

**REPORT  
ON  
PROTECTION OF  
THE RIGHTS  
FOR FOREIGN WORKERS  
IN TAIWAN**

**Ministry of Labor**

**October 19, 2001**

**(Revised in January, 2019)**

## Report

# On Protection of the Rights for Foreign Workers in Taiwan

## I. INTRODUCTION

In recent years, the unbalanced labor supply and demand in Taiwan has resulted in a lack of basic manpower. This can be attributed to a number of economic factors such as the transformation of industrial structure, rising per capita income, rapid growth in service industries, higher education levels, and a change in job values. In response to these issues, the Council of Labor Affairs (MOL) decided to open up Taiwan's job market to foreign workers starting in October 1989. Migrant workers from Thailand, Philippines, Indonesia, Malaysia, Vietnam and Mongolia are now employed in Taiwan as part of the government's efforts to solve the problems of labor shortages.

As of the end of December 2018, there were 706,850 foreign workers in Taiwan, of which 61.12% in manufacturing, 0.58% in construction, 1.79% on fishing crews, 36.24% as caretakers, and 0.27% as domestic helpers.

## Foreign Workers in Taiwan (as of December 2018)

unit: person

Country Industry		Indonesia	Malaysia	Philippines	Thailand	Vietnam	Mongolia	Others
Total	706,850	268,576	1	154,209	60,764	223,300	0	0
		38%	0.00%	21.82%	8.6%	31.59%	0.00%	0.00%
Manufacturing	432,014	61,809	1	120,921	57,909	191,374	0	0
	61.12%							
Construction	4,104	556	0	12	2,349	1,187	0	0
	0.58%							
Fishing crew	12,635	9,081	0	1,780	27	1,747	0	0
	1.79%							
Caretaker	256,173	195,878	0	30,870	468	28,957	0	0
	36.24%							
Domestic helper	1,924	1,252	0	626	11	35	0	0
	0.27%							

Source: Department of Statistics, Ministry of Labor.

This initiative has benefited Taiwan economically and socially:

- 1. It supplies more basic manpower needs as well as encourages small and medium enterprises (SMEs) to keep their investment in Taiwan and offer more job opportunities.**
- 2. It allows Taiwan to utilize global human resources to increase national competitiveness and speed up public construction.**
- 3. It provides sufficient caretakers to those households in need, so that productive manpower can fully participate in the job market.**

Foreign workers need to make extra efforts to adapt into Taiwan's working environment due to language barriers, differences in religious belief, cultures and life patterns. This means that much more care from the public is needed for these workers. This thought is made for reasons of humanity, justice, fairness as well as being a gesture to respond to the contribution made by the foreign workers to Taiwan's economic development, embodying the traditional values of this country.

## **II. FUNDAMENTAL PRINCIPLES**

Taiwan is less likely to host a large number of immigrants because it is a small and densely populated island nation. Foreign workers are however introduced into Taiwan as "Guest Workers" because they are considered supplementary to the country's job market and economic development. The government has no intention of making differences between the foreign workers and the local citizens. Though some restrictions are imposed on foreign workers, significant efforts have been made to ensure the equality of their treatment, labor standards and legitimate rights in their host country. Under no circumstances will the government allow foreign workers on the island to be maltreated, rejected or left helpless. In short, the legitimate rights of foreign workers in Taiwan are well protected by the following fundamental policies:

### **1. Fundamental Rights: Equality and Justice**

Migrant workers leave their home country with the hope of earning more money than what is being offered in their country of origin. Their legitimate rights must not be deprived in any way. During the process of obtaining job opportunities, migrant workers often find that some external forces are taking a portion of their earnings. Whether these shares are reasonable should be a subject of fair and just scrutiny.

## **2. Employment Rights: National Treatment**

Article 7 of the Universal Declaration of Human Rights states that “All are equal before the law and are entitled without any discrimination to equal protection of the law.” Every foreign worker in Taiwan, therefore, is under the protection of pertinent laws. These include the Labor Standards Law (LSL) that offers nondiscrimination and legitimate protection in minimum wages, working hours and working conditions as well as benefits regulated under the Labor Insurance Regulations and the Employee Benefit Regulations.

## **3. Living Rights: Universal Principle**

Foreign workers leave their homes and families behind for employment in an unfamiliar society, where mutual understanding between them and local citizens is of utmost importance. In this regard of understanding efforts have been made to help foreign workers understand more about local communities and offer workers a mechanism in counseling and adaptive service, so that they can feel at home and enjoy their stay in Taiwan.

# **III. SUBSTANTIAL MEASURES**

## **1. Protecting the Fundamental Rights of Foreign Workers**

### **(1) Reinforcing the management of brokerage firms**

- i. Regulation regarding service fee charging standards for Taiwan manpower agencies was revised on November 9, 2001. It stipulates Taiwan manpower agencies can only charge a monthly service fee from foreign workers and shall not charge any broker's fees. The monthly service fee shall not be more than 1,800 NT dollars in the first year, 1,700 NT dollars in the second year and 1,500 NT dollars in the third year. On March 2, 2010, in order to

avoid increasing the burden on the part of the foreign workers, the MOL revised the said regulation that requires the broker's fees shall not be collected in advance in line with the commercial practice of "fee for service". As the regulation has been deleted in Article 52 of the Employment Service Act prescribing that a foreign worker shall leave the country for at least one day upon the expiration of the employment, the Ministry modified the broker's fee on April 6, 2017. The service fee collected from a foreign worker shall be calculated based on the period of work after the foreign worker enters the country. To maintain the rights and interests of foreign workers, the monthly service fee shall not be more than 1,800 NT dollars in the first year, 1,700 NT dollars in the second year and 1,500 NT dollars in the third year.

