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The Royal Thai Embassy presents its compliments to the Burma Campaign UK and, with reference to the latter's letter dated 25 June 2013 concerning the criminal charges brought against Mr. Andy Hall by the Natural Fruit Company in Thailand, has the honour to inform the latter of Thailand's views and the latest developments of this matter as follows:

1. As a democratic country with respects of the promotion and protection of human rights for all, the Royal Thai Government is fully supportive of the work of all NGOs. Mr. Andy Hall has long been welcome as an active member of the Thai Civil Society. The Royal Thai Government even supported Mr. Hall to participate in a meeting in Geneva, Switzerland, as a civil society representative in 2011. Mr. Hall's academic and advocacy work has been well recognized as long as they are based on factual and reliable evidence.

2. In line with Article 17 and 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides that the right to freedom of expression is not without limits, and that everyone has the right to protect his or her honour and reputation, the charges brought against Mr. Hall is therefore based on legal basis and compatible with the international human rights instruments

3. In a democratic and rule-based society, the Natural Fruit Company has the right to file against Mr. Hall, should it deem the accusation in the report against the company inaccurate and thus damaging its reputation. Likewise, Mr. Hall certainly has the right under Thai laws to defend himself against such allegation.

4. Under Thailand's judicial system, the charges brought against Mr. Andy Hall by the Natural Fruit Company are between two private entities and are now being considered by the Court as to whether the case will be accepted or dismissed. The Royal Thai Embassy has full confidence in Thailand's judicial system in delivering justice to both parties.

5. The alleged violation of human rights by the Natural Fruit Company was inspected by the Ministry of Labour without delay, the outcome of which is attached hereto.

The Royal Thai Embassy avails itself of this opportunity to renew to the Burma Campaign UK, the assurances of its highest consideration.

Royal Thai Embassy
London

๒๒ August B.E. 2556 (2013)



Burma Campaign UK
LONDON.

**The outcome of the inspection by the Ministry of Labour of Thailand
regarding the alleged human rights violation by Natural Fruit Company**

Background of the Investigation

The Ministry of Labour conducted a thorough inspection on Natural Fruit Co.,Ltd. on 28 January 2013. The labour inspector interviewed the factory manager (Mr. Sukit Koyawanich), one of the company's human resource staff, and six Myanmar workers, as well as conducted an inspection of relevant documentation and other evidence. Two interpreters were present to ensure accuracy of the information collected. Subsequently, the labour inspector conducted a follow-up visit on 4 February 2013 to follow up on the implementation of the suggestions and instructions made during the first visit.

Natural Fruits Co.,Ltd. is located at 179/12 Moo 11 Tambon Nongtatam, Amphur Pranburi, Prachuap Khiri Khan Province. The Managing Director is Mr. Wirat Piyapornpaiboon. The company produces canned pineapples and dried fruits. It employs a total of 854 employees: comprising 243 Thai citizens, 610 Myanmar citizens, and 1 Cambodian citizen.

Allegation I: Hiring of illegal migrant workers and child labour

- The labour inspector did not find any child labour below the age of 18. According to the 6 Myanmar workers interviewed, none of the workers saw child labour employed in the company. It could be the case that children of the Myanmar workers seen were visiting their parents at the company during their school holidays. Even so, these children would not be allowed in the factory's compound in any case.

Allegation II: The company pays daily and monthly wages, as well as overtime payment, at the rates below the legal minimum requirements. Workers are not given holidays or appropriate welfare.

- Based on the payment slips to the workers, the wages paid to all workers have been no less than 300 baht a day since 1 January 2013.
- The company pays overtime compensation at the rate of 1.5 times the hourly wage rate. However, the company rounds down the decimals in their calculation of overtime compensation. The labour inspector then instructed the company to refrain from rounding down the decimals in order for the workers to receive their overtime compensation in full.
- All workers are entitled to one day-off per week. The company has designated Sunday as a day-off for all workers except for technicians and assistant technicians who take turns taking their one day off during the week.
- The company announces 13 public holidays per year both in Thai and in the Myanmar language. During these public holidays, the workers are paid at the minimum wages. The labour inspector then asked the company to pay the workers at their daily wage (instead of the minimum wage) during these public holidays. The company agreed to follow the inspector's instruction, and would pay the remaining difference for the period of 16 - 31 January 2013 to the workers on the next pay day on 5 February 2013.

Allegation III: Confiscation of passports and refusal to return them when the workers want to resign or change their employers

- The employer admitted that the company kept some of the workers' passports, but only upon the workers' requests. In general this practice is for convenience in responding to the tri-monthly inspection by the Immigration Bureau. Every worker who requests the company to keep his or her passport has to submit a signed document stating such a request. Workers who wish to keep their own passports are free to do so.

