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PERMANENT MISSION OF THAILAND
GENEVA

The Permanent Mission of Thailand 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 and, with reference to the joint communications from Human Rights Council special procedures Ref. AL THA 3/2018 dated 10 May 2018 and Ref. AL THA 1/2019 dated 30 January 2019, has the honour to transmit herewith the Royal Thai Government's response to the said joint communications.

The Permanent Mission of Thailand 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 the assurances of its high consideration.

Geneva, 23 May 2019



Office of the United Nations High Commissioner for Human Rights
GENEVA.

**Thailand's response to the joint communication from HRC Special Procedures
No. AL THA 3/2018 dated 10 May 2018 and AL THA 1/2019 dated 30 January 2019**

I. Updates on cases concerning Natural Fruit Co.Ltd. (Natural Fruit)

A. Criminal Defamation and Computer Crimes Act Case regarding Finwatch and Mr. Andy Hall's research between Natural Fruit and Mr. Hall filed at Bangkok South Criminal Court

➤ Judgment of the Bangkok South Criminal Court (Black Case No. 517/2556 and Red Case No. 2949/2559) delivered on 20 September 2016

- The court found Mr. Hall guilty of criminal defamation under Section 328 on Defamation by Publication¹ and under Section 14(1) of the Computer-related Crimes Act B.E. 2550 (2007)² due to the fact that (1) Natural Fruit, a plaintiff, could prove, beyond reasonable doubt, that the defamatory statement is false; (2) the defendant intentionally published and imported false data into computer system and; (3) the defendant's statement was not a fair comment as protected by good faith defense under Section 329(3).³

- Under the said reasoning, the court deemed the plaintiff's evidence as credible including the testimony of the provincial labor welfare and protection officer attesting that upon numerous labor inspections there was no child labour below the age of 18, illegal migrant workers, confiscation of documents, and labour law violations, particularly on payment of wages, overtime and holiday work, as claimed in the defendant's published research as well the testimony of the provincial social security officer and a migrant worker from the plaintiff's company. On the contrary, the court observed that the defendant's statement was unfair. This observation of the Court was confirmed by the defendant's evidence, particularly his own written records of interviews of only a small number of migrant workers (12 persons) without bringing the actual interviewees to testify as witnesses, as well as the defendant's disregard of the necessity to wait for the company's response and the adverse implications of the statement on the company's reputation.

➤ Judgment of the Appeal Court (Black Case No. 1675/2560 and Red Case No. 591/2561) delivered on 31 May 2018

- The Appeal Court ruled in favor of Mr. Hall by reversing the verdict of the trial court and dismissing all charges against the defendant. The Appeal Court found that the plaintiff could not establish the element of fault with clear and convincing proof that defendant's statement was false, due particularly to the fact that the testimonies of plaintiff's witnesses were weak and some of them were contradictory with documentary evidence suggesting that there was a possibility that the serious violations of labour rights as alleged in the research might have occurred. The Appeal Court also found that the defendant's attempts to seek plaintiff's response and verification, which were turned down or ignored by the plaintiff, were sufficient to show that the defendant was trying to collaborate with the plaintiff prior to the publication of the research. The Appeal Court also concluded that the research of Finwatch and Mr. Hall was legitimate and in the public interest to the benefits of

¹ **Section 328 of the Criminal Code - Defamation by Publication:** If the offence of defamation be committed by means of publication of a document, drawing, painting, cinematography film, picture or letters made visible by any means, gramophone record or another recording instruments, recording picture or letters, or by broadcasting or spreading picture, or by propagation by any other means, the offender shall be punished with imprisonment not exceeding two years and fined not exceeding two hundred thousand Baht.

² **Section 14 of the Computer-related Crimes Act B.E. 2550 (2007):** Whoever commits the following offences shall be liable to an imprisonment for a term not exceeding five years, or a fine not exceeding One Hundred Thousand Baht or both.

(1) Dishonestly or by deception, importing wholly or partially distorted or false computer data into a computer system in a manner likely to cause damage to general public...

