

*Unofficial ENGLISH TRANSLATION by HRDF's Migrant Justice Programme*

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Today (19<sup>th</sup> Jan 2010) at 09:00am in the Cabinet meeting room on the 2<sup>nd</sup> floor of the office of the Cabinet secretariat, Mr. Abhisit Vejjajiva, Prime Minister of Thailand, was the Chair of the meeting of Thailand's Cabinet.

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**Agenda Item 12: Extension of the Time Period for Nationality Verification and Granting an Amnesty to Remain in the Kingdom of Thailand to Alien Workers/Creating an Additional Committee Member for the Alien Workers Management Committee**

The Cabinet agreed with the recommendations of the Ministry of Labour as follows:

1. To extend the period of the nationality verification process and grant a temporary amnesty to remain in the kingdom for alien workers from Burma, Cambodia and Laos who entered the country illegally but have already registered and received work permits during 2009 in accordance with Cabinet resolutions from 18<sup>th</sup> December 2008, 26<sup>th</sup> May 2009, 28<sup>th</sup> July 2009 and 3<sup>rd</sup> November 2009. In total this accounts for 1, 310, 60 workers (Burmese: 1, 076, 110; Laotian: 110, 406; Cambodian: 124, 174). Out of this total 61, 543 of these workers possess work permits that will expire on 20<sup>th</sup> January 2010 and 1, 249, 147 workers whose work permits will expire on 28<sup>th</sup> February 2010. In order to avail of this extension, these workers have to express their intention to enter into the nationality verification process, and hence they are granted permission to remain in the Kingdom temporarily pending deportation for a period of time no more than 2 years. This amnesty period shall end on 28<sup>th</sup> February 2012. These workers do not need to adhere to s54 of the *Immigration Act 1979*. These workers must fill in the nationality verification form prior to 28<sup>th</sup> February 2010 and actually complete the nationality verification process in accordance with time periods laid down before 28<sup>th</sup> February 2012. The Cabinet requests the following authorities to proceed as follows:

**1. The Ministry of Interior should proceed as follows:**

- i. Issue a notice granting an amnesty to remain in the Kingdom, in accordance with powers provided under section 17 of the *Immigration Act 1979*. The Cabinet approves of the issuing of a notice to extend this amnesty period to remain in the Kingdom of Thailand as a temporary measure for alien workers from Burma, Laos and Cambodian who entered into the Kingdom illegally but who received work permits during 2009 in accordance with Cabinet resolutions from 18<sup>th</sup> December 2008, 26<sup>th</sup> May 2009, 28<sup>th</sup> July 2009 and 3<sup>rd</sup> November 2009 and whose work permits shall expire on 20<sup>th</sup> January 2010 and 28<sup>th</sup> February 2010. However, in order to avail of this extension, these workers must express their intention to enter into the Nationality Verification process, and hence their extension period for being able to remain in the Kingdom is temporary pending deportation in no longer than 2 years, with this period ending on 28<sup>th</sup> February 2012. These workers do not need to adhere to s54 of the *Immigration Act 1979*;
- ii. Issue a notice accepting the use of documents in the place of passports of alien workers from Laos and Cambodia, in addition to issuing a notice laying down the conditions for accepting their travelling outside of the Kingdom for migrant workers from Burma in order to conduct nationality verification in Burma (n.b. only the group that the Ministry of Interior has yet to issue a notice accepting). Power is assigned under section 17 of the *Immigration Act 1979* to issue a notice not using sections 12(1) and 12(3) of the *Immigration Act 1979* in order to enforce alien workers from Burma, Laos and Cambodia who have passed the nationality verification process already to be able to use a Temporary Passport or Certificate Of Identity in order to receive official permission to remain in the Kingdom of Thailand for 2 years. These workers are then also allowed to request permission to stay in the Kingdom of Thailand for another two years after this.

**2. The Department of Provincial Administrative**

- i. The Department of Provincial Administration should proceed to document the identity of the alien workers who have been granted an amnesty to remain in the Kingdom of Thailand and have received a work permit. Power is assigned under section 5 of the *Government Registration Act 1991* and section 8(2) of the *Government Registration Act 1991 (edition 2) 2008*. The department should proceed to document the identity of these alien workers and issue a identity card of a “person without Thai nationality.”

**3. The Ministry of Public Health** should proceed as follows:

- i. Conduct health checks and issue health insurance to alien workers who have received an extended amnesty to remain in the Kingdom of Thailand temporarily. These alien workers must pay 600 baht for the health check and 1, 300 baht for their health insurance. In circumstances where alien workers have health insurance in accordance with the previous amnesty system, and hence their work permit has not yet expired and/or if they have already completed the nationality verification process, the Ministry of Public Health should consider exempting them from the alien worker health check-up, for these workers have already had a health check under the previous amnesty system and hence should not have to have another check-up.

**4. The Ministry of Labour** should proceed as follows:

- i. Consider permission to work for alien workers who have received an extended amnesty to remain in the Kingdom of Thailand. Alien worker must request permission and pay the fee in accordance with fees stated in Ministerial Regulations. The Ministry of Labour should then issue a work permit yearly in accordance with Ministerial Regulations issued in accordance with the *Alien Workers Act 2008*. In addition, the information of alien workers who have been granted permission to work in the Kingdom should be sent to the Department of Provincial Administration so this department can proceed as per its duties and responsibilities (in such case regulations issued in accordance with the *Aliens Workers Act 2008* cannot yet be used and enforced in order to issue a work permit as previous together with the Department of Provincial Administration);
- ii. Consider the request to work from alien workers who have passed the nationality verification process. Alien workers must request permission to work and pay the appropriate dividend in accordance with stated fees. For those alien workers who have passed the nationality verification process but still have the work permit according to the previous amnesty system and this work permit has still not expired, the Ministry of Labour should consider exempting them from payment of work permit fees for the period in which there is a cross over with validity periods;
- iii. Conduct public relations continuously using all available means including television, radio and news papers in Thai-Burmese, Thai-Laos and Thai-Cambodian in order to increase the awareness and understanding of migrant workers and their employers on the process of nationality verification.

