

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right to food; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences

REFERENCE:
AL USA 10/2018

30 May 2018

Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the right to food; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and Special Rapporteur on contemporary forms of slavery, including its causes and consequences, pursuant to Human Rights Council resolutions 35/7, 32/8, 34/18, 36/15 and 33/1.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged unsafe working conditions at Catcher Technology's factory in Suqian, northern Jiangsu Province, People's Republic of China, and the implications for the human rights of the affected workers.**

According to the information received:

Catcher Technology Co Ltd. (**Catcher**), headquartered in Taiwan, is a world leader in the light metal industry, specializing in notebook computers, digital cameras, and disc drives. Catcher manufactures products for many well-known consumer electronics companies including Apple Inc. (**Apple**), an American technology company headquartered in Cupertino, California, United States of America. Apple's website states that Apple holds itself and its "suppliers to the highest standard when it comes to human rights, environmental protections, and responsible business practices in our supply chain". Apple's supplier list published in February 2018 describes Catcher's factory at 'No. 21 Gucheng Road, Suzhou-Suqian Industrial Park, Suqian, Jiangsu, China' as one of its top 200 suppliers 'representing at least 98% of procurement expenditures for materials, manufacturing, and assembly' of Apple products worldwide in 2017.

In 2013, an undercover investigation revealed serious labour rights and safety violations in Catcher's Suqian factory (the factory). Abuses identified included discriminatory hiring practices, excessive overtime work, long work shifts, insufficient social insurance, lack of occupational safety training, workplace

pollution, and lack of protective equipment – particularly for workers handling potentially toxic chemicals.

Apple was informed of the situation. After carrying out a follow-up inspection, Apple stated that Catcher would carry out reforms, especially those related to occupational safety. However, a subsequent undercover investigation in 2014 revealed that many of the violations identified in 2013 including those relating to occupational safety standards were still prevalent in Catcher's factory. The same investigation also found additional violations that had not been previously found in 2013. As such, the investigation report in 2014 suggested that conditions were getting even worse for Catcher's factory workers.

Between October 2017 and January 2018 a further undercover investigation in the factory revealed the persistence of serious concerns regarding occupational health and safety, workplace pollution and unfavourable work schedules among others. These include:

1. The exposure of workers to hazardous substances and polluted indoor air:

On 25 May 2017, an incident of toxic gas poisoning at the A6 workshop of the factory resulted in the hospitalization of 90 workers, with five workers admitted to intensive care. An investigation conducted by the Administrative Committee of the Suzhou-Suqian Industrial Park confirmed that poisonous gas permeated throughout the workshop, triggering adverse reactions among operator personnel. In addition, there is severe indoor air pollution at the factory, with some workers suffering from respiratory illnesses as a result.

2. Discharging hazardous contamination in the local community:

Wastewater from the factory contained a significant amount of white foam. The waste water when tested, following procedures used based on consultation with relevant experts and testing companies on water quality testing procedures, showed high levels of Chemical Oxygen Demand (COD_{Cr}), Biochemical Oxygen Demand (BOD) and suspended solids (SS) that exceeded standards stipulated by the Jiangsu Provincial Government. While the local government's approved standard for COD_{Cr} levels are 80 - 120mg/L, the waste water had COD_{Cr} levels of 278mg/L, more than double the maximum limit of exposure. Similarly, BOD levels were at 45.8mg/L, also exceeding the government standard of 20 - 30mg/L. The waste water was directly dispensed into the public sewage system and also overflowed onto the public sidewalks.

3. Workers are at risk of other health and safety hazards:

The surface of the factory floor is often covered in oil, resulting in instances of workers slipping and falling. In addition, workers at the Computer Numerical

Control (CNC) machining workshop of the factory are exposed to excessive loud noise, placing them at risk of irreversible hearing loss. In addition, the main door of the CNC machining workshop only opens 30 cm wide, posing a safety hazard, particularly in case of emergencies.

4. Subjection of workers to excessive working hours and inadequate pay:

Catcher's work regulation pamphlet specifies an "eight hours a day, five days a week" work schedule, but working hours at the factory are generally 10 hours a day, six days a week. The factory practises a "seven shifts, six rotations" work schedule, for up to two weeks of the month, under which workers take turns in taking a day off from Monday to Friday but are then made to make up for that day of work on Saturdays. According to Catcher's factory regulations and Apple's Supplier Responsibility Standards, workers should be paid double time for the work they do on Saturdays and Sundays. However, weekends are counted as regular workdays, and workers affected by this schedule lose around 500 RMB (\$76.57 USD) every month in overtime pay.

