

Responses to US Comments and Questions to
Taiwan Commentary on the US 2007 TIP Report

Ministry of the Interior

1. Responses to the following two questions: 1. Are the stated 18 shelters operational now? 2. Are human trafficking victims no longer detained with criminals?

(1) The Taiwan government has been very concerned about the sheltering of human trafficking victims and has been following the principle that human trafficking victims shall be sheltered and imprisoned separately. In order to strengthen the protection of the rights of human trafficking victims, the Executive Yuan Coordinated Meeting for the Prevention of Trafficking in Persons held its first and second meetings on March 7 and May 10 2007 respectively, in which the Principle of the Identification of Human Trafficking Victims and Procedures of the Handling of Human Trafficking Cases was drafted. When police officers discover cases suspected of involving human trafficking and identify victims in accordance with the above-mentioned principles, the above-mentioned procedures shall be applied and the victims shall be protected and sheltered by the competent authorities. Under this practice, no human trafficking victims have ever been imprisoned with criminals.

(2) In order to implement measures to protect and find a place for victims, the government has especially drafted the 2008-2010 Enforcement Plan for Human Trafficking Prevention that includes organizing inter-ministry education and training seminars, integrating various ministries' resources to increase preventive education through multiple channels, combining NGOs to actively participate in international exchange programs, setting up 2 new detention centers, and renovating each existing detention center to which 2 protective rooms will be built. Depending on the actual needs of detention, the government is going to build 18 victim community homes in several years and safely repatriate victims

back to their countries. As for the building of victim community homes, their construction will begin from 2008 and last for 3 years, whose pace will be determined by the needs to shelter victims. These homes are going to implement the protection of human rights.

2. Responses to the following question: What is the number of human trafficking victims sheltered by NGOs between January and May of 2007?

(1) The previous number was provided by the Executive Yuan Council of Labor Affairs (Hereinafter referred to as the CLA) based on the detention cases subsidized by it between January and June of 2007, which did not separated those who were human trafficking victims from those who were involved in labor and management disputes. From July to October in 2007, 6 missing foreign workers were identified as human trafficking victims and sheltered by NGOs.

(2) In order to clarify the statistics of human trafficking victims, the CLA is drafting the Rules Governing the Temporary Detention of Foreign Workers, which will include a Detention Notification in which there are boxes for the selecting of detainee's identification including the box for human trafficking victims. The CLA is planning to invite NGOs that are concerned about human rights and local governments to a meeting on 5 October 2007 to discuss the Rules. The Rules will be revised according to the consensus reached at the meeting and will be promulgated and put into effect as soon as possible, so that the future statistics can be conducted properly.

3. Responses to the following statement: The cases that involve foreign workers who are sexually abused shall be treated as the ones that involve local people.

(1) The CLA has requested local governments and relevant ministries and councils in an official letter to coordinate the provision of emergency shelters for sexually abused foreign workers and assist

them in changing their line of employment to guarantee their rights to employment in Taiwan in accordance with the Strengthened Notification Mechanism and Communication and Work Division Principles over Sexual Abuse of Foreign Workers enacted on 30 August 2004 and the Strengthened Standard Procedures for the Principles of the Communication and Handling of Cases Involving the Physical Abuse of Foreign Workers enacted on 13 September 2006. The enactment of the above-mentioned administrative Procedures is conducive to the prevention of inability caused by the language obstacle to seek assistance and to safeguard foreign workers' rights when they have been sexually abused. In addition, they can restrict employers' continued employment of foreign workers if they have been implicated in the above-mentioned offences and can strengthen the communication among administrative departments to safeguard the rights of foreign workers.

(2) As for the sexual abuse committed by employers or their relatives against foreign workers, the CLA not only had helped provide shelter for victims but also had canceled or restricted further employment of the employers and helped change employers for ten victims in accordance with Employment Service Act between January and October of 2007. Those culprits who have violated Articles 221-231 for forcing sex will be prosecuted by the ROC judiciary departments for their criminal acts and will not be treated differently because of the victims' nationality or status.

4. Responses to the following proposal: The CLA Foreign Labor Service Center at the Taoyuan International Airport shall be located behind the Customs' inspection line.

