

## **Response to the US 2013 *Trafficking in Persons Report***

### **Preface**

In the *2013 Trafficking in Persons Report* published by the United States Department of State on June 19, 2013, the Republic of China (Taiwan) was placed on the Tier 1 List in recognition of its success at combating human trafficking. Despite this honor, ROC government agencies have been urged to review and follow up on the report's recommendations on how to further enhance anti-trafficking programs. This document outlines the specific measures and practices Taiwan has adopted with regard to the 3Ps: prosecution, protection, and prevention.

### **I. Prosecution**

#### **1. Strengthen enforcement of anti-trafficking laws**

##### **1.1 Investigate allegations of abuse of deckhands**

Taiwan Kaohsiung District Prosecutors' Office is looking into allegations of labor abuse by Chu Yang International Fishing Co., which had arranged for Cambodian deckhands to work on Taiwanese-flagged long-haul fishing vessels. The office is also investigating another case of a captain accused of abusing deckhands from Indonesia and Myanmar.

##### **1.2 Hone prosecution techniques**

It is difficult for prosecutors to collect evidence and build a case, as the circumstances are often unclear, the victims go into hiding, and information gathered is contradictory. Substantiating a "vulnerable situation" or identifying crucial elements of a human trafficking

crime is likewise problematic. The Ministry of Justice (MOJ) holds workshops for prosecutors to hone evidence collection skills and deliberate on applicability of specific statutes to achieve convictions.

### 1.3 Form alliances among judicial police forces

Each judicial police force has established a special unit for anti-trafficking cases. Related agencies, such as the National Police Agency's Foreign Affairs Police, the National Immigration Agency's relevant units, and the Coast Guard, have coordinated efforts to make the best use of resources and strengthen investigations. Joint raids are conducted at places known for hiring runaway workers for labor or sexual exploitation. Evidence thus recovered is often effective in prosecuting traffickers.

## 2. Combat sex tourism/trafficking involving minors

### 2.1 Protect minors against sexual exploitation

In 2013, police forces put top priority on cracking down on the child sex trade. Patrols and raids were increased during the summer vacation, the peak season when some teenage girls enter the sex trade (at places like karaoke parlors or motels).

### 2.2 Deter child sex tourism

In Taiwan, it is illegal to have sex with minors or to entice, pander, or harbor minors for sex transactions. To deter child sex tourism, the police heightened their efforts, resulting in 199 arrests for engaging in sex with a minor from January to June of 2013.

Another 147 suspects were charged for pandering or coercing minors into prostitution.

### 2.3 Track down Taiwanese child-sex tourists

Liaison officers with law enforcement, immigration or judicial duties at Taiwan's foreign missions maintain contact between the host country and Taiwan regarding trans-border crimes. They also proactively follow up on leads about ROC passport holders involved in child sex tourism abroad.

### 2.4 Forge legal tools

To date, no Taiwan national has been prosecuted for engaging in child sex on foreign soil. Due to Taiwan's unique diplomatic status, few countries have signed a bilateral agreement on cooperation in judicial affairs. Tour guides or travel operators, if convicted for peddling sex, could have their licenses suspended or revoked in accordance with Article 58.1.2 of the Tourism Development Regulations.

## 3. Increase conviction rate and streamline sentencing practices

### 3.1 Need to better define "human trafficking"

When counting the number of human trafficking offenses, many misdemeanors are included, resulting in an unusually large number of total cases and a low average sentence. That is because Taiwan's Human Trafficking Prevention and Control Act (HTPCA) was legislated in 2009 to cover human trafficking crimes not yet stipulated in existing laws at that time. As a result, "enslavement" (Criminal Code Article 296) or "forced labor" (Labor Standards Act Article 5) could now be considered as a trafficking act involving labor exploitation. By the same token, "procurement of sexual or obscene acts" (Criminal Code Article 296.1) could now be

construed as a trafficking crime involving sexual exploitation, and vice versa. An officer asked to sort/tally various crimes may think “human trafficking” a broad enough category to count it, resulting in a high number. Meanwhile, in meting out a sentence, a judge may opt for a lighter penalty under a different law (e.g. the Labor Standards Act) other than the HTPCA, thus lowering the average sentence for human trafficking violations.

### 3.2 Streamline sentencing practices

Human trafficking can take place in many forms and scenarios, and is therefore given different penalties in the HTPCA. For example, violators of Article 31 could be sentenced to “over six months and under five years” in prison, while violation of Article 32.2 warrants a jail term “under three years.” Sentencing is always within a judge’s discretion. In practice, a judge may go with a summary trial and mete out a shorter sentence. In addition, a sentence under six months is commutable to a monetary fine, allowing offenders to avoid jail time. Sentences for human trafficking could be more consistent and transparent.