- ii. The MOL has reduced the service fee as of November 2001 and suggested the expected service fee shall not be more than the foreign workers' monthly minimum wages. The Foreign Worker's Affidavit for Wage/Salary and Expenses Incurred for Entry into the Republic of China to Work (the Salary/Wage Affidavit) is notarized by the authorities of the foreign worker's home country. The documents will be double checked by the home country. According to the Employment Services Act revised on January 21, 2002 brokers who collect unlawful compensation are subject to aggravation of fines, suspension or revocation of permits.
- iii. To mitigate the foreign labor's burden of excessive broker's fees, the MOL established the "Direct Hiring Joint Service Center (DHSC)" on December 31, 2007. The WDA (Workforce Development Agency) has set up five service counters in the public employment service institutions (one in northern, central, southern, eastern, and western Taiwan) to assist the employers in recruitment of the same employees without going through

agencies, to eliminate the broker's fees and to shorten the process and time for foreign workers re-entering Taiwan. Services provided include counseling in different languages, query, proxy transfer, proxy send and text message / e-mail sending to remind employers on matters of foreign workers' post-arrival. In 2008 the direct hiring program was first available to the employers who wanted to rehire the same foreign domestic caretakers. As of 2009 the direct hiring program has expanded its services to service the employers rehiring the same foreign workers that work in the manufacturing, fishing boat, construction, institution caretaking and domestic helper industries. The "International Direct e-Recruitment System (IDeS)" was launched in January 2012. Through the IDeS employers may recruit new hires online or in person. Since 2017, a one-stop direct hiring service is offered, where a designated person will help follow up on a case and inform the applicant of matters to be dealt with regarding working in Taiwan, to empower employers' hiring and management of foreign workers.

- iv. To improve employer's willingness to employ foreign workers directly, the MOL set up an APP called "Foreign Worker Aid" on August 5, 2014. The APP provides services, such as application procedures for direct employment, news, and searches for the status of application; At the end of 2014, the Online Application Navigating System was set up to help employers fill out application forms. On July 30, 2015, the Management Portal for Foreign Workers in Taiwan was set up to provide employers a variety of services and resources, including airport pickup/drop-off, health examination hospitals, resident certificate, and labor and health insurance, and facilitate the management of foreign workers; from 2014 to 2018, the said portal was optimized by adding

services and adjusting contents and functions to improve its usefulness for employers.

- v. On July 14, 2011 the MOL interpreted the definition of "unjust interests" as referred to in Paragraph 6 of Article 40 and Subparagraph 10 of Paragraph 1 of Article 54 of the Employment Services Act as: the expenses that are supposed to be paid or shouldered by the employer based on legal requirement or contractual agreements, or the value of gifts received by the employer from the brokerage firm that have exceed acceptable value in social ritual or business practices Both tangible and non-tangible profit is included in this context to prohibit the rebate that employers may request from the brokers in order to safeguard foreign workers' welfare.
- vi. In July, 2002, the MOL amended the checklist for local authorities' routine inspections, and the broker's collection of fees has been included in order to reduce broker's fees paid by the foreign workers. Unscheduled inspection visits to employers and foreign workers will be conducted to check whether brokers' collection of fees is consistent with "the Salary/Wage Affidavit" signed by employees. Taiwanese manpower agencies engaging in the excessive collection of fees will be penalized in accordance with the applicable laws and regulations. As for foreign manpower agencies engaging in the excessive collection of fees, they will have their licenses revoked in accordance with Taiwan's "Regulations for Permission and Supervision of Private Employment Services Institution." The cases of offence shall also be referred to the authorities of the labor-sending countries for proper handling.
- vii. The MOL amended the "MOL Evaluation Guidelines for Violation of Employment Services Act by Private Employment Service Institutions and

Professionals and for Revocation of Cases” on March 27, 2012 in order to prevent the manpower brokerage agencies from overcharging. Irrelevant with whether the overcharge is refunded or not, a suspension of 3 months will be imposed on those that violate the Act for the first time and a suspension of 6 months is imposed for those that violate the Act for the second time, a suspension of more than 9 months is imposed each time for those that violate the Act three or more times. An additional suspension of 3 months is imposed if the overcharge is not refunded before the decision on suspension is rendered to prevent the brokers from overcharging effectively.

- viii. To ensure domestic and foreign manpower agencies duly fulfill their obligations in recruitment and care, the MOL amended the Regulations for Permission and Supervision of Private Employment Services Institution on October 8, 2014, which created a regular inspection and elimination system. If a certain percentage of foreign workers whom domestic manpower agencies have introduced are missing for 3 months, domestic manpower agencies will be penalized and their licenses will not be renewed after expiration. An application submitted to foreign manpower agencies which introduces foreign workers for the renewal of a license will be rejected.
- ix. To improve the quality of service of manpower agencies and information on manpower agencies, the MOL has carried out the evaluation of manpower agencies since 2004; the Regulations for Permission and Supervision of Private Employment Services Institution were also amended on January 3, 2007 to regulate the evaluation and its grading. The quality of service, punishments for violations, and customer services are evaluated annually and classified by Level A, Level B, and Level C. The results of evaluation will be published on the website of the MOL



([www.wda.gov.tw](http://www.wda.gov.tw)) for employers' reference. The evaluation aims to continuously improve healthy competition and quality of service among manpower agencies. Manpower agencies graded Level C will not be allowed to set branches and are required to make improvements within one year; if they fail to reach Level B in the next year's evaluation, their licenses will not be renewed, forcing them to quit the market and maintaining the positive development of manpower agencies.

