct an in-depth investigation. The results of the investigation showed that the sugar refinery had not discharged pollutants, nor had the sugarcane plantation used pesticides in violation of regulations, and no constituents poisonous to livestock were found in water samples taken on the site and analyzed. However, poisons that the villagers used for hunting were discovered in grasslands nearby. This ruled out the issue of Company responsibility and the Company was not penalized. Because the responsibility did not lie with the Company, it was not liable to provide compensation for pollution of water resources. In the light of the foregoing, allegations that the Company damaged local farmland and forests, polluted water resources and failed to provide compensation during the period of its concessionary lease are untrue.



2. The alleged lawsuit against Huada Zhanjiang (referred to as “Hengfu Company” in the documentation) brought by local residents on the basis of the Land Law of Cambodia, but which was ultimately rejected.

At the end of 2013, a farmer named Bun Lai seized and occupied 11.38 hectares of land belonging to the Lan Feng Company (a firm in Cambodia invested in by Zhanjiang Huada), and abetted the indiscriminate seizure of Company land by other local farmers. As this matter fell within the purview of the coordinated handling of numerous other illegal occupations of Lanfeng Company land by farmers, the Company filed suit in Preah Vihear Lower Court on 22 August 2014. On 5 April 2015, the Preah Vihear Lower Court ordered the defendants (farmers) to return 11.38 hectares of land to the Company and pay CR10,000,000 in compensation. However, the defendants (farmers) refused to accept the ruling, and proceeded to file an appeal with the Phnom Penh Appellate Court on 23 April 2015, which on 3 May 2016 again ruled that the defendants must return the Company’s land and pay CR10,000,000 compensation plus court costs.

Bun Lai persisted, appealing the case to the Supreme Court in Phnom Penh. The Company retained Attorney Fu Zhiju as its representative, and made a court appearance on 7 September 2017. As Bun Lai had presented new evidence in the form of a “Commune Land Certificate issued in 2002” when the Supreme Court was about to issue a ruling, that Court remanded the case to the Appellate Court for further investigation. On 14 March 2018, the Appellate Court ruled that the Company had prevailed in the lawsuit, requiring the defendant Bun Lai, female, 36 years of age, and her husband Sral Non to return 116,003 square meters of land in Bos Thum Village, Prame Commune, Tbaeng Meanchey District, Preah Vihear Province, to Lanfeng (Cambodia) International Co., Ltd. representative Zheng Feng to manage and carry out agricultural investment. Defendants Bun Lai and Sral Non were further required to compensate the plaintiff a total of CR10,000,000 for losses and mental distress damages; claims sought in excess of that amount were rejected, although the Appellate Court litigation costs were borne by the defendants. Bun Lai is currently proceeding with an appeal to the Supreme Court, which called upon the Company to submit a reply within 30 days of being notified of that appeal. The Company submitted its reply within the prescribed time limit and is currently awaiting a scheduling summons from the Supreme Court.

3. Allegations that the Company has sued local land defenders for damage to private property, with at least 14 people currently being charged.

There are no instances in which the Company has sued local rights defenders for damage to private property. Local farmers have unlawfully and forcibly seized and removed the bulldozers regularly used by the Company for land development; the Preah Vihear Provincial Government dealt with the parties involved in accordance with the law and recovered the bulldozers that had been stolen. We have no knowledge of any lawbreakers having been charged.

4. We express serious concern regarding allegations of failure to guarantee indigenous peoples’ rights to food, drinking water and sanitation, as well as environmental, cultural, land ownership, freedom of expression and freedom of assembly and association rights.

As a legitimate Chinese-funded production and operational enterprise, Zhanjiang Huada carries out concessionary land reclamation within the scope permitted by policies, laws and regulations. It operates within the law, respects local culture and customs, conscientiously fulfils its corporate responsibilities, actively protects the ecological environment, respects and protects human rights, and does not encroach upon the property of local residents. With net-zero external water consumption, park production and staff living requirements do not adversely affect the water resources of local residents. The Company also provides sanitary drinking water for local residents during dry-season water shortages, and neither supports nor participates in the political activities of any party.