³ **Section 329 of the Criminal Code - Good Faith Statement Defense:** A person, in good faith, expresses any opinion or a statement: (1) By way of self-justification or defense, or for the protection of a legitimate interest; (2) In the status of being an official in the exercise of his functions; (3) By way of fair comment on any person or thing subjected to public criticism; or (4) By way of fair report of the open proceeding of any Court or meeting shall not be guilty of defamation.

consumers in accordance with Section 329 (1) and (3). In addition, since Section 14(1) of the Amendment of the Computer-related Crimes Act (No.2) B.E. 2560 (2017)⁴ excluded the defamation offenses that exist in the Criminal Code, the Appeal Court ruled that the new law retrospectively applied and, thus, dismissed the charge on violation of Computer-related Crimes Act against the defendant.

➤ Petition for the Supreme Court

• In the meantime, the plaintiff has petitioned for the Supreme Court to review the case. The case is sub judice as it is now under the consideration of the Supreme Court.

B. Civil Defamation Case regarding Finwatch and Mr. Hall's research between Natural Fruit and Mr. Hall filed at Nakhon Pathom Provincial Court

• Since the matters of the case is closely linked to the criminal defamation case filed at the Bangkok South Criminal Court above, the Nakhon Pathom Provincial Court postponed the proceedings until the criminal case is final.

C. Civil Defamation Case regarding Mr. Hall's interview with Aljazeera between Natural Fruit and Mr. Hall filed at Pra Kanong Provincial Court

➤ Judgment of the Pra Kanong Provincial Court (Black Case No. 1150/2557 and Red Case No. 843/2559) delivered on 26 March 2018

• The court found that Mr. Hall is liable under Section 423 of the Civil and Commercial Code⁵ as the conclusion of the defendant's research which the defendant as an experienced researcher provided the Aljazeera's reporter was based exclusively on interviews of only a small number of workers suggesting exploitative working conditions, which could be untrue. Thus, the court, after considering the circumstances and gravity of the wrongful act including that an untrue statement was published online, ordered Mr. Hall to pay THB 10 million in damages to Natural Fruit including an interest of 7.5% from the date of filing the case until the amount is fully paid and THB 10,000 baht for Natural Fruit's lawyer and court fees.

• Mr. Hall has appealed the judgment to the Appeal Court. On 22 May 2019, the Appeal Court (Appeal Court's Black Case No. 2149/2561 and Red Case No. 1594/256) confirmed the decision and judgement of the Pra Kanong Court including the order for Mr. Hall to pay the THB 10 million in damages to Natural Fruit. The Appeal Court also rejected the defendant's arguments that the decision of the Pra Kanong Court violated the 2017 Constitution and the ICCPR, as the freedom of expression is not without limitation but to be used with respect of others' reputation or national security. The Pra Kanong Court's judgement should not be understood as restraining the exposure of human rights violations, but such exposure must be based on credible evidence, which otherwise would be a violation of rights itself. Since the research based exclusively on the interviews of some workers without sufficiently cross-checking with other credible sources, the Appeal Court found that the defendant's statement or interview is untruthful, where the argument of a fair comment defense does not apply.

⁴ **Section 14 of the Computer-related Crimes Act (No.2) B.E. 2560 (2017):** Whoever commits the following offences shall be liable to an imprisonment for a term not exceeding five years, or a fine not exceeding one hundred thousand baht or both.

(1) Dishonestly or by deception, importing wholly or partially distorted or false computer data into a computer system in a manner likely to cause damage to general public, **which is not a defamation under the Criminal Code**; ...

⁵ **Section 423 of the Civil and Commercial Code:** A person who, contrary to the truth, asserts or circulates as a fact that which injurious to the reputation or the credit of another or his earnings or prosperity in any other manner, shall compensate the other for any damage arising therefrom, even if he does not know of its untruth, provided he ought to know it. A person who makes a communication the untruth of which is unknown to him, does not thereby render himself liable to make compensation, if he or the receiver of the communication has a rightful interest in it.

II. Updates on cases concerning Thammakaset Co.Ltd (Thammakaset)

A. Labour Violation Case concerning the decision of the labour inspection between 14 migrant workers and Thammakaset filed at the Labour Court of Region 1

➤ The Labour Court of Region 1 confirmed the decision of the labour inspector ordering Thammakaset to pay THB 1.7 million to 14 migrant workers (the workers originally sued for THB 44 million) for violating some labour provisions in the areas of minimum wage, overtime payment, payment for working on holidays and overtime payment for overtime work on holidays, but not guilty of any grave violations such as detention, confinement, trafficking or forced labour as alleged.