- x. On July 6, 2007, the Plan for Implementing the Inspection of Private Transnational Human Resource Agencies by Municipal and City(County) Governments was announced for municipal and city(county) governments to increase the frequency of inspections of agencies with bad appraisals. On August 3, 2015, the said plan was amended to set the frequency of inspections based on the results of evaluations. If any illegal practices are found during the inspections, severe penalties for transgressions will be implemented by the municipal and city(county) governments.
- xi. To reduce the number of illegal brokers, the MOL amended the Employment Service Act, which stipulates any broker violating Article 45 will be fined an amount of at least NT\$ 300,000 and at most NT\$ 1,500,000; the broker with a recurrent violation within five years shall be imprisoned for a term of at most five years, or detained for hard labor, and/or penalized for an amount of at most NT\$ 2,400,000; in addition, the punishment is imposed based on the number of people instead of cases to eliminate illegal brokers. To deter and severely punish foreigners working illegally, employers hiring foreigners to perform work illegally, or brokers seeking employment for foreigners illegally, the MOL amended the Employment Service Act to increase the fine for the said illegal behavior based on the degree of illegality; on July 11, 2014, the Executive Yuan submitted the

said amendment to the Legislative Yuan for review and determination, but the amendment was returned without review. The MOL remade the amendment on November 2017 for review and planned to report it to the Executive Yuan for review.

- xii. To prevent foreign workers from being exploited, the MOL will continue to urge source countries to review the brokers' collection of fees through bilateral labor meetings and verification, while strengthening the management of the brokers' excessive collection of fees.
- xiii. To encourage the public to report employers and private employment service organizations or individuals in violation of the Employment Service Act, the MOL established the Guidelines for Issuing Reward for Whistle-blowing against Violation of the Employment Services Act on September 11, 2015, specifying that whistleblowers will be granted a reward of NT\$20,000~NT\$70,000 based on the number of foreign workers brokered among foreign workers seized in violation of the Act.
- xiv. To protect the rights and interests of foreigners, the MOL has amended and promulgated the "Employment Service Act" and added Subparagraph 18 and 19 of Paragraph 1 of Article 40, which would regulate private employment agencies and their employees to prohibit physical assault to job seekers or foreign employees, and imposes on the employees of the private employment agencies the responsibility of actively reporting any incident of suspected personal injury sustained by foreign employees.

## **(2) Stopping unjustified repatriation**

- i. The MOL has required in the "Regulations on the Permission and Administration of the Employer of Foreign Persons" that employers who request for early termination of employment contract/contracts shall go through Verification Processes for the Employment Termination

- Agreement conducted by local governments to prevent unjustified repatriation. The verification certificate shall be issued by the local city and county authorities upon the completion of the verification processes. The said verification certificate must be attached to the application for a replacement of the foreign labor; otherwise, the application will be denied.
- ii. The MOL has subsidized the local governments for the establishment of foreign workers counseling centers to provide foreign workers with services of psychological assistance, legal consultation, labor dispute settlement, etc to solve disputes between employers and the employees. The MOL has set up the measures for placement of foreign workers to provide foreign workers with appropriate care in cases where employers are unable to provide accommodation to the foreign workers during the dispute period. Appropriated care is achieved by entrusting the representative offices of the labor sending countries in Taiwan, religious groups and charity groups.
  - iii. On January 16, 2006 at the Taoyuan International Airport and on January 1, 2008 at the Kaohsiung International Airport the MOL set up the first foreign workers service stations to help foreign workers fully understand the pertinent employment regulations, information related to working in Taiwan and to assist foreign workers in solving all disputes incurred before leaving Taiwan. These stations provide arriving foreign workers with orientation services and reinforce their legal awareness in labor-related policies. Foreign worker service counters and multilingual hotlines are also available for foreign workers to file complaints. Bringing all the resources together to build a comprehensive foreign labor service network has been done to further protect the rights of foreign workers. As of May 1, 2012 the MOL organized the seminar to promote the foreign labor related laws and

regulations at the service stations located at the international airports on a trial basis. Starting on July 1, 2013 the practice has been expanded to enable foreign workers to understand this country's laws, customs, their own interest and rights. The practice expansion works assuages their fear about being away from home to work in Taiwan alone and helps them be adapted to life in Taiwan.

**(3) Prohibition of any form of forced conducts or discrimination**

- i. Some employers might detain workers' credentials or part of their salaries as forced savings to prevent foreign workers from "disappearing" however, foreign workers should always keep their passports or alien resident certificates with them according to the Immigration Law of this country. It is therefore strictly prohibited that employers detain the above-mentioned credentials.
- ii. The prohibition of marriage or pregnancy regulations was amended with related regulations on November 7, 2001 by the MOL to cancel the regulation against marriage during employment period. Starting on November 9, 2002 the pregnancy test from the regular bi-annual medical examination was also cancelled. Foreign workers will follow the regulation based on the "Measures of Inspection and Supervision of Health Examination for Foreign Persons" as announced on January 13, 2004. Foreign workers will take the medical examination 6 months, 18 months and 30 months from their date of entry into Taiwan, however without the requirement of pregnancy tests. Foreign workers will not be repatriated if they fail the pregnancy test.
- iii. The rights of pregnant foreign workers are also protected under the "Gender Equality in Employment Act." Where foreign labors are employed in the sectors governed by the Labor Standard Law, they may be

entitled to the protection of female labor under the Act.