5. Workers' right to information is not protected:

The workers have insufficient information regarding the toxic substances they handle or could be exposed to and their potential hazards. For instance, workers are inadequately informed of the hazards of exposure to cutting fluid and of any relevant protection methods. While factory regulations require providing a 24-hour training to workers prior to starting work, the training offered is neither adequate nor effective. Training sessions are frequently less than an hour long and workers are handed questionnaires, the answers to which are read out by the staff. Such a practice restricts workers from fully understanding the nature and potential hazards of the toxic substance they handle or could be exposed to. Furthermore, information is not available regarding the exposure levels of workers to various toxic chemicals that are commonly used in electronics production and relevant information about the use of toxic chemicals at the factory.

6. Workers are not provided with adequate Personal Protective Equipment (PPE):

Excluding some workers who wear glasses, all other workers in the workshop operate machinery with no eye protection. The CNC machining workshop provides workers with a pair each of rubber and cotton gloves every day. However, the cotton gloves appear to have been previously used as they would be given to the workers while they were already damp and water-stained. The cutting fluid which CNC machine operators come into contact with is absorbed quickly by the cotton gloves along with other chemicals, oils, and fluids, thus eroding the rubber gloves worn inside. This results in the workers' hands making direct contact with the cotton gloves soaked in cutting fluid. The inadequate equipment has resulted in irritation and peeling off of skin on the hands of many

workers. In addition, for workers who use pressure guns in the production process, the cutting oil splashes onto their heads. Single-use paper face masks provided by the factory only protect the workers' mouths and faces and the cutting fluid often splashes into the workers' eyes resulting in complications like eye pain, blurred vision and bloodshot eyes for prolonged periods.

7. **Workers' control and self-management is restricted:**

Workers are not allowed to print copies of their attendance records or their labour contracts. Catcher hires many workers in the factory through labour dispatch companies. While workers hired in such manner work for and are supervised by Catcher, they remain employed by the dispatch companies. Labour dispatch companies do not usually agree to a worker's request to resign, and these workers are often rebuked by Catcher employees when they apply for resignation. For all workers, wages are not settled on the day of resignation and are only distributed on the fifth day of the following month, in violation of the Labor Department's "Temporary provision for wage payment" which provides that "at the time of both parties legally releasing or terminating the labor contract, the employer must, *at the time of release or termination of the labor contract*, pay the laborer's wages in full" (Emphasis added). Furthermore, there is insufficient representation of workers in the factory on labour unions, and workers are often unaware of who their representatives are and whether meetings are held.

8. **Workers face inadequate access to health and sanitation facilities:**

Workers at the factory are responsible for paying for their physical examinations. Workers do not undergo physical examinations after they resign making it difficult to determine if they have contracted an occupational disease as a result of working at the factory. Workers applying through labour dispatch companies are not given social insurance during their probationary work period. Workers do not have access to healthcare services and have to pay for any occupational treatment out of pocket for the first three months of work, as Catcher only distributes social insurance cards three months after the contract commences. While there is legal provision for access to treatment for occupational illnesses, many workers remain vulnerable due to inadequate access to contractual documents from the employer, insufficient or lack of regular health checks for workers, and unsatisfactory or lack of workplace evaluations which would be evidence for the worker to prove the link between exposure and the illness.

The bathrooms in the factory's housing area do not have adequate hot water facilities even during the winter. Workers have on occasion fallen ill due to inadequate heating and insufficient shelter from the wind in the shower areas. There are also no emergency hallways or exits in the workers' dormitories.

9. **In addition, workers have little to no time for rest or leisure and have access to very few entertainment or recreational facilities.**

10. **The food provided to workers is unsanitary:**

For instance, there have been many occasions where workers have suffered from diarrhoea after eating at the factory cafeteria. The factory does not permit workers to leave the factory area during lunchtime and workers therefore cannot purchase their own food.

While we do not wish to prejudge the accuracy of these allegations, concern is expressed over the health and safety impacts stemming from the unsafe working conditions at Catcher's Suqian factory. Particular concern is expressed over the impact of the working conditions on human rights, in particular the right to life, health and physical integrity. Serious concern is also expressed about the alleged violation of labour rights, in particular the right to just and favourable remuneration, right to safe and healthy working conditions and the right to just and favourable conditions of work. Concern is also expressed regarding the environmental contamination caused by the reckless discharge of hazardous waste water laden with toxic chemicals, and the insufficient information amongst workers about the toxic chemicals they handle in order to protect and respect the rights to life and health.