(1) In order to safeguard the rights of foreign workers to be employed and to increase their channels for filing petitions, the CLA has set up the Foreign Labor Service Center at the Taoyuan International Airport since 16 January 2007, which has been located at the prominent place in the Arrival Hall where foreign workers can file

- petitions. The location of the center was decided by the CLA that consulted with relevant departments such as the Terminal Management Department and took into consideration the used space of terminals, border control, airport security, and the movement lines of in-coming and out-going passengers.
- (2) To avoid the situation in which foreign workers cannot file a petition before they leave the country because they are still under the control of their employers and brokers, the CLA has set up a toll-free telephone behind the Customs inspection line that responds to foreign workers' petitions in their mother tongues. The bilingual counseling officers at the center may assist foreign workers in clearing the immigration inspection line for reentry or refer them for shelter so that the handling of their petitions can be continued.
 - (3) The CLA statistics on the petitions filed at the airport show that from January to October of 2007 there were 167 petitions filed by outgoing foreign workers, in which 104 foreign workers left the country after their petitions had been dealt with, 51 of them agreed to fulfill their employment contracts after an arbitration, 8 of them agreed to change employers after an arbitration, and 4 of them were referred for shelter. According to an analysis, the types of petitions include those against infringements (such as being asked to do work not specified in the contract, sexual harassment, injuries), improper brokerage fees, tax return questions, saving fund and payment questions, uncompleted employment contract questions and other questions.
5. Responses to the following statement: When foreign workers file accusations against labor exploitation, the competent authorities bring together foreign workers, their employers and brokers to jointly discuss a settlement or seek an administrative penalty, instead of referring the accusations to the prosecutors or the police.
- (1) When a petition filed by a foreign worker is a labor and management dispute, the local government concerned always handles it pursuant to the Act Governing Labor and Management

Disputes that dictates negotiations and mediations as a way to reach a settlement between the foreign workers and their employers. If the settlement fails, the foreign workers and their employers or the local government may seek arbitration. If the employers violate the provisions of the Labor Administrative Code, the local government will assign officers to investigate the violation and mete out proper treatment pursuant to the code after considering things advantageous or disadvantageous to all parties concerned and finding the employers guilty.

- (2) If the petition filed by a foreign worker shows that the petitioner is a human trafficking victim, the petition shall be referred to the prosecutors for investigation pursuant to Article 241 of the Criminal Procedure Law according to an official letter issued to local governments on 17 April 2007 by the CLA that says that when finding foreign workers being the victims of human trafficking whose personal freedom has been limited or who has been conducting prostitution when they are discovered to be engaged in activity against the Employment Service ACT. From January to September of 2007, there had been 6 cases involving human trafficking that were referred for investigation by the competent authorities of the local governments.

6. The response to the following statement: The training of the officers in charge of human trafficking cases from the competent department of all county and city governments.

The CLA provided educational information on foreign workers who are assumed to be human trafficking victims on 17 April 2007 to enable the counselors and inspectors of the labor affairs department of local governments to identify human trafficking cases. In addition, between 4 and 22 June 2007, the CLA had organized 3 Seminars on Foreign Labor Counselors and Inspectors, to which a human trafficking class was added and lectured by people from NGOs such as Female Rescue Fund and Child Prostitute Termination Association to strengthen the ability of the first-line foreign labor counselors and

inspectors to perceive and recognize human trafficking cases. 400 foreign labor counselors and inspectors have participated in the seminars and relevant training will be continued in the future.

7. In order to protect foreign workers and prevent them from becoming human trafficking victims, the CLA has made across the board review on the current way to deal with the importation of foreign workers, a mechanism for foreign workers to change their employers, illegal employment of employers, and the infringement of brokers and made an ad hoc report to the Executive Yuan on 17 October 2007 on some important measures as follows:

(1) The CLA is planning to establish the Special Hiring Program Service Center to help employers complete procedures for the importation of foreign workers, that save time and money and reduce the number of applications as its goal. Employers don't have to rely on the service provided by brokers any longer, foreign workers' financial burden is reduced, and brokers' use of high overseas brokerage as a way to control and exploit foreign workers is prevented.