- iv. To protect human rights and take affirmative action in line with international trends, the Ministry of Health and Welfare promulgated the amended Regulations Governing Management of the Health Examination of Employed Aliens on February 6, 2015, excluding AIDS from the list of examination items before/after entry. No foreign worker will be required to participate in the AIDS examination or be repatriated once found infected; however, foreign workers concerned about infection may participate in the AIDS examination at their own cost. Medical institutions shall only inform the examinee of the result of the examination and shall not inform the employer. Foreign workers who are verified to be infected may receive treatment in Taiwan at their own cost.

#### **(4) Protection of personal safety**

- i. The MOL has integrated all the resources provided by government agencies and set up a reporting system and guidelines of handling the assault cases (including sexual assault, sexual harassment, and physical abuse) incurred with foreign workers. The system will provide the translation services for physical checkups report, filing of legal action, deposition, and court-appearance; also included in the services are emergency shelter arrangements, legal aid, transfer of employers, or returning to foreign workers' home countries, abolishment of employer permits, and disputes settlements, etc.
- ii. On July 1, 2009 the MOL initiated the 1955 hotline to provide 24/7 bilingual, toll-free consultation and complaints filing services to strengthen the foreign workers' complaint calls service,.
- iii. In 2012 the MOL distributed "The Handbook for Foreign Workers in Taiwan," promotional flyers for "1955" Foreign Workers' 24-hour

Consultation and Protection Hotline, etc... in order to enhance foreign workers' self-protection consciousness, prevent sex abuse, provide the channels for filing complaints and propagate other relevant legal rights. These printing materials produced for passing to foreign workers have also been distributed to the service stations in international airports, NGOs, local governments, police stations, immigration agencies, radio stations, representative offices of labor-sending countries in Taiwan, churches and places where the foreign workers gather.

- iv. When hiring foreign workers if the employers, patients to be taken care of by foreign workers, co-living relatives, the employer's representative, the person in charge or anyone that represents the employer in dealing with the labor-related issues has commit any behaviors described as criminal as ruled in the Criminal Act, the employers will not be allowed to hire foreign workers in the future, according to the "Regulations on the Permission and Administration of the Employer of Foreign Workers" revised on December 30, 2010.
- v. On September 17, 2009 the MOL revised the "Subsidy Guidelines for Implementing Foreign Workers Management Measures" to integrate the resources of the private sector for the promotion of the measures on administration of foreign labor and implement the protection of the rights for foreign workers. Foreign workers who are injured from occupational hazard and not able to work or who are considered as the victim of experiencing physical assault regarding the status of a criminal case are arranged to be sheltered in accordance with the "Guidelines for Temporary Sheltering of Foreign Labor Engaging in the Jobs Specified in Item 8 to Item 11, Paragraph 1 of Article 46 of the Employment Service Act ," the maximum subsidy would be 10,000 NT dollars per person or per case,

except for specific cases approved by Workforce Development Agency or local competent authorities, the maximum subsidy would be 100,000 NT dollars per person or per case.

**(5) Establishment of Counseling Service Network for Foreign workers**

- i. The MOL has been subsidizing local governments to set up Counseling and Service Centers for Foreign Workers to further protect foreign workers' legal rights and assist them for swift adaptation in their assignments in Taiwan. All centers provide services and information of laws and regulation, psychological counseling, employment adaptation, labor dispute with the help of bilingual personnel. In case of the need of counseling or any act such as early termination of contracts without fair reason, maltreatment, detainment of properties, non-payment of salary or sexual assault, foreign workers can file complaints or report to local governments and the center.
- ii. Starting in July 1, 2009 the MOL set up a 24-hour Consultation & Protection Hotline for Foreign Workers and the people of Taiwan with 7 lines and 21 operators to offer a faster dial and easy-to-remember channel to seek consultation and file a complaint. From January 1, 2013 the 1955 hotline has been expanded to 18 lines and 44 operators to take complaints, provide free legal consultation, make referrals for protective placements, provide information on government services and offer a quick way to resolve complaints. Received complaints are electronically referred to local governments for handling and follow-up. Beginning in February 2011 the MOL further expanded the scope of services offered by its "1955 24-hour Consultation & Protection Line for Foreign workers", offering 24-hour interpretation services concerning adaptation to local life, obtaining medical care, official business, work, or living in Taiwan, as well as

sending text messages of legal news services.

- iii. To allow employers, foreign workers, private employment service agencies and the public to understand employment and rights of foreign workers and related laws, an Information Site of Foreign Worker Rights Defence in 5 languages (Chinese, English, Indonesian, Vietnamese and Thai) was set up and launched on July 18, 2017. Foreign workers and employers could access real-time information on relevant employment, legal rights and related laws through the website. Furthermore, to help make the information of transferring employers more transparent, the website added "Foreign Workers' transfer of employers Enquiry" in December 2017, to provide real-time access to the latest transfer information enquiry service in four languages for both foreign workers and employers. .