We are also alarmed by the heightened risks to contemporary forms of slavery as described in this case. We note with concern that, if accurate, the allegations presented above might comprise situations of forced labour – particularly in view of the reported excessive work hours, the possible deception of workers and the limitations to their freedom of decision (*vis-à-vis* the lack of information concerning workers' exposure to toxic substances and their potential hazards), the alleged abusive working conditions (pursuant to the reports of serious threats to workers' occupational health and safety as well as workplace pollution), as well as the potential occurrence of coercion (in view of the alleged criticism and denial to terminate labour contracts of workers who wish to resign). The risks of workers being caught in situations of contemporary forms of slavery are further aggravated by the alleged insufficient representation of workers in the factory on labour unions, inadequate access to contractual documents from the employer, and unsatisfactory or lack of workplace evaluations which would be evidence for the worker to prove the link between exposure and the illness.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide information on existing measures, including policies, legislation, and regulations, your Excellency's Government has put in place to ensure that the US-based business enterprises, including Apple Inc., discharge their responsibility to respect human rights throughout their global operations.
3. Please indicate any initiatives taken by your Excellency's Government to ensure that those affected by business-related human rights abuses caused, contributed to or directly linked with US-based business enterprises have access to effective remedy, in accordance with the UN Guiding Principles on Business and Human Rights.
4. Please provide information on existing measures, including legal, institutional and policy frameworks, for ensuring occupational health and safety and the protection of workers from toxic chemicals and other hazardous substances in the supply chains of US-based business enterprises. Please indicate the specific initiatives taken to ensure the protection of industrial workers exposed to hazardous substances in the supply chains of US-based business enterprises. Please also indicate the specific regulations relating to the handling and exposure of toxic chemicals and other hazardous substances in the supply chains of US-based business enterprises.
5. Please provide information on the existing initiatives to ensure workers in the supply chains of US-based business enterprises are fully informed on the chemicals and other hazardous substances they handle or could potentially be exposed to and on the required precautions to avoid and respond to exposure. Please explain what special protections are afforded to pregnant women and women of reproductive age in the supply chains of US-based business enterprises.
6. Please indicate the measures the Government has taken to avoid that US-based business enterprises benefit from situations of contemporary forms of slavery in their supply chains.

We would appreciate receiving a response **within 60 days**. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

We would like to inform your Excellency's Government that a letter addressing similar allegations and concerns as mentioned above has also been sent to the Government of the People's Republic of China, Apple Inc., and Catcher Technology Co Ltd.

We may publicly express our concerns in the near future as, in our view, the information upon which a press release would be based is sufficiently reliable to indicate

a matter warranting attention. The press release would indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

Please accept, Excellency, the assurances of our highest consideration.

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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to applicable international human rights norms and standards, as well as authoritative guidance on their interpretation. These include:

- The Universal Declaration of Human Rights;
- The UN Guiding Principles on Business and Human Rights.
- The International Covenant on Civil and Political Rights;
- The International Covenant on Economic, Social and Cultural Rights;
- ILO Convention concerning Occupational Safety and Health and the Working Environment, 1981 (No. 155)
- ILO Convention concerning Safety in the use of Chemicals at Work (Chemicals Convention), 1990 (No. 170)
- ILO Convention concerning Forced or Compulsory Labour, 1930 (No. 29) and Protocol of 2014 (P029).

We would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution (A/HRC/RES/17/31) in 2011. These Guiding Principles are grounded in recognition of:

- a) "States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- b) "The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights; and
- c) "The need for rights and obligations to be matched to appropriate and effective remedies when breached."

The Guiding Principles clarify that under international human rights law, "States must protect against human rights violations committed in their territory/or their jurisdiction by third parties, including business enterprises" (Guiding Principle 1). This requires States to "state clearly that all companies domiciled within their territory and/or jurisdiction are expected to respect human rights in all their activities" (Guiding Principle 2).

All States have a duty under the international human rights legal framework to protect against human rights abuse by third parties. Guiding Principle 1 clarifies the State duty "to protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises." This obligation requires that a State take appropriate steps to "prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication." In addition, this requires, inter alia, that a State should "enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights..." (Guiding Principle 3).

The duty applies to all internationally recognized human rights as set out in the International Bill of Human Rights and the fundamental labour rights as set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities do occur.

States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.

Business enterprises, in turn, are expected to carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their impacts on human rights. Where a business enterprise causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact. Similarly, where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible (commentary to Guiding Principle 19).

Furthermore, business enterprises should remedy any actual adverse impact that it causes or contributes to. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome (commentary to Guiding Principle 25).

We would like to recall the relevant international human rights obligations that your Excellency's Government has undertaken, including the Universal Declaration of Human Rights (UDHR). The UDHR has become a source and expression of international customary law and all States, including your Excellency's Government, are obliged to protect and guarantee the rights enshrined in the UDHR. In particular, Article 25 enshrines the right of everyone "to a standard of living adequate for the health and well-being of oneself and of one's family, including food, clothing, housing and medical care" as recognized.