5. Implementing corporate social responsibility.

As it carries out industrial-park projects, the Company participates actively in public welfare undertakings and further contributes to local economic and social development. In

2016, the Ruifeng Company (a firm in Cambodia invested in by Zhanjiang Huada) donated 100,000 US dollars to the Cambodian Red Cross Society, 200 tons of rice to local victims of natural disasters, and US\$180,000 to build three schools in the three districts in which its industrial parks are located. Moreover, to improve local farmers' travel conditions and drinking water access, the Company helps them build roads and drill wells. Zhanjiang Huada provides technical support for local agricultural development, increases farmers' incomes by providing support for sugarcane cultivation, trains local farmers in agricultural production technology and agricultural-machinery operation skills, and recruits local Cambodian workers and trains them in sugar-refining techniques. It helps local people lift themselves out of material and spiritual poverty, and has received a high degree of recognition from the local government as well as support from the general public. Construction of its projects not only brings advanced technology to local farmers, provides them employment and increases their incomes, but also promotes the building of local transportation and electrical infrastructure, creates a thriving market, promotes continuous improvement of the material and spiritual living standards of the local people, and drives the economic and social development of Preah Vihear Province.



中华人民共和国常驻联合国日内瓦办事处和瑞士其他国际组织代表团

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The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's communication [AL CHN 18/2018] dated 27 September 2018, has the honour to transmit the reply by the Chinese Government.

The Permanent Mission of the People's Republic of China avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 10 December 2018

Office of the High Commissioner for Human Rights
Geneva

OHCHR REGISTRY

14 DEC 2018

Recipients: SPB
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联合国人权理事会人权与跨国公司问题工作组、柬埔寨人权状况特别报告员、环境权问题特别报告员、言论自由问题特别报告员、集会与结社自由问题特别报告员、“人权卫士”问题特别报告员、土著人权利问题特别报告员、安全饮用水与卫生设施问题特别报告员 2018 年 9 月 27 日来函 [ALCHN 18/2018] 收悉。中国政府对来函答复如下：

来函提及的广东恒福糖业集团有限公司（以下简称恒福集团）柬埔寨项目，实际是湛江市华大贸易有限公司（以下简称湛江华大）投资柬埔寨的现代制糖农业园项目。

关于对湛江华大的 4 项不实指控，具体情况如下：

1、所谓公司租用期间对当地农田和森林造成破坏，污染水源并未给予补偿问题。

公司在园区道路、水利、甘蔗种植地块等建设过程中不可避免造成当地农民受影响。公司合法推林开垦特许土地，在当地法规许可范围内清理残林，推除残林中的橡胶树，可能影响当地割胶者的收入，但从人道主义出发已给予其补偿；使用的农民的土地，已通过政府工作组与农民协商在平等自愿的基础上进行农民地同特许地置换或给予补偿，所以对当地农田、森林造成破坏或未给予补偿的指控不符合实际情况。

关于指控公司污染水资源未给予补偿情况不属实，其中有一项牲畜中毒死亡情况，影响较大，具体如下：

2018 年 3 月 15 日，恒悦公司（湛江华大在柬埔寨投资

的公司) 特许地发生牲畜中毒死亡情况。当地团体向柬埔寨政府、联合国人权环保组织指控糖厂排污、施用农药等原因造成水源污染, 牲畜饮水中毒死亡。柬埔寨王国政府环境、工业等部门对此高度重视, 立即派专项工作组深入调查。调查结果是糖厂没有对外排放污水, 甘蔗种植没有违规施用农药, 现场取水样经检验未发现造成牲畜中毒成份, 但发现草地中有村民投毒捕猎留下毒物, 因此排除属于公司的责任问题, 不对公司进行处罚。由于责任不在公司, 所以公司不负有对污染水源给予补偿的责任。因此, 所谓公司租用期间对当地农田和森林造成破坏、污染水资源并未给予补偿等情况不属实。