➤ On 15 January 2019, the Supreme Court rejected Thammakaset's petition for the appeal to the Supreme Court. Thus, the Labour Court of Region 1's said decision was final.

➤ Since the THB 1.7 million was deposited with the Labour Court of Region 1 as a condition for the defendant to submit an appeal petition, the money has already been paid to the workers.

B. Criminal Defamation and Computer Crimes Act Case regarding Mr.Hall's Facebook post accusing the company of engaging in forced labour between Thammakaset and Mr. Andy Hall filed at Bangkok South Criminal Court

➤ The case is currently sub judice. The trial date has been postponed due to the fact that the defendant is not in Thailand. The next court date is set on 24 September 2019 for case status updates.

C. Making False statement to Official and Criminal Defamation regarding 14 migrant workers' complaints to the National Human Rights Commission between Thammakaset and 14 migrant workers filed at Don Muang District Court (Case No. [REDACTED])

➤ On [REDACTED], the Don Muang District Court dismissed the case because the court found that the workers' claims of abuses were made in good faith.

➤ In the meantime, the plaintiff has submitted petition to appeal to the Appeal Court. The Appeal Court will deliver its decision on the admission of appeal on [REDACTED].

D. Larceny Case regarding the stealing of timecards between Thammakaset and 2 migrant workers, Mrs. [REDACTED] and Mr. [REDACTED], and a project coordinator from Migrant Workers Rights Network (MWRN), Ms. [REDACTED], filed at Lopburi Provincial Court (Case No. [REDACTED])

➤ On [REDACTED], Lopburi Provincial Court dismissed the case and ruled that the elements of larceny were not met as the defendants did not intend to take possession of the timecards, but only to use them as evidence.

➤ In the meantime, the plaintiff appealed the court's dismissal to the Appeal Court. The Appeal Court will deliver its decision on [REDACTED].

E. Criminal Defamation concerning alleged Fortify Rights' defamation video clip between Thammakaset and Mr. [REDACTED], one of the 14 migrant workers, filed at Criminal Court (Case No. [REDACTED])

➤ On [REDACTED], the Criminal Court, at the preliminary hearing, found that the case was a prima facie case and would begin a trial on [REDACTED] together with the case against Ms. [REDACTED] below.

F. Defamation concerning alleged Fortify Rights' defamation video clip between Thammakaset and Ms. [REDACTED], filed at Criminal Court (Case No. [REDACTED])

➤ At the preliminary hearing, the *amicus curiae* brief dated 25 January 2019 was submitted by the Lawyer's Right Watch Canada and the International Commission of Jurists (ICJ) regarding the legality of Thailand's criminal defamation in relation to Thailand's obligation under international human rights laws, particularly the International Covenant on Civil and Political Rights (ICCPR).

➤ Considering the cause of action of the case and in response to the *amicus curiae* brief, the court found that Thammakaset filed a legal action in good faith with no intention to intimidate the defendant or to burden the defendant in the legal proceeding and defense due to the following:

(1) The plaintiff did not take legal action against the defendant when the investigation on the plaintiff's business conduct was initiated. Rather, the plaintiff filed a criminal case against the defendant after the investigation on labour rights violations by the National Human Rights Commission and the labour inspector as well as the judgment of the Labour Court of Region 1 were concluded that there was no grave labor violation as published in the news. This demonstrated that the defendant's statement as publicized might not contain the whole truth. As such, some parts of statements that might be false should be investigated further.

(2) There was no indication that the plaintiff had an attempt to cause any burden on the defendant such as by intentionally filing the criminal case in different courts and in remote provinces or trying to delay the court proceeding or asking for a large amount of damages.

(3) The court also found that that the offense on defamation under the Thai Criminal Code is consistent with Thailand's obligation under the International Human Rights Conventions, especially the International Covenant on Civil and Political Rights (ICCPR) due to the fact that (1) it serves the purpose to protect reputation and honor while striving for protecting the right to freedom of expression, (2) it takes Thailand's local context into account to protect an "honest person" and (3) the burden of proof on the defamation statement is consistent with the principle of presumption of defendant's innocence.