(2) The CLA is planning to relax the rules to allow foreign workers to work for other qualified employers, establish a mechanism for the change of employers without the use of a broker as agreed by three parties including the foreign workers, old and new employers, create a database containing information concerning foreign workers who have changed their line of employment, relax the rules to allow local employers to hire foreign workers who have been working in Taiwan, and allow foreign workers to apply for the service of brokers without limitation to the number of such applications within two months following their registration for such service. The CLA is planning to complete and promulgate the related revision of laws and rules and create an information system, in order to increase foreign workers' freedom to change their line of employment and their success rates.

(3) The resources of the government and private sector will be

combined to increase a publicity campaign at places often frequented by foreign workers to make them aware of the channels to file petitions. It is also planned to set up a service center for foreign workers at the Kaohsiung Airport in January 2008, adopt the principle that foreign workers who could have been abused and become missing shall be protected and sheltered before any investigation is conducted, increase financial rewards to NT\$100,000 for providing tip-offs, and penalize a brokerage firm by taking away 5 foreign workers from its annual quota and imposing a NT\$750,000 fine if it brokers a foreign worker illegally.

- (4) The CLA will cancel the license of the brokers who fail to pass the required standard of its annual assessment and it will determine the frequency of its visits to brokerage firms to check the fees they charge according to the classes assigned to them. It will also consult with the source countries of foreign workers to work out the items and standards of fees charged by their brokerage firms to prevent brokers from charging fees according to unreasonable items and standards, or using private loans to impose improper restrictions on foreign workers or illegally brokering foreign workers for labor exploitation.
- (5) When employers owe payments to foreign workers, local governments currently mediate the pay pursuant to the Labor & Management Dispute Settlement Act. If the employers refuse to pay, local governments will, after having the consent of the foreign workers, subsidize the foreign workers to hire a lawyer to bring the case to a civil court, help them pursue overdue payments through legal means, cancel the permit issued to employers to hire foreign workers, and help foreign workers change their line of employment. The CLA will also soon consult with local governments and civil groups on the assistance mechanism and strengthen foreign workers' pursuit of overdue payments.

2. In order to enhance the protection of victims, Taiwan has made a two Explanations of the number of victims of human trafficking from January 2007 to June 2007 in NGO
 - 1 The number of detainees was that consently-subsided issued by the Council of Labor Affairs, without distinguishing victims of human trafficking and general dispute cases between managemnet and labor. From july to october in 1007, there are 6 missing foreign laborersss indetified as victim of human trafficking and resettling in NGO.
 2. In order to have a better understanding of human trafficking victim statistics, the Council of Labor Affairs has invited foreign Labor Human Right groups and local governments to discuss this issue. Based on meeting consensus, the Council of Labor Affairs is now revising “Foreign Labor Temporary Detention Code”, which will add human trafficking victim item to faciliate statistics.

Explanations of fair treatments as nationals for foreign laborersss under sexual assault

1. In order to handle sexual abuses of foreign laborersss, a channel has been established for central and local government agencies to communicate vis-à-vis labor and management disputes. A foreign Labor Affairs communication mechanism has also been operating since September 15, 2005. On August 30, 2004, the Mechanism for Strengthening the Reporting System of Sexual Abuses of Foreign laborersss and the Principles for the Communication and Division of Work of Related Department was circulated. When foreign laborersss report being sexually abused, a County and City Sexual Abuse Prevention Center will assign a social worker to assist the victim. At the same time, county and city labor departments must provide interpretation, emergency resettlement and legal counseling services. On September 3, 2006, the Strengthened Communication and

Principles for Handling Cases of Physically Abused Foreign laborers and its procedural charter was drafted and submitted to safeguard the rights of physically abused foreign laborers.

2. For foreign laborers those who were sexually assaulted by their employer or employer's relatives, in addition to help them to asylum, the Council of Labor Affairs abolish the permission of employer and help foreign laborers to transfer their employer. Sexual offenders will be prosecuted and punished by authorities concerned according to article 221 and 231 of the Criminal Code, without being discriminated by victim's nationalities.