2、所谓当地居民根据柬埔寨《土地法》起诉湛江华大(文件写“恒福公司”), 但最终被驳回。

2013年年底 有一户农民名叫 BUN LAI 侵占岚峰公司(湛江华大在柬埔寨投资的公司) 土地 11.38 公顷, 并怂恿当地农民到处强占公司土地。由于此事关系到岚峰公司多处被农民非法占地的协调处理, 2014 年 8 月 22 日公司在柏威夏初级法院提出诉讼, 2015 年 4 月 5 日柏威夏初级法院判处被告方(农民) 归还公司 11.38 公顷土地, 并补偿 10, 000, 000 瑞尔。但被告方(农民) 不服, 2015 年 4 月 23 日继续上诉至金边中级法院, 中级法院也于 2016 年 5 月 3 日判处被告方归还公司土地并赔偿 10, 000, 000 瑞尔和支付法院堂费。

BUN LAI 坚持上诉至金边高级法院, 公司委托符之驹律师代表公司处理案件并于 2017 年 9 月 7 日出庭, 由于 BUN LAI

在高原判决时提出了新的证据“2002年乡签发的土地证”，因此高原将此案转回至中院进行调查，中院于2018年3月14日判公司胜诉：判被告BUN LAI，女性，36岁和丈夫SRAL NON将位于柏威夏声德奔棉芷县柏棉乡波通村面积116003平方米土地交还给岚峰（柬埔寨）国际有限公司代表郑峰进行管理和投资农业。判被告BUN LAI和SRAL NON赔偿原告损失和精神损失费共计10,000,000瑞尔，超出此金额的索求驳回，中级法院的诉讼费由被告承担。现BUN LAI已继续上诉到高原，高原传召公司在收到通知后三十日内提交回复函。公司已在规定期限内提交回复函，目前正等待高原排期传召。

3、所谓公司以破坏私人财产的名义起诉当地土地维权人士，目前至少14人受到指控。

不存在公司以破坏私人财产的名义起诉当地维权人士情况。当地农民非法强行抢走公司正常开发土地的推土机，柏威夏省政府依法处理当事人，并归还被抢的推土机。不掌握有不法分子受指控的情况。

4、所谓对当地土著居民粮食权、饮用水和卫生、环境权、文化权、土地所有权、言论自由、集会与结社自由未能得到保障表示严重关切。

湛江华大作为合法生产经营的中资企业，在政策、法规许可范围内进行特许土地开垦，守法经营，尊重当地文化习俗，认真履行企业责任，积极保护生态环境，尊重和保护人权，未侵占当地居民财产，园区生产和员工生活不但不占用

当地居民水资源（对外零用水）而且为旱季缺水的当地居民提供卫生饮用水，不支持不参与任何党派政治活动。

5、履行企业社会责任。

公司进行产业园项目建设的同时，积极参与公益事业，为当地经济社会发展做出更多的贡献。2016年，瑞峰公司（湛江华大在柬埔寨投资的公司）为柬埔寨红十字会捐款10万美元，为当地灾民捐助200吨大米，赞助18万美元给产业园区所在的三个县修建三所学校等。另外，为了改善当地农民的出行及饮水条件，公司帮助当地农民修路、打井。湛江华大为当地农业发展提供技术支持，扶持农民种植甘蔗增创收入，为当地农民进行农业生产技术和农业机械操作技能培训，糖厂招聘当地柬埔寨员工并进行制糖技能培训，从多方面帮助当地民众从物质、精神方面摆脱贫困，得到当地政府的高度认可和广大民众的支持与拥护。项目建设不仅是为当地农民带来先进技术、提供就业、增加收入，而且带动当地交通、电力等基础设施建设，繁荣市场，促进当地人民物质与精神生活水平的不断提高，带动柏威夏省经济社会发展。