➤ The court will begin the trial on ~~XXXXXX~~ together with the case against Ms. ~~XXXX~~ above.

III. Consistency of Thailand's criminal defamation laws and international human rights, particularly under the ICCPR

• Thailand's defamation laws, both in principle and in practice, are consistent with the ICCPR because:

1. Under Thailand's jurisprudence, general defamation or libel (published false statement) aim to protect people's legitimate interest and reputation. They are not to be misused, abused, exploited or subjected to hatred. At the same time, it is important to maintain a balance with the provisions to safeguard those accused of defamation who act in good faith including defense through proven truth or fair comment on any person or thing subjected to public criticism. This underlying principle is evident in the courts' reasoning in both civil and criminal defamation lawsuits.

2. 'Truth' is an absolute defense in both civil and criminal defamation, with some exceptional exception for criminal defamation if such proof is not beneficial to the public. The defendant has also a considerable number of defenses, including 'good faith' and 'fair comment.' This allows an 'overarching space' in terms of freedom of expression as the law allows some factual errors in statement or comments as long as they have expressed in good faith or to protect a person's legitimate interest.

3. Consistent with the principle of presumption of defendant's innocence, the plaintiff bears the burden of proof on both falsity and fact, including to disprove defendant's defense for not guilty, which places the plaintiff in an unfavoured position in criminal defamation case as the burden of proof is higher than those required in a civil defamation case.

4. In all criminal proceedings, the law requires all criminal cases initiated by a private plaintiff to be proved as a 'prima facie' case at a preliminary hearing before the case's admission to trial. This condition will help screen out any frivolous or bad faith lawsuits. In addition, as an effort of the Court of Justice to establish an overarching tool to **protect the right to freedom of expression against Strategic Litigation against Public Participation (SLAPP)**, a new **Section 161/1 of the Criminal Procedure Code** has taken effect on 20 March 2019 to strengthen the court's power to dismiss any criminal case at the filing stage of the lawsuit if it appears to the court that the cause of action stems from ill intention (1) to harass (2) to take advantage over a person (3) to gain any unlawful benefits or (4) to achieve any corrupt underlying objectives. In parallel, the Court of Justice has also proposed a new **Section 165/2 of the Criminal Procedure Code**, which came to effect on 20 February 2019, to allow the accused to present legal and evidentiary arguments during a preliminary

examination of the Court where they previously could not do so. Section 165/2 also enables the Court to play a more active role by having the power to summon witnesses and evidence proposed by the accused as the Court's witnesses.

5. The Criminal Code has set a minimum punishment for criminal defamation in light penalty, which is not imprisonment. The convicted person may be imposed of probation period for giving sentence, a fine, or a suspended prison sentence. Thus, the sole legal stipulation of criminal penalty for defamation offense is not an indication or evidence in itself that this provision disproportionately restricts rights and liberties beyond necessity.

- In a fast moving digital era where statement and news are spread swiftly, a danger of 'chilling effects' or 'self-censorship' as concerned may be caused or exacerbated by the defamation lawsuits. The judgment of Thai courts must also be carefully considered in such context of a danger to immunize human right experts, CSOs, and professional media from liability for their use of distorted, false, ambiguous or half-truth statement, rhetorical hyperbole and vigorous epithet and their failure to comply with professional ethics to guard against the possibility that such statements could unfairly and seriously damage reputation of others, including a businessman or the whole business sector leading to irreparable harms and even a total collapse of business.

- For a highly complex defamation case, particularly that concerning the right to freedom of expression under Article 19 of the ICCPR and the right to honour and reputation under Article 17 of the ICPPR as well as the right to the truth of general public are contentiously competing, a classic fact-finding and effective oversight by the court of law is not only legitimate, but also necessary and crucial. While there is an unproven claim that criminal prosecution for defamation could no longer be justified in modern times, the majority of the world legal systems have not ruled out the use of criminal laws in defamation cases. They instead have found for themselves an 'appropriate space' for such use. Since the right to honour and reputation should not be jeopardized, the Thai courts have unequivocally taken a balanced approach by not allowing any false statement to stand without judicial scrutiny.

- There is a growing concern about publicized comments on pending cases, particularly when the case is sub judice. This should be carefully considered since they could be viewed as attempts to influence, pressure or even the interference with due process.