Explanations of suggestions on putting Taoyuan International Airport Foreign Labor Information Service Desk behind the Custom line.

1. In order to protect the rights of foreign laborers, provide more complaint access, the Council of Labor Affairs established Taoyuan International Airport Foreign Labor Information Service Desk on January 16 2007. The setting location has been discussed with airport managing units, considering factors such as : the space used, border control, airport security, and passenger's flow. We still decide to set the location accessible in the hall of exit to provide foreign laborers with complaint service.
2. In order to prevent obstacles of complaint before repatriation, the Council of Labor has set toll-free native language phone to handle foreign labor's complaints. The staff in the Information Service Desk will also help custom procedures and transfer asylum.
3. According to the statistics of complaints gathered by the Council of Labor Affairs, the total number of complaint is 167. Among there cases, 104 cases were handled before repatriation, 51 cases were implented new contracts based on consensus after coordination, 8 cases were transferred to other employer and 4 cases were resettled to asylum respectively. By analyzing these cases, we could find that the types of complaint are illegal cases such as : work beyond permission, sexual harassment, and injury, brokage, tax refund, saving and salary, work permission limit etc....

Explanations of suggestions on “compulsory labor problems complained by foreign laborers should be solved through management and labor meeting to discuss with brokers, not reporting to the police,”

1. For manage-labor dispute complaints, local government should coordinate and build consensus according to law. Should fail to solve the dispute, arbitry could be applied by management, foreign laborers, and local government. If the employer violate the labor administrative regulations, investigators will be dispatched by local government to investigate according to Administrative Procedure Law.
2. For possible human trafficking victim complaints, the Council of Labor Affairs has informed local governments on April 17 2007 in order to crack down on these crimes. If the investigators find out foreign laborers were physically restrained or sexually abused, they should report to the prosecutors according to the article 241 of the Criminal Code. From January 2007 to september 2007, there have been 6 TIP victim possible cases reported by local Labor authorities.

Explanation of “TIP victim identification training of local governments labor officials”

In order to enhance the TIP victim identification for labor inspectors , the Council of Labor Affairs has printed propaganda pamphlets of “possible TIP victims of foreign laborers” for local labor affairs officials on April 17 2007. From June 4 to June 22, three seminars on the counseling and advisory services of foreign laborers and related international workshops were organized together with Women Rescue Foundation, and many other foreign and local experts, scholars, social workers, police representatives, labor and health departments and prosecutors were invited to lecture. In total, some 400 people participated, thereby increasing the understanding of human trafficking in Taiwan.

In order to prevent foreign laborers from becoming TIP victims, the council of Labor Affairs has thoroughly checked present introduction of foreign laborers, mechanisms of changing employers, illegal hiring of employers, and violation of brokers on October 17 2007. Including following important procedures :

1. In light of the fact that the current direct hiring procedure is so complicated, employers are unwilling to hire foreign workers directly from overseas. As such, it is planned to allow an employer to employ the same foreign domestic worker. The Special Hiring Program Service Center is about to be established in January 2008 to speedily authenticate documents presented by employers for hiring a foreign worker, and to provide counseling services. This may limit the exploitation by brokers and safeguard the rights of both parties.
2. Planning on the relaxation of transferring qualified employer, mechanisms of transfer among new employer, original employer, and foreign caretakers without broker , building transfer Service Information System, the relaxation of restrictions on local employers hiring, and unlimited transferring service within two months. It is scheduled to finish revising law and building information system before the end of 2007 to enhance the freedom and success rate of transferring employer for foreign laborers.
3. Combine government services with private resources to enhance the propaganda of foreign labor complaint access in public places. Establish Kaoshiung International Airport Foreign Labor Service center in January 2008.
4. Evaluate brokers every year and build new broker fee system. Taiwan government is planning to negotiate with exporting labor countries on the issue of broker fee to prevent illegal exploitation against foreign workers.
5. If the employer refuse to pay unpaid salary, the local governments will handle with manage-labor dispute process law, including access to lawyer to file civic law suit, abolishing the permission of original employer and introducing new employer. The Council of Labor Affairs will soon research on the assistance mechanisms with public and private

sectors to help foreign laborers to receive unpaid salary from their employers.