#### **(6) Prevention of Trafficking of Foreign Workers**

Foreign workers who suffer from human trafficking or are suspected as victims of trafficking shall be placed in shelters. The "Executive Yuan Coordination Meeting on Human Trafficking Prevention" was established in 2007 and the Human Trafficking Prevention Act was defined in 2009 to provide the concrete measures to promote the prevention, inspection and prosecution against human trafficking, and protection of victims:

- i. Prevention Perspective:
  - (i) The MOL periodically proposes an array of preventive campaigns, including conducting periodic educational training sessions and legal awareness campaigns, publishing handbooks on prevention of human trafficking, and producing pre-employment sessions videos to raise the awareness among foreign workers, employers, brokers, the public, and personnel in consultation service centers of local governments, foreign workers service stations of international airports and the 24-hour foreign workers consultation & protection hotline "1955" about the prevention of human



trafficking.

- (ii) Holding pre-employment sessions for family-based foreign workers:

To improve employers' understanding of laws and responsibilities for foreign workers, Article 48-1 of the Employment Service Act was amended and promulgated on October 7, 2015, specifying that the local employer of a foreign worker must complete a certain number of hours of employer training sessions before hiring a foreign worker to render home care or household assistance for the first time. The session shall cover laws regarding employment of foreign workers, human trafficking prevention, foreigners' customs in their own country, labor relations and insurance, labor contracts and salaries, and treatment of termination of employment. The sessions have been held since July 1, 2016 to help employers get their family fully prepared for the prospective situations and related laws, improve labor relations, and reduce the number of foreign workers leaving due to poor adaptation. In addition, the MOL, in its effort of establishing a single-window service website, incorporated the "Employer's pre-employment sessions information website" into Information Site of Foreign Worker Rights for integrated management on June 20, 2018.

- ii. Protection Perspective:

With the joint effort of counseling service centers of local governments and NGOs, mechanisms have been established to assist trafficking victims by providing protective placement and interpreters to accompany them to inquire, and offering them with living subsidies, physical and psychological therapy, extension of resident status, subsidies for litigation

expenses, subsidies to NGOs in relevant activities, financial aids to emergencies /disastrous incidents, assistance in changing employers or job cross work sectors, issuing short-term working permits, employment services and vocational trainings.

iii. Investigation and Prosecution Perspectives

The MOL has integrated the overall bilingual complaint hotlines offered by the consulting service centers in local governments, the “1955” 24-hour consultation and protection hotline for foreign workers and foreign workers service stations at international airports to take complaints and provide assistant in claiming the unpaid salaries from employers or brokers, or refer suspected cases of human trafficking to the judicial authorities or the police authorities for investigation. Employers and brokers exploiting foreign workers will be penalized according to the law.

In addition to the above mechanisms, the MOL continues to request local governments to take the following actions: increasing fines against illegal employers and brokers, encouraging public reports, evaluating brokers, promoting direct employment of foreign workers, increasing ways to employ foreign workers, and reducing fees collected by brokers.

**(7) Providing Interpreters to help Foreign Workers during Inquires**

- i. On August 6, 2010 the MOL promulgated guidelines for local governments to arrange personnel in NGOs to accompany foreign workers during inquiries. The guideline indicates how to find interpreters from the counseling service centers and NGOs to accompany foreign workers to inquiries so the victims can be well informed of the legal rights and

obligations.

- ii. To set a reasonable compensation for interpreters, the MOL amended and promulgated Guidelines for the Implementation of Examinations of Foreign Workers in Company with NGOs by Local Governments on August 11, 2017, covering interpretation of administrative or criminal cases where foreign workers are involved in Taiwan. The interpretation fee per case was also adjusted from NT\$500 to NT\$600 for the first two hours and from NT\$155 to NT\$300 after the third hour (inclusive); the interpretation fee by night shall be twice the fee by day. To ensure the reasonableness of the interpretation fee, the length of time of interpretation shall be calculated beginning at the agreed time; travel allowances were also set.

## **2. Protection of Foreign Workers' Employment Rights**

### **(1) Foreign workers enjoy the same protections under the labor laws as the local citizens**

- i. According to Article 7 of the “Universal Declaration of Human Rights” that "All are equal before the law and are entitled without any discrimination to equal protection of the law,” Taiwan will surely comply with international regulations. Under the principle of “National Treatment”, foreign workers are protected by the Taiwan labor-related laws while they are in Taiwan. If foreign workers are employed in the industries that are under the supervision of Labor Standards Law (LSL), they are be protected by LSL, which offers nondiscrimination and legitimate protection in minimum wages, working hours and working conditions. Although household maids and in-home caretakers are not currently covered under the protection of LSL, the “Regulations on the Permission and Administration of the Employment of Foreign Workers” stipulate that the

Salary/Wage Affidavit shall be specifically listed in the salary and related expenses after entering Taiwan, signed by all four parties: employer, foreign worker, brokers of both Taiwan and the labor sending country, notarized by the labor sending countries prior to foreign workers' arrival in Taiwan. The said regulation also stipulates that the written employment contract shall be concluded and signed by the employer and the foreign worker. For further protection of the rights of foreign workers, employers are required by law to pay full salary directly to foreign workers.