IV. Measures to promote and protect human rights defenders' rights, including labor rights defenders

- **The 2017 Constitution, the National Reform Plans, and the 20-year National Strategy (2018-2037)** lay down principles and a guiding framework for government policies and actions to protect and promote human rights, including the rights to freedom of expression and opinion, and to ensure an impartial and transparent exercise of officials' powers, accountability for any wrongful or dishonest exercise of officials' powers and availability of appropriate redress.

- Applicable laws to provide a safe and enabling environment for human rights defenders to conduct their work freely include:

- The enactment of the new **Section 161/1 and Section 165/2 of the Criminal Procedure Code** as mentioned above.

- **Section 21 of the Public Prosecutor Organ and Public Prosecutors Act B.E. 2553 (2010)** stipulates that the public prosecutor shall be independent in his prosecution and honestly and impartially act in accordance with the Constitution and the laws. It also gives the Public Prosecutor the power to refer the opinion to the Attorney General to issue an order of non-prosecution if found that a criminal prosecution has no use to the general public or affects the nation's safety or security or significantly impairs the national interest. In addition, the Public Prosecutor Rules on the Prosecution of the Public Prosecutor B.E. 2547 (2004) directs a public prosecutor to perform his/her duties without delay and in a just and equal manner and to take human dignity and the rights and freedom of a person into their consideration and decision.

- **The Justice Fund Act B.E. 2558 (2015)** has been established to provide legal aid to individuals, including the accused and those who suffer from trials or those whose human rights are infringed. The fund covers assistance in terms of bail, retention of lawyers, court's fees and other expenses

relating to the trial. Currently, the approval process of justice fund has been reduced from 54 days to only max. 24 days in order to ensure that remedies are expeditiously delivered.

- **The Witness Protection Act B.E. 2546 (2003)** provides protection of witnesses in criminal cases for their safety as well as individuals who are closely related to the witnesses and at risk of being threatened or harassed as a result of them becoming or being a witness. The Government is currently amending the Witness Protection Act to enhance a legal framework and measures on witness safeguard and protection, including to cover those who are intimidated or threatened before criminal proceedings are initiated.

- In 2017 Thailand enacted **the Organic Act on the National Human Rights Commission B.E. 2560 (2017)** to strengthen the National Human Rights Commission (NHRC) in monitoring human rights violations and promoting human rights in the country in accordance with the Principles relating to the Status of National Institutions (the Paris Principles). The Act gives NHRC the power to investigate and request or order government officials or any person to present information, clarify, and provide documents and evidence (Section 33-38). The NHRC can also submit recommendations related to human rights issues or problems to the Cabinet for further action. Those who refuse to cooperate may face criminal sanctions and penalties for up to 6-month imprisonment, a fine up to 10,000 baht (about 310 USD), or both (Section 59).

- Related activities and initiatives include:

- In 2016, the Rights and Liberties Protection Department (RLPD) of the Ministry of Justice - in collaboration with CSOs and the OHCHR Regional Office in Bangkok - published the "Handbook to Protect Human Rights Defenders". The handbook has been distributed to the general public, particularly to human rights defenders working in the field. The Government has also cooperated with all stakeholders and partners to develop details of the handbook to ensure its practicality.

- RLPD conducted a workshop on human rights defender protection framework, with a view to categorizing the security status of human rights defenders and proposing a suitable level of protection to safeguard each group against harm.

- RLPD has conducted field trips to monitor the situation of human rights defenders in various provinces with relevant organizations, including OHCHR.

- Since 2015, RLPD has been conducting trainings on human rights and law enforcement for officials-in-charge working in the Southern Border Provinces.

- Human rights defenders are included in the draft 4th National Human Rights Plan (2019 – 2023) to ensure that they will be safeguarded against intimidation, reprisals or any unlawful acts. The draft National Action Plan on Business and Human Rights has also designated human rights defenders as one (1) of the four (4) priority areas; namely, labour, land, environment and natural resources, human rights defenders and cross-border investment and multi-national enterprises.

- Thailand has constantly encouraged and involved CSOs to work with or to participate in the decision-making process of government agencies. They are also invited to join various functions and cooperation projects, including those in collaboration with international organizations.