### 3.3 Facilitate sentencing reform

Sentencing reform has been high on the agenda of the Judicial Yuan (JY), one of the five branches of the government in Taiwan. It set up a study team in 2011 to compile sentencing databases for all crimes and formulate guidelines to streamline sentencing. Human trafficking is one crime category being worked on. In early 2012, the court started forming a database just on human trafficking cases.

### 3.4 Review the anti-trafficking law

The Ministry of Interior has commissioned civic groups to review and suggest ways to amend the HTPCA, such as how to resolve the abovementioned concerns.

## 4. Enhancing civil servant competence in the HTPCA

### 4.1 Educate judges on victim identification and the HTPCA

4.1.1 To build communication among the courts, government agencies, and NGOs, the JY hosted a workshop in April 2013 on practical aspects of anti-trafficking endeavors. The participants discussed not only investigation and prosecution, but also victim protection. In particular, they talked about how to better communicate with the victims, respond to their needs, make the court more victim-friendly, and improve communication between the courts and anti-trafficking partners. Materials covered at the workshop are available to all JY staff members on the JY intranet for their reference. In July another workshop was held to advance the victim-identification competency of designated anti-trafficking judges from each court.

4.1.2 Since 2011, the JY has been compiling human trafficking documents and cases. This resource contains laws and regulations, legal background, and other information to expand the horizons and capabilities of the judges handling trafficking cases.

### 4.2 Train front-line law enforcement

4.2.1 The NIA has held workshops on four aspects of anti-trafficking enforcement: preventing child sexual exploitation, investigating techniques, taking statements, and seizing illegal

gains.

4.2.2 The NIA continues to sharpen front-line officers' skills in taking statements. They are to focus on verifying stories and identifying elements that constitute trafficking violations, such as perpetrators' acts to "threaten, coerce, confine or monitor" and "transport, hide or harbor" people. Such items are crucial to making a strong case. When victims are found to be foreign workers, the officers are required to find out whether the victims have been forced by employment brokers to sign IOUs, pay brokerage fees over the legal amount or accept bogus deductions from wages.

4.2.3 Cadets in the police academy learn about human trafficking in courses on gender equity, domestic violence, sexual assault, officer duties, and crime prevention.

#### 4.3 Strengthen prosecution

The MOJ has held annual training for designated anti-trafficking prosecutors to elevate their knowledge. This year's workshop took place in May, covering the HTPCA, investigation and prosecution issues, and victim protection services.

#### 4.4 Enhance services to foreign workers

The cabinet-level Council of Labor Affairs (CLA) held four workshops in 2013, discussing case studies on breaches of the Employment Services Act and HTPCA. They also examined instances and regulations related to foreign workers, including their protective placement, work permits, and other rights. The participants comprised CLA foreigner-labor counselors,

foreign-labor inspectors, and professionals from the NIA and shelters.

#### 4.5 Sharpen field officer sensitivity

The CLA funded three workshops for counselors/inspectors at local labor authorities and airport service stations to improve their sensitivity about human trafficking issues and labor disputes.

## **II. Protection**

### 1. Keep victims informed

#### 1.1 Promote public awareness

To better enforce the HTPCA, the MOJ updated and distributed the pamphlet “Finding a Way out for Human Rights” to enlighten the public. Prosecutors are urged to inform victims of the procedures that will follow and their implications so as to convince victims to divulge information against traffickers and receive assistance in a timely manner.

#### 1.2 Help victims make informed decisions

Judicial police are trained to proactively identify trafficking victims following MOJ-defined procedures and guidelines in order to avoid mistakes due to language barriers. During investigations, interpreter service is required (the presence of a social worker is also highly recommended) to calm the victim and effectively communicate to him/her the proceedings, protection measures available, and the importance of his/her involvement in the judicial investigation. By so doing, the victim is better able to make informed decisions about whether to stay in Taiwan to testify

against the offender(s).

### 1.3 Shelter victims properly

Prior to admitting a victim to a shelter under a protective placement order, the shelter operator should clearly communicate to the victim what rights and services (such as a temporary visa and work permit) will follow if he/she participates in the ensuing judicial proceedings. The shelter is to inform relevant agencies to promptly make alternate legal arrangements for victims who decide not to receive protective placement.

### 1.4 Empower the police

After referring a trafficking case to the prosecutor, a judicial police officer can promptly inform the victim (via the placement agency) of his/her case status after checking with the prosecutor/court concerned.

### 1.5 Expedite cases involving sheltered victims

Judicial police officers are charged with the task of periodically checking a case's progress in order to inform and calm the victim. Officers are also required to regularly check and remind the prosecutor/court to speed up cases concerning victims already sheltered for three months or more. In case of an emergency with respect to the victim, officers are to urge the prosecutor/court to expedite the case so that the victim may return home as soon as possible.