We wish to draw the attention of your Excellency's Government to the inherent right of every human being to life as recognised in article 6.1 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's Government on 8 June 1992. The article states that "this right shall be protected by law" and that "no one shall be arbitrarily deprived of his life." We would also like to call the

attention of your Excellency's Government to General Comment No. 6 (1982) of the Human Rights Committee on the right to life, which provides that the "inherent right to life" should not be interpreted in a restrictive manner. The protection of the right to life therefore requires States to adopt positive measures to implement this right, including measures to reduce infant mortality and increase life expectancy.

We would like to draw the attention of your Excellency's Government to the right of everyone to the enjoyment of the highest attainable standard of physical and mental health as enshrined in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), signed by your Excellency's Government on 5 October 1977. While your Excellency's Government has not ratified the ICESCR, it is obliged to refrain from acts that would defeat the Covenant's object or purpose, in conformity with Article 18 of the Vienna Convention on the Law of Treaties. General Comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights describes the normative content of article 12 and the legal obligations undertaken by the States parties to the Covenant to respect, protect and fulfil the right to health. In paragraph 11 of General Comment No. 14, the Committee interprets the right to health as "an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information". In addition, the Committee on the Economic, Social and Cultural Rights in its General Recommendation 24 (2017) states that "extraterritorial obligation to protect requires States Parties to take steps to prevent and redress infringements of Covenant rights that occur outside their territories due to the activities of business entities over which they can exercise control, especially in cases where the remedies available to victims before the domestic courts of the State where the harm occurs are unavailable or ineffective."

We would also like to draw your Excellency's Government's attention to the right of everyone to the enjoyment of just and favourable conditions of work, including safe and healthy working conditions as enshrined in article 7 of the ICESCR. General Comment No.14 provides that the improvement of all aspects of environmental and industrial hygiene comprises, inter alia, "preventive measures in respect of occupational accidents and diseases [and] the prevention and reduction of the population's exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health". We would also like to stress that the right to work is a fundamental right, recognized in the ICESCR. As specified in General Comment No. 18 (2005) on article 6 of the Covenant, work must be "decent work", that is, "work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration."

In this context, and acknowledging that your Excellency's Government is not a party to the International Labour Organization (ILO) Convention No. 155 concerning Occupational Safety and Health and the Working Environment we would like to highlight Article 4 which states that "each Member shall, in the light of national conditions and

practice, and in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment” the aim of which “shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.”

Additionally, acknowledging that your Excellency’s Government is not a party to the ILO Convention No. 170 concerning Safety in the use of Chemicals at Work, we could like to draw the attention of your Excellency’s Government to Article 4 which creates an obligation for your Excellency’s Government to formulate, implement and periodically review a coherent policy on safety in the use of chemicals at work. With respect to implementation of the Convention, your Excellency’s Government has an obligation to consult representatives of workers and employers (article 3) to give effect to the provisions. According to Articles 8, 9 and 10 and in relation to toxic chemicals, your Excellency’s Government as well as suppliers of chemicals are required to provide “chemical safety data sheets containing detailed essential information regarding their identity, supplier, classification, hazards, safety precautions and emergency procedures” to employers, who are then to make these chemical data sheets available to workers and their representatives.

We would also like to refer your Excellency’s government to the right of everyone to “seek, receive and impart information” as guaranteed in article 19 of the UDHR and article 19 of ICCPR. In this context, we would like to call the attention of your Excellency’s Government to the importance of the right to information about hazardous substances as emphasized in the Human Rights Committee’s (HRC) Report of the Special Rapporteur (A/HRC/30/40). The right to information on hazardous substances and wastes would require that relevant information be available, accessible and functional, in a manner consistent with the principle of non-discrimination (para 32 HRC Report A/HRC/30/40). To be functional, information should be scientifically accessible, imparting knowledge with a reasonable degree of effort on the part of the intended user (para 36 HRC Report A/HRC/30/40). Some intended users such as regulators may “require substantially more technical information about hazardous substances and wastes than potentially affected consumers and community members” such as workers (para 36 HRC Report A/HRC/30/40).

In addition, we would like refer your Excellency’s Government to the HRC’s General Comment No. 34 concerning Freedoms of Opinion and Expression. Paragraph 18 and 19 of General Comment No. 34 indicates that the right to access to information includes “access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored, its source and the date of production.” Furthermore, while acknowledging that your Excellency’s Government is not a party to the ILO Convention concerning Forced or Compulsory Labour, 1930 (No. 29) and Protocol of 2014 (P029), these instruments create an obligation for members to suppress the use of forced or compulsory labour in all its forms.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.