- ii. If national and foreign caregivers are employed by businesses under the Labor Standards Act (such as social welfare institutions), their labor conditions shall be granted in accordance with the Labor Standards Act; when they are employed by individuals to provide care at home, or care for everyday living of family members or other home caring related tasks, their working environment, working style, working hours and rest periods are apparently different from those employed by businesses, making it difficult to apply the Labor Standards Act. Currently, the Labor Standards Act does not apply to family workers employed by individuals.
- iii. To protect the rights and interests of family workers, the MOL has set up the Family Worker Protection Task Force and invites experts and scholars to discuss the protection of rights and interests of family workers on a regular basis. Related protective measures will be taken according to the domestic long-term care system and the conclusions of meetings held by the Family Worker Protection Task Force.
- iv. Considering the gradual increase in salaries of family-based foreign workers and the financial abilities of employers, the MOL held a meeting with Indonesia, Philippines, Thailand and Vietnam on August 28, 2015 to protect the rights and interests of family-based foreign workers. The

meeting concluded with a new labor contract that has increased the salary of a family-based foreign worker from NT\$15,840 to NT\$17,000 for verification by the representative office since September 1, 2015. The labor contract has been implemented.

- v. To stabilize labor relations, save training costs, and retain outstanding foreign family caregivers, the MOL announced on November 11, 2015 that trained or self-educated foreign family caregivers having outstanding performance up to the standards of the authorities may work in Taiwan for 14 years.
- vi. To prevent employers from collecting unreasonable accommodation and utility fees in all sorts of names, an interpretation order was given to stipulate that the price of accommodation and utility provided by employers shall be collected in a fair and reasonable manner and that foreign workers may complain to the MOL or local authorities in charge of labor about employers' violation.
- vii. According to Articles 54 and 57 of the Employment Service Act, employers shall not illegally withhold passports/residence certificates of foreign workers, or embezzle belongings of foreign workers. Foreign workers may complain to the MOL or local authorities in charge of labor about the said violations of employers or brokers. The MOL is currently amending Articles 54 and 57 of the Employment Service Act, which will stipulate that employers who have illegally withheld passports/residence certificates or other ID documents of foreign workers, will have their recruitment licenses, employment licenses or renewal of employment licenses rejected or revoked.
- viii. Currently, foreign fishermen are divided into domestic employment and overseas employment. The license and management of domestic

employment of foreign fishermen are prescribed in the Employment Service Act and its bylaw and governed by the MOL; the license and management of overseas employment of foreign fishermen are prescribed in the Act for Distant Water Fisheries and its bylaw and governed by the Council of Agriculture, Executive Yuan. Based on the principle of national treatment, foreign fishermen employed domestically are protected by the Employment Service Act and existing foreign worker protection system.

- ix. On November 3, 2016, the MOL deleted the provision in Article 52 of the Employment Service Act that foreign workers shall leave the country for one day upon the expiration of three years of employment and to protect the rights and interests of foreigners working in Taiwan prescribed that foreign workers agreeing with original employers to renew the contract or agreeing with new employers to work upon the expiration of employment may apply for employment permits without leaving the country for one day.
- x. To protect the rights of foreign workers to take leaves to their home countries, the MOL established and promulgated the Directions of Foreigners Engaging in Jobs Specified in Items 8 to 10, Paragraph 1, Article 46 of the Employment Services Act Wishing to Take Leaves to Their Home Countries on April 18, 2017, specifying that foreign workers wishing to take leaves to their home countries may arrange the date of return with the consent of the employers. For foreign workers wishing to take special leaves to their home countries, the Labor Standards Act, the Act of Gender Equality in Employment and the labor contract shall apply.
- xi. To protect the rights and interests of non-national dependent children of foreigners working in Taiwan, the MOL has offered the Ministry of Health and Welfare allowances for the placement of non-national dependent children of foreign workers since June 1, 2017.

- xii. In the amended Labor Union Act taking effect on May 1, 2011, the provision that only candidates who are nationals of the Republic of China are eligible to be directors and supervisors of a labor union has been deleted; instead, foreign workers aged 20 or more without the nationality of the Republic of China are eligible for directors and supervisors of a labor union in addition to a sponsor, so as to protect their right to work and form an alliance as well as three rights of labor (Right to organize, right to bargain and right to dispute) which national labors enjoy.

**(2) Ensuring the employers pay the salary according to labor contract**

- i. Under the newly amended regulations by the MOL on November 7, 2001 an employer is not allowed to deduct brokerage and other fees from the workers' salary. The statement that "30% salary deduction as monthly deposits with the consent of the worker" has also been deleted.
- ii. The MOL regulated the new rules for the works' salary on November 9, 2001. When employees receive the salary from employers, it should be always accompanied by a salary slip which is translated to employer's home country language. If employers illegally withhold employee's belongings, employees can hand in salary slip as evidence in the court. Employers won't be permitted for further application if they fail to follow the rules. The authority may decide to stop the on-going application procedure or revoke the already approved ones.
- iii. The MOL has assigned more than 274 inspectors since 2000 to visit foreign workers to understand their employment situations and to protect foreign workers' rights. Furthermore, for the purpose of strengthening local government's capability in this regard, MOL has also subsidized additional 62 inspectors nationwide (currently a total of 336) beginning October 1,

2018. The inspectors have been assisting in the explanation of pertinent legal regulations and management in their regular visits to the employers. The purpose is to ensure the employers have complied with the instructions listed on the “Living Care Service Plan” for foreign workers and carried out the employment contract faithfully to avoid illegal happenings and ensure the rights of foreign workers.