V. Suppression and prevention of human trafficking and forced labour

- Thailand has a holistic approach that aims to streamline an anti-human trafficking process, while promoting effective coordination and cooperation between relevant agencies, the private sector, CSOs and all stakeholders. Thailand's efforts are driven by the 5P approach: (1) Policy and legal framework, (2) Prosecution, (3) Protection, (4) Prevention, and (5) Partnership, in order to address the problems of human trafficking in a systematic and sustainable manner.

- Thailand is committed to continuously implementing laws and measures to counter trafficking in persons, including the announcement of the anti-trafficking in persons as national agenda in 2015 and the integration of all relevance agencies to combat trafficking in persons. The United States' Trafficking in Persons (TIP) Report 2018 has graduated Thailand from Tier 2 Watch List to Tier 2 in 2018. In addition, a number of pieces of legislation and amended ministerial orders have been passed to sharpen penalties for convicted offenders and to provide better protection for victims. The Royal Decree of 7 April 2019 clarifies the definition of "forced labour" under the Act on

the Prevention and Suppression of Trafficking in Persons to be more in line with the Protocol of 2014 to the Forced Labour Convention, 1930 (P29), which Thailand has recently ratified on 4 June 2018.

- In conjunction with Thailand's efforts over the years to prevent, deter and eliminate Illegal, Unreported, and Unregulated (IUU) fishing, Thailand has enacted new laws and measures to enhance labour inspections, to increase fines for non-compliance with labour laws and fisheries laws and to stamp out forced labour in the fishing and seafood processing industry. These efforts together with a comprehensive reform of the fishing industries are recognized internationally and on 8 January 2019, the EU withdrew its warning to ban Thai fishing imports. In addition, the Thai Tuna Industry Association (TTIA) has adopted a code of conduct on ethical labour practice as a requirement for TTIA membership and the commitment to monitor suppliers' compliance with international standards. Furthermore, Thailand's ratification on the ILO's Work in Fishing Convention No. 188, 2007 (C188) on 30 January 2019 demonstrates Thailand's commitment to improving the working conditions and living standards as well as bringing the level of protection of all workers in the fisheries sector.

- The success stories are not only in the fisheries sector, but the livestock sector has also taken the lead in voluntarily adopt the GLP standards in cooperation with Department of Labour Protection and Welfare and Department of Livestock. The GLP Guidelines for Poultry Farm and Hatchery in Thailand were issued by Thai Broiler Processing Exporters Association.

VI. Promotion and protection of Migrant workers' rights and their access to justice

- Over the past few years, Thailand has regularized over two million undocumented migrant workers, enabling them to be legally protected and gain access to basic social services such as healthcare and education. Labor MoUs between Thailand and CLMV countries (Myanmar, Lao PDR, Cambodia and Vietnam) have expanded avenues for legal labour migration. As of February 2019, 922,169 migrant workers are working in Thailand under the MoU arrangements.

- All migrant workers, including illegal migrant workers, have access to legal aid throughout remedy mechanisms under Labour Protection Act B.E. 2541 (1998). Under the Act, an employee is entitled to rights or a number of benefits as specified therein, for example, wages, severance pay, holiday pay, overtime pay, etc. In an event that an employer does not comply with the provisions contained in the Act, such as failure to pay for wages, severance pay, holiday pay, etc., the employer will be subjected to the penalty specified in Chapter 16 of the Act.

- Moreover, the Act also enables the appointment of 'labour inspectors' to protect and provide remedy to employees whose rights have been infringed by their employer. One of the powers and duties of a labour inspector under Section 124 is to accept complaints, investigate the facts and make an order for the employer to make payments of any sum of money which the employer is liable to pay under the Act. The role of the labour inspector is thus crucial to the enforcement of the law and to assist an employee who may not understand the law and have limited financial resources to pursue a labour claim. The MOL also offers a wide range of services and legal aid relating to labour rights to employees, one of which is the assistance by the legal officers working in the Department Labour Protection and Welfare. More specifically, the legal officers are able to act as legal representatives of employees throughout the entire legal proceedings, in accordance with the guidelines and regulations of the MOL.