- In December 2012, the company returned all passports and work permits to their respective owners. In doing so, the workers signed relevant document acknowledging the receipt of their travel documents.

- All workers were aware that a fee of 6,010 baht, to be paid by the workers, was required for passport issuance. The company paid the required fee in advance, and at present, all workers had already paid back the company in full.

Allegation 4: Wage deduction for water and electricity fees, transportation fee, uniform, ID card and other items

- The company provides accommodation for migrant workers with free water supply. The workers and the company agreed that the workers were to pay for their own electricity use. The company charges electricity fee according to the types of electrical appliances each worker uses. All workers were fully aware that they were responsible for the electricity fee, and agreed to allow the company to deduct the electricity fee from their wage. However, there is no written document spelling out such an understanding.

- The company used to arrange free transportation for workers, incurring an expense for the company of 30 baht/worker/day. However, as of 1 January 2013, the company has discontinued the free transportation service. Transportation fee is now being deducted from the workers' wages, an arrangement arrived at following consultation with some workers and the transport company.

- The company requires each worker to pay for his own uniform in cash, including a shirt (158 baht), a hat (75 baht), and a hair net (22 baht). In the case that the workers are unable to pay in cash, workers would ask the company to deduct the amount from their wage. However, there is no written document stating such a request for deduction.

- The company issued and would replace a worker's ID card free of charge. However, workers had to pay for their own ID card holders at the cost of 10 baht per piece.

- Many workers regularly bought goods on credit from stores in the company's vicinity. The workers requested the company to deduct their wage to pay the stores. However, there is no written document spelling out such a request for deduction.

- The labour inspector informed the company of relevant laws regarding wage deduction according to the Labour Protection Act. For example, workers had to pay for the payments for which they are responsible out of pocket, and that wage deduction was prohibited. If the company had any welfare scheme for the employees' benefit and the employees requested the company to deduct their wages, such an arrangement must be made in writing. Any changes in employment terms and conditions must also be agreed in writing.

- At present, the company has already adjusted the system so that workers pay any necessary payments out of pocket. Payments are no longer deducted from workers' wage.

Allegation 5: Workers losing the whole day's pay when they are unable to work for the full day or when the company has no work for the workers

• In an event that no raw materials were available, the company would either assign the workers to other tasks or to another affiliated company, for which the workers would be paid their regular wage. If there is no other work for the workers, the company would send the workers home earlier than their regular hours, and pay the workers according to the number of hours they worked.

• In this regard, the labour inspector informed the company that, in case the workers were asked to finish work early because of the lack of raw materials, the company was still required to pay the workers their daily wage in the full amount.

Allegation 6: Forced overtime work exceeding 36 hours per week

• Both the company and the employees informed the labour inspector that there was no forced overtime work at the company. On the days which the company required overtime workers, the company would announce it on its notice board. Supervisors would then submit the names of the workers who voluntarily indicated their interest in working overtime to the Human Resource Department to calculate overtime compensation in advance.

• The company's record showed that some workers had more than 36 overtime hours per week. The company explained that these workers were assistant technicians who had to wait for the production line to stop before inspecting the machines.

• The labour inspector informed the company to issue an overtime work agreement in writing between the company and the workers. The overtime hour had to be limited to no more than 36 hours per week in accordance with the law. The company has already followed the mentioned instructions..

Allegation 7: Migrant workers do not possess social security card or health insurance in accordance with the law. Those who do are not allowed to choose hospitals of their choice.

• All workers with work permits had been registered for social security benefits. The company was in the process of filing requests for work permits for the remaining workers in accordance with the Cabinet Resolution of 15 January 2556, which extended the deadline for regularization of migrant workers to 14 April 2013. These workers with pending work permits had yet to receive social security cards.

• With regard to the hospital choice, the company recommended Pranburi Hospital because of its proximity to the factory. However, workers can seek health care services from the hospital of their choice. The workers may change their hospital choice once a year.

Allegation 8: Insufficient toilets and overtime pay deduction for extended toilet use

• The company had a total of 23 toilets (8 for men and 15 for women), and 6 urinals. The labour inspector urged the company to comply with the Thai Building Control Act of B.E. 2522 (1979).

• Per the labour inspector's suggestions, the company installed additional toilets and urinals to comply with the relevant regulations.

• The company allowed each worker 3 – 15 minute toilet breaks per day, except for workers whose health conditions required them to use the toilet for longer than the designated time period, in which case the supervisors are to be informed.

Allegation 9: Company does not provide compensation for work-related accidents in accordance with the law (compensation fund)

- In case of work-related accidents, the company in fact pays daily wage in full amount for all injured workers for the first 3 days off after the accident whether or not the workers possess a social security card. This payment is made despite the fact that the workers are already entitled to compensation payment from the compensation fund in case they take more than 3 days off from work.

- The labour inspector urged the company to comply with the Labour Protection Act in this regard.