## 2. Regulate brokerage fees to stamp out debt bondage

### 2.1 Regulate fees incurred in the source country

To safeguard workers' rights, the CLA has advised each source



country to cap the recruitment fee at one month's minimum wage (based on Taiwan's labor standards). Source countries are also urged to stipulate allowable fee items and the maximum amounts charged to Taiwan-bound workers. What a worker actually pays should be clearly stated on the worker's written Fee and Salary Declarations duly authenticated by his/her home country's labor authority. This declaration is to be checked after arrival in Taiwan to avoid exploitation.

## 2.2 Regulate fees incurred in Taiwan

To curtail exorbitant broker charges by Taiwanese agencies, Taiwan's labor authority has published guidelines on allowable service items and their maximum amounts. Employment brokers can only collect service fees for items listed in the employment contract and only after the service is rendered.

## 2.3 Eradicate bogus deductions from salaries

To eradicate debt bondage in the name of "loans incurred in source country," Taiwanese employment brokers since late 2009 have been prohibited from collecting repayments for debts incurred in the source country. Violators can be sanctioned for extortion based on Taiwan's Employment Services Act. A worker must have his/her Declaration of Fees and Salary authenticated by the source country's labor authority before departure, and his/her Taiwanese employer/broker may not alter the content in a negative way. As of August 2013, 5 Taiwanese brokerage firms had been fined a total of US\$32,000, about 10-20 times the amount extorted from the victimized workers. Another three brokerage agencies had been

shut down.

#### 2.4 Boost the Direct Hiring service

A centralized Direct Hiring Service is now available to match Taiwanese employers with job seekers abroad or to renew job contracts with existing employees. Both sides benefit by bypassing brokers, as employers select workers directly and migrant workers save on brokerage fees, which can be heavy and cause debt bondage.

#### 2.5 Raise awareness at crucial junctures

Starting in March 2013, each source country has to show a 30-minute video about Taiwan at the orientation of their Taiwan-bound workers. Moreover, airport service counters and multilingual hotlines are ready to address grievances for workers leaving Taiwan. The handbook “What You Need to Know about Working in Taiwan” is distributed to migrant workers upon their arrival in Taiwan. It reminds them to ask the Taiwanese employer to provide a certificate of job termination from the local government before departing, in the event that they leave Taiwan before their employment contract terminates. The handbook also lists channels for complaints should the employer refuse to comply. In July 2013, airport service counters began offering many more on-site materials to inform new entrants about Taiwan’s laws and customs, as well as their rights, so they will quickly adapt to their new environment.

#### 2.6 Explain employment laws over the radio

To educate employers, brokers and migrant workers about

employment laws, the 1955 Hotline, and the requirement for an early job termination certificate, Taiwan's labor authority has sponsored 6 radio channels to produce 13 multilingual programs, reaching 3.77 million listeners so far this year.

#### 2.7 Instill anti-trafficking messages

To combat labor exploitation, local governments organize workshops on trafficking prevention for employers and employment agents and seminars on laws for migrant workers.

### **III. Prevention**

#### 1. Ensure human rights of deckhands

##### 1.1 Systemize hiring practices

The ministry-level Council of Agriculture (COA) is the agency in charge of affairs related to fishing vessels and fishermen. The COA has stipulated that vessel owners submit a photocopy of the following documents before hiring a foreign deckhand:

1.1.1 Employment contract between the vessel owner and the deckhand (listing the contract period, itemized fees and amounts, conditions to get on and off the vessel, commercial insurance policies purchased and insured amount); for hires through an employment agency, the consignment agreement (indicating contract period, itemized fees and amounts, including insurance policy types and amounts, terms and conditions for both parties); and

1.1.2 Insurance policies taken out on the foreign deckhand concerned with an insured amount no less than US\$10,000.

## 1.2 Build rapport between employer and deckhands

The pamphlet “Same Boat, Common Destiny” was produced to help Taiwanese vessel owners/captains understand the customs and traditions of Indonesian fishing deckhands and vice versa.

## 1.3 Manage manpower resources

To better regulate employment brokerages and foreign deckhands, the COA has revised relevant guidelines in the past two years as follows:

1.3.1 Associations (for fishing communities or long-haul fishing vessel operators) are charged to maintain a roster of qualified deckhand brokerages on a central COA web registry for public access;

1.3.2 A brokerage is liable for onboard misbehavior of the deckhands it recommends. A brokerage may be delisted from the COA registry for up to five years after an incident if the brokerage is found to have failed to discipline the deckhand in question;

1.3.3 For better identification, a deckhand’s color photo must be attached to the employment contract he enters with the brokerage/vessel owner; and

1.3.4 A deckhand must submit a criminal record check as part of employment application.

## 1.4 Avoid confrontation

Out of safety considerations, the COA strongly advises against hiring foreign deckhands from one single country/region.