- From the Fiscal year 2013 - 2018, there are labour inspections of the employment of 337,317 migrant workers from Myanmar, Lao PDR and Cambodia and 9,037 deliberations on complaints regarding work remuneration have been conducted as follows: in 2013 a total of 1,193 migrant workers, amounting to 5.77 million baht (USD 180,000); in 2014 a total of 1,231 migrant workers, amounting to 12.42 million baht (USD 388,000); in 2015 a total of 1,698 migrant workers, amounting to 7.83 million baht (USD 245,000); in 2016 a total of 1,897 migrant workers, amounting to 25.03 million baht (USD 782,000); in 2017 a total of 1,635 migrant workers, amounting to 20.82 million baht (USD 651,000); in 2018 a total of 1,383 migrant workers, amounting to 46.50 million baht (USD 1,488,640) October 2017- 30 June 2018).

- Ministry of Labour offers a wide range of services and legal aid relating to labour rights to all employees regardless of their legal status, as guaranteed under the Labour Protection Act B.E.

2541 (1998). Highlights of such the services are: (1) Access to legal aid and remedy of migrant workers, including those in irregular situations, throughout remedy mechanisms according to the laws; (2) NGOs can submit project proposals or work plans to apply for financial assistance from the Management of Foreign Workers' Employment Fund under the Emergency Decree on Foreigners' Working Management, B.E. 2560 (2017) as well as the provisions issued on 14 September 2017 by the Management of Foreign Workers' Employment Fund Committee on the criteria, means, and conditions of the use of the Fund. The MOL has widely publicized information on the availability of the Fund, as well as, conditions and procedures of funding application, among concerned government agencies, the private sector, and the NGOs in the NGOs' Line Group (an instant messaging application widely used in Thailand) as well as on the Department of Employment's website (<https://www.doe.go.th/fund>); (3) Hotline services with interpreters are provided 24 hours for migrant workers all over the country. About 100 interpreters were appointed to "1546" and "1694" hotlines, Post-Arrival and Reintegration Centers, Migrant Workers Assistance Centers, Provincial Offices of Labour Protection and Welfare and Provincial Employment Offices. 60 language coordinators were appointed to Port-in and Port-out (PIPO) Centers; (4) Stella Maris Seafarer's Center, a tripartite cooperation between MOL, ILO and Stella Maris, has been set up to improve standards of living of fishery workers and ensure accessibility to assistance and grievance mechanisms for labours and victims in labour cases; (5) Post-Arrival and Reintegration Centers were established in Tak, Nong Khai, Sa Kaeo, Mukdahan and Ranong provinces to provide information on migrant workers' rights, to inspect and screen migrant workers to reduce the risks of malpractice by recruitment agencies and to provide them with employment preparation. These centers also serve as shelters for migrant workers departing to their countries of origin. There are total of 867,547 migrant workers have attended training courses at such centers to date; (6) Migrant Workers Assistance Centers have been established to provide help and support for migrant workers, including consultation on compensation. The centers also collaborate with relevant agencies and NGOs in 10 provinces, Samut sakhon, Surat Thani, Songkhla, Samutprakan, Chonburi, Ranong, Chiang Mai, Nakhon Ratchasima, Khon Kaen, and Tak; and (7) DOE Help ME (<https://www.doe.go.th/helpme>) is available in 6 languages (Thai, English, Burmese, Laotian, Cambodian and Vietnamese) to receive complaints from migrant workers and provide consultation for workers and companies 24/7.

- In addition, measures for the protection and promotion of migrant workers' rights in Thailand include; 1) improvement of accommodation's conditions in the construction sector and factories; 2) HIV/AIDS and Tuberculosis treatment and prevention in workplaces; 3) activities to promote labour welfare for specific groups (migrant workers, elderly workers, workers with disabilities), including healthcare mobile units and preparation programs for quality retirement; 4) arrangements of breast-feeding corners, facilities, and time allowances on work premise for women with newborn babies; 5) technical support for setting up small children centers and nurseries on work premise and; 6) access to a social security system. As of February 2019, 1,135,855 migrant workers were registered as an insured person under the Thai social security system. Migrant workers who are insured under the Social Security Fund and Workmen's Compensation Fund receive work-related and non work-related benefit/compensations including sickness benefit and health services. Those who are not insured under the Social Security Fund are protected from health insurance system of the MoPH. For those who are exempted from Workmen's Compensation Fund, employers are liable to pay compensations according to Workmen's Compensation Act.