- iv. The Regulation on the Permission and Administration of the Employment of Foreign Workers was amended and enacted on December 24, 2008 to protect the rights of foreign workers. It stipulates that the terms and conditions of the employment contract shall be consistent with the Salary/Wage Affidavit notarized by the competent authorities of labor from the source country. If any discrepancies arise, the Salary/Wage Affidavit version shall prevail. Changes to contents contained in the Salary/Wage affidavits that would disadvantage the interest of the foreign worker shall be made by the employer. The salary slips shall be kept for 5 years for future reference.

### **(3) Preventing occupational accidents**

- i. According to the latest MOL regulations an employer is required to organize medical check-ups and safety seminars for the foreign workers hired. Warning signs in the language of the workers must be displayed in the workplace.
- ii. The MOL has taken occupational accidents of foreign workers into consideration in its statistical analyses. The variation of the data may serve as a reference and warning to occupational accidents so that proper measures can be put in place to prevent accidents from happening.
- iii. The MOL made further explanation on December 23, 2003 that if a foreign worker is incurred with occupational accidents and withdraws from the



insurance program upon the termination of his employment contract during the period of medical treatment for the occupational injury or illness, he may still participate in the general accident labor insurance program until the completion of the medical treatment which must be proved by a doctor and issued by the MOL according to Article 30 of the Occupational Accident Labor Protection Law, In order to protect further foreign workers' right,.

- iv. The MOL put in place 1955 Laborer Consultation & Appeal Hotline beginning July-1,2009 to help foreign workers overcome the language barrier, the problems encountered in compensation processes in an unfamiliar environment and any other possible needs in occupational accidents Furthermore, the MOL has taken to subsidizing local governments in installing foreign laborers consultation service center to facilitate investigation and case follow-up by local governments through electronic dispatch. In addition, the MOL coordinates with governments at all levels, representative offices from all the labor-sending countries in Taiwan, caring groups for foreign workers and other resources to help with the confirmation of liabilities, application for medical treatment and related compensation, mediation of disputes, assistance in legal appeals, caring and consoling of victims in occupational accidents, living assistance, family contact for foreign workers and other necessary assistance in a comprehensive reporting system. The MOL hopes the victims of occupational accidents can receive the most efficient and comprehensive assistance through this comprehensive protection system.
- v. Since November 28, 2018, the MOL has stipulated that employer's subsequent application shall not be permitted, and all previously permitted applications, if any, shall also be revoked in introducing foreign workers if there was a violation of the regulations prescribed in "Occupational Safety and Health Act" which results in the death or

partial or all loss of ability to work of a foreign worker , and subsequently failed to compensate for the loss or for the employment of foreign workers warranted under the law.

**(4) Cross-country change of employer or line of work**

- i. The procedure for foreign workers transferring to a new employer was deregulated and amended on February 27, 2008 to protect foreign workers' rights, to decrease the failure rate of transferring to a new employer, to shorten the application process time and procedure of transferring to a new employer and to comply with the establishment of the "Employment Network Registration System & Recruitment Database." The amendment allows that as long as consensus is reached among the original employer, foreign labor, and new employer the application for transfer to a new employer will be accepted by the MOL. The new employer may directly submit the application for transfer of employer to the MOL without going through a public employment service institution if the worker, old employer, and new employer all agree or if a worker whose employment contract has been abrogated and the new employer agrees. This new amendment also relaxes the number of times a foreign worker may transfer, extend the transferring period to 60 days during which a transfer must be completed and allowing foreign workers to transfer to a new employer or a different type of work of their free will.
- ii. The MOL revised the rules for foreign workers' transfer of employers on June 29, 2011 to further reinforce the rules for the continuous employment of foreign workers agreed upon with the new employer and the foreign worker. The revision regulates the three-parties cooperation between the foreign workers and the employers (new and old) in continuing the employment agreement. The revision also specifically states that all parties concerned shall sign the documentation for continuous employment to

protect the employment rights for the foreign workers after the transfer.

- iii. To protect the foreign workers who are not able to complete the transfer within a 60-day period the MOL revised the regulation on September 1, 2009. Foreign workers who due to specific reasons cannot complete the transfer in time and deportation will harm their interests should file an application for an extension of period of transfer to another employer. After the application is approved the foreign worker will be able to extend the period of transfer to another employer and the extension period is 60 days and is limited to a one time only extension. The number of transfers is not limited to those who are sexually abused by the employer or the colleague.
- iv. When foreign workers are harassed by employers or their employees, trustees, dependents or caretakers or verified to be victims of human trafficking, they may be transferred to other employers or types of work without limit.
- v. According to Article 52 of the Employment Service Act amended and promulgated on November 3, 2016, the MOL established a new system for changes in employers or work situations upon the expiration of employment. Upon the expiration of employment of foreign workers who agree with employers not to renew the contract and are willing to continuously work in Taiwan, the original employers shall apply to the MOL for transfer of the foreign workers within 2~4 months; then, the MOL will register necessary information on the foreign workers in the information system based on their willingness to connect with new employers.

## **2. Protection of Foreign Workers' Living Rights**

### **(1) Improve foreign fishermen's life**

To offer foreign fisherman employed to work in Taiwan sounder care and impose obligations on employers to manage foreign fishermen for the purpose of improving their living environment, the MOL amended and promulgated the Regulation on Permission and Administration of the Employment of Foreign Workers on July 6, 2017, specifying that foreign fisherman shall be included in the Standards for the Plan of Foreigners' Life Care to protect the rights and interests of foreign fishermen. The Regulation takes effect from January 1, 2018.