## 1.5 Promote proper hiring practices

To uphold deckhands’ rights, the COA promotes a standard-format

employment contract with key elements, such as:

1.5.1 The contract period and the monthly salary amount; and

1.5.2 The minimum insured amount of a life insurance policy for a deckhand.

#### 1.6 Enhance on-board harmony

To enhance the leadership and competence of Taiwanese captains/crewmembers, training courses are offered with lectures by seasoned captains to share experience and know-how about dealing with foreign deckhands.

### 2. Raise public awareness about human trafficking

#### 2.1 Spread the message with electronic and print materials

The CLA made 280,000 pocket cards and 210,000 handbooks in bilingual format (Chinese and one foreign language) to inform foreign workers of the Hotline 1955, other assistance resources, and suggestions to avoid falling victim to trafficking. In addition, anti-trafficking reports, interviews on electronic and print media, and 13 bilingual radio programs have reached 3.77 million readers/listeners.

#### 2.2 Train employers, brokers and migrant workers

The CLA has funded 17 events organized by local governments to train employers of migrant workers and related recruitment agencies. The CLA itself held 134 “know the laws” seminars for foreign workers. These efforts aim to raise the participants’ awareness about human trafficking.

#### 2.3 Reach radio audiences

The CLA produced and broadcast public service announcements on

13 regular radio programs, promoting the 1955 hotline in Chinese, English, Tagalog, Thai, Vietnamese and Indonesian.

#### 2.4 Operate a learning website

To enlist the general public's help to fight human trafficking, the CLA offers an online course (at <http://cla.holearning.hinet.net>).

#### 2.5 Educate current and future employers

In a long-term campaign to promote awareness of related laws and respect for cultural diversity, the CLA produced posters and pamphlets on the theme "uphold human rights and show that you care" in 2012. This year, the CLA set out to produce 250,000 copies of the handbook "Laws on Hiring Foreign Workers, 2014" to educate current and future employers about foreign worker issues.

#### 2.6 Produce video clips for wider audiences

The NIA is in the process of producing an anti-trafficking video clip in five languages to reach a wider audience. The film is scheduled to be completed by the end of October 2013.

#### 2.7 Show anti-trafficking messages

Thirty-second public service announcements were played on 6 TV channels, 21 radio channels, and numerous LED bulletins at government agencies, increasing the promulgation of anti-trafficking information.

#### 2.8 Intensify the campaign against child sex tourism

2.8.1 Police forces are charged to advocate against child sex tourism and human trafficking at the precinct level.

2.8.2 Police forces organize regular events to educate children and

women about the law to help protect them from sexual exploitation. Target audiences include students, teachers, social groups, and people in the travel and tourism industry. They are warned against engaging in and peddling child sex.

2.8.3 At orientation seminars, Taiwan's tourism authority instructs people training to become tour guides and travel agents on gender equity issues and warns them to avoid facilitating sex transactions. Information about sanctions against human trafficking and child sexual exploitation are available on the tourism bureau website and as parts of the e-curriculum for tourist guides and travel operators in training. Associations for hotels and bed-and-breakfasts invite scholars and specialists to talk about such concepts at routine staff training seminars.

2.8.4 The Ministry of Health and Welfare, in collaboration with NGOs, promotes public sensitivity about child sexual exploitation over the internet and LED bulletin boards at transport hubs and road intersections.

### 3. Foster seamless anti-trafficking collaboration

#### 3.1 Cultivate cross-agency networks to create synergy

Starting in 2012, each judicial police agency and local governments have designated anti-trafficking liaisons (the "seeds"). They have formed a network to coordinate relevant tasks inside each organization and within the network. The seeds also attended a training workshop in Taipei organized by Integration and Customs Enforcement (ICE) under the US Department of Homeland Security on July 29-30, 2013.

### 3.2 Institute a performance evaluation program

A cabinet-level anti-trafficking task force made evaluations of the anti-trafficking performance of all 22 local governments and should announce the results by the end of the year.

### 3.3 Enhance anti-trafficking competence of field officers

Two training workshops were held on June 5 and September 12 to enhance the anti-trafficking capabilities of 200 front-line officers from the Coast Guard, and agencies in charge of labor, criminal investigation, law enforcement and immigration affairs.

### 3.4 Hold a workshop on child sex tourism and deckhand exploitation

As there is still room for improvement for stamping out child sex and fishing deckhand abuse on Taiwan-flagged vessels, the NIA, CLA, Ministry of Foreign Affairs and Tourism Bureau jointly held an international workshop on October 1 to explore collaborative strategies and more effective solutions.

## **Conclusion**

Demonstrating commitment to upholding human rights, Taiwan's public and private sectors have combined forces to focus on the 3Ps: prosecution, protection and prevention. The government will continue to strive to safeguard human rights through even better collaboration both at home and abroad, thereby maintaining Taiwan's Tier 1 status.