- On 5 February 2019, the Cabinet has approved in principle the draft amendment of Labor Relations Act, which will allow migrant workers to be a board member of the labour union. The draft act is now under the consideration of the Council of State.

VII. Promotion of human rights due diligence and Thailand's draft National Action Plan

- Pursuant to the Prime Minister's instruction for Thailand's 55 State-owned enterprises (SOEs)⁶ to show leadership in aligning their practices with the UNGPs, the "**Improved Principles**

⁶ The 55 SOEs include some of the largest enterprises, investors and banks, such as the Electricity Generating Authority of Thailand, Industrial Estate Authority of Thailand, PTT Public Company Limited and Krung Thai Bank Public Company Limited.

and Guidelines for State-owned Enterprises' Good Governance" have been approved by the Cabinet on 26 March 2019. They have set clear expectations toward the SOEs, including through enhanced participation of stakeholders, sustainability and innovation and disclosure and transparency in line with corporate governance practices to the OECD and Corporate Governance of SOEs of the World Bank. In addition, the **draft Act on the Development of Supervision and Management of SOEs** was approved by the National Legislative Assembly on 21 February 2019. The draft Act, once in effect, would enhance the SOE's performance in terms of effectiveness, efficiency, and good governance.

- The Government Pension Fund (GPF), which is one of the country's largest institutional investors, has adopted corporate governance and environmental, social and governance (ESG) practices and promoted them in the investment community.

- Thailand has a strong network of collaboration among businesses, trade associations and financial institutions. They have made relentless efforts to raise awareness and harmonize their business policies and practices with international standards including UNGPs, OECD Guidelines for Multinational Enterprises, ISO 26000, the International Finance Corporation (IFC) Performance Standards, international labour standards set by the ILO, among others.

- The Global Compact Network Thailand (GCNT), comprising of over 40 businesses from various sectors, has chosen business and human rights as one of its key themes to streamline the UNGPs and the OECD's guidelines and standards in their operations and supply chains. In addition, the GCNT in cooperation with the OECD is developing training materials on responsible business conduct as part of the Thailand-OECD Country Programme.

- The Thai Chamber of Commerce and the Federation of Thai Industries have encouraged their members to follow the Code of Ethics and Conduct. The Stock Exchange of Thailand (SET) was awarded the UN Sustainable Stock Exchanges (SSE) Market Transparency Award and ranked seventh among 35 global stock exchanges in 2018, moving up from 40th in 2013. It is also the only Asian stock exchange to reach the top 10. Moreover, the SET has supported its listed companies in integrating ESG aspects into business strategies and operations through a variety of capacity-building tools, including sustainability training, consultancy and assessments. In addition, the SET has organized workshops in cooperation with the UNICEF on child rights due diligence since 2016 and, following the Working Group's recommendations, trainings and workshops on human rights due diligence since 2019.

- In addition, the Thai listed companies have taken the lead in the region on sustainability and responsible business conduct. The SET's Thailand Sustainability Investment (THSI) list, SETTHSI Index, SET Sustainability Awards and its continued support for listed firms to become constituents of Dow Jones Sustainability Indices (DJSI) are key to strengthening the Thai capital market and achieving Thailand's sustainable growth at home and abroad. Currently, 19 Thai companies are members of DJSI in collaboration with RobecoSAM, the highest number in ASEAN.

- Thailand is in the final stage of drafting the **National Action Plan on Business and Human Rights**. It focuses on 4 priority areas: (1) labour, (2) land, environment and natural resources, (3) human rights defenders, and (4) cross-border investment and multi-national enterprises. In addition, the implementation of the NAP will be supported by, among others, the abovementioned Thailand and OECD co-operation programme in promoting and enabling Responsible Business Conduct (RBC), with the two-year RBC cooperation work plan being developed.

- Royal Thai Embassies and Consulates-General have played significant roles in engaging with Thai investors and businesses operating overseas and promoting a responsible business conduct and their respect for human rights. The Ministry of Foreign Affairs has included relevant materials in trainings of its diplomats and trade officials and is in a process of developing a 'Business and Human Rights' manual for them.