**5. The Ministry of Foreign Affairs** should process as follows:

- i. Issue authority to the Immigration Department to investigate and issues visa (visa type non-immigrant LA) to alien workers from Burma, Cambodian and Laos who have completed the nationality verification process;
- ii. Continuously press and rush the Burmese authorities in their process of checking the nationality verification forms;
- iii. Liaise and negotiate with Burma, Laos and Cambodian for coming into Thailand to complete the nationality verification process in order to authorise the status of these individuals, either by issuing the temporary passport or relevant authorisation documents;

**6. The General Military Headquarters, the Army, the Navy and other official agencies related should proceed in accordance with law with severity in order to protection against and purge new entries of alien workers into the Kingdom in order to prevent negative repercussions for Thai society and national security.**

- 7. The Royal Thai Police Force and related authorities should proceed in accordance with law with severity to suppress and arrest, and proceed criminal cases against alien workers who do not verify and illegally work. In addition, severe action should be taken against employers who illegally employ aliens, those who bring aliens into the country and those who otherwise provide refuge to these illegal aliens.**
- 8. The Immigration Department should proceed as follows:**
  - i. Accept visa applications and issue visas to remain in the Kingdom of Thailand for alien workers from Burma, Cambodia and Laos who have passed the nationality verification process. In case alien workers have passed the nationality verification process, applications for visas should be accepted and processed by immigration officials in Ampur Mae Sot Immigration Centre (Tak Province), Ampur Mae Sai Immigration Centre (Chiangrai Province) and Ampur Muang Immigration Centre (Ranong Province). The cost for this visa is 500 baht per issuance;
  - ii. **Proceed to bring together related officials to strategise for plans to deport alien workers who refuse to enter into the nationality verification process. Then proceed with the utmost severity to deport migrant workers who refuse to go through the nationality verification process and are illegally working in Thailand;**
- 9. The National Security Council and related authorities should consider plans for what to do with alien workers from Burma, Laos and Cambodia who do not pass the nationality verification process;**
- 10. The timeline for proceeding on the above points is immediate and all departments do not need to wait for official communications from the Cabinet secretariat and can proceed as follows:**
  - i. As for issuing the notice to extend the amnesty period for remaining in the Kingdom of Thailand, the Ministry of Interior should issue the notice which great haste now that this decision has been approved by the Cabinet. This permission to remain in the Kingdom is only for workers who work permits expire on the 20<sup>th</sup> January 2010 and 28<sup>th</sup> February 2010 and who have agreed to enter into the Nationality Verification process;
  - ii. In relation to receiving work permit applications, the Ministry of Labour should receive work permit applications and consider these work request applications only for those workers who received permission to work in 2009 and whose work permits shall expire on 20<sup>th</sup> January 2010 and 28<sup>th</sup> February 2010, and who have expressed their intention to enter into the nationality verification process, from the date when the Cabinet approves this measure and not beyond 28<sup>th</sup> February 2010. These alien workers should be granted permission to work in the intervening periods;
  - iii. In relation to documenting the identify of alien workers, the Department of Provincial Administration should proceed to document the identity of these alien workers and issue identity cards of “those persons who do not have Thai nationality” from the day when it receives information they have been granted permission to work;
  - iv. In relation to health check ups and issuing health insurance, the Ministry of Public Health should proceed to conduct health check ups and issue migrant health insurance immediately for those alien workers who were granted permission to work in 2009 upon issuance of this Cabinet approval in order that other related departments can proceed with haste;
  - v. **In relation to purging alien workers entry into the Kingdom, The General Military Headquarters, the Army, the Navy and other official agencies related should continue to protect against and purge new illegal alien entries into the Kingdom continuously;**
  - vi. **In relation to detention, arrest and criminal proceedings against alien workers, the Royal Thai Police Force and related authorities should continually proceed to detain and arrest and take criminal action against migrant workers who refuse to go through the nationality verification process and instead remain illegally working, in**

- addition to taking such action against employers who illegally employ illegal alien workers, and those who give refuge to illegal alien workers;**
- vii. In relation to arrest and deportation of alien workers, the Immigration Department and related authorities should strenuously, continuously and genuinely proceed to arrest, detain and deport migrant workers who refuse to go through the nationality verification process and continue to illegally work in the Kingdom;**
  - viii. Other Conditions: alien workers who receive an extended amnesty of permission to remain in the Kingdom of Thailand must proceed to complete the nationality verification process in accordance with the timelines laid down. If these workers do not proceed to conduct nationality verification in accordance with these deadlines, their permission to stay in Thailand will expire. Related authorities should then proceed to arrest, detain and deport these workers from the Kingdom of Thailand. In this time between working, employers of alien workers should proceed to control, protect or provide the place of residence for the aliens to reside so that this is a foundation or security for the investigations. In addition, alien workers who have received permission to work are prohibited to change employers, except in the most necessary situations of an employer becoming deceased, an employers activities cease, an employer breaches the rights of a workers or violent acts, or the employer does not provide in accordance with the Labour protection laws.**

2. The creation of an additional Committee of the Alien Workers Management Committee. The related authorities should proceed to adjust and correct Regulations of the Office of the Prime Minister Committee on Managing Alien Workers 2001. In this regard, the Director General of the Department of Provincial Administration should be installed as an additional committee member of the Alien Workers Management Committee.