**(2) More efforts on day-to-day counseling**

- i. The MOL has set up a network of counseling services throughout the country to help foreign workers adapt to the lifestyle in Taiwan. These services are provided in conjunction with local representative offices of labor sending countries, government institutions, local labor service centers, NGOs, manpower agencies and employers.
- ii. Article 40 and Article 41 of “the Regulation on Permission and Administration of the Employment of Foreign Workers” required that employers shall assign supervisors and bilingual staff while hiring foreign labor to ensure the employers provide appropriate guidance to foreign workers, keep an eye on foreign workers' living conditions and reinforce the communication capacity between the two parties of employer and foreign worker. The number of supervisors and bilingual staff needed shall depend on the number of foreign workers the employer hired. Those who do not meet the staffing requirement shall be asked to make improvement within a limited period of time by the local competent authorities in order to enhance the employers' employment capacity.
- iii. The MOL requires that all employers shall manage their foreign workers in strict accordance with the “Living Care Service Plan for Foreigners”. The Criteria for “Living Care Service Plan for Foreigners” revised on

August 3, 2011 demands employers to respect the food concerns based on foreigners' religious beliefs. Employers should take "privacy" as the first priority in setting surveillance camera at foreigners' living quarters for safety reasons which lead to privacy/safety concerns. Employers should also provide "1955" hotline information to foreign employees.

- iv. To protect the rights and interests of foreign family care workers along with the demand of caretakers, the MOL and the Ministry of Health and Welfare jointly promote the "Respite Service of the Enhancement of Foreign Family Care Workers Employment for Caretakers", which stipulates that, since December 1, 2018, the care recipients employing foreign family care workers that are evaluated as disability of level 7 or level 8 by the county and city's long-term care management center as well as of being solitary or the main caretakers who are over 70 years old in need of long-term care can apply for a respite service to protect the rights of foreign family care workers.

## **(2) Prevent unjustified tax pre-deduction**

- i. The itemized income tax rate and standard deductions was amended and announced by the Ministry of Finance on January 1, 2009 to relieve the income tax burden on low-income foreign workers. The new amendment stipulates that foreign workers staying in the R.O.C for less than 183 days in a tax year and earning less than 1.5 times monthly minimum wage per month shall pay 6% tax on income earned, effective on January 1, 2009.
- ii. The MOL has required that all employers obey the tax regulations closely with regard to the issue of tax pre-deduction to prevent employers from making unjustified tax pre-deductions. Local manpower agencies are also requested by the MOL at the regularly held seminars to inform employers about the tax payment regulations.

- iii. Moreover, in order to heighten awareness of foreign workers on their income tax rights and obligations, MOL included the precautions of foreign workers' income tax declaration in the “Handbook for Foreign Workers in Taiwan” in 2018, to avoid labor disputes or tax refund problems by Taiwan tax authorities.
- iv. The MOL has published the “What foreign works in Taiwan need to know” for foreign workers that outlines important information and tips on filing tax returns To prevent labor dispute concerning taxation issues and make the process of filing a tax refund more effective.
- v. Investigation efforts have also been made by the MOL to find the employers who illegally withhold income tax from foreign workers. Employers are required to issue income and tax deduction receipts in both Mandarin Chinese and the native language of the hired foreign workers for foreign workers for their filing tax refund reference.

### **(3) Join the Labor Insurance & National Health Insurance Systems**

- i. Labor Insurance:  
Foreign workers enjoy the same rights as domestic labors. They will be protected by pertinent laws in this country. Employers of foreign workers that are required to join the insurance program in accordance with the “Labor Insurance Guidelines” will have to join the labor insurance program with the Labor Insurance Bureau by presenting foreign worker’s employment permit, alien residence certificate or a copy of the foreign worker’s passport. Foreign workers who are not obligated to enroll in the insurance program may still enroll in the labor insurance program and be entitled to compensation in case of sickness, injury, medical, disablement or death.
- ii. National Health Insurance:

According to Article 10 of the “National Health Insurance Law,” foreign workers who are employed in Taiwan and obtained an alien residence certificate in Taiwan will have to join the National Health Insurance program. Based on Article 2 of the said regulations, foreign workers will be compensated with insurance payment when incurred with sickness, injury or giving birth during the insured period.

**(4) Organize recreational activities**

- i. The MOL offers a series of recreational activities such as radio programs in several languages and cultural events during holidays to help foreign workers cope with job pressure, homesickness and adapt themselves to the lifestyle in Taiwan. Many employers hold their own activities to make foreign workers feel at home.
- ii. On April 2, 2015, the MOL amended and promulgated the “Subsidy Guidelines for Implementing Foreign Workers Management Measures”, which expanded the scope of creative, experimental, or international activities or programs relating to the management of foreign workers, as the basis for domestic non-government organizations to hold courses and activities supportive of foreign workers.

**IV. CONCLUSIONS**

Improvement of human rights is related to every aspect of our country's economic development and social stability as an integral part of our overall national policy. The importance of safeguarding the rights of foreign workers couldn't be emphasized more.

Efforts to improve human rights around the world are now carried out in line with the current enlightened trends of globalization, liberalization and equalization. Taiwan is making every effort to ensure that its human rights practice conforms to

international standards as a responsible member of the global community. Many aspects of the Universal Declaration of Human Rights have in fact already been embodied in our constitution. These include key statements proclaimed in Articles 1, 7, 12, 13, 14, 17, 18, 19, 22, 23 and 24: all human beings are born free; all are equal before the law and are entitled without any discrimination to equal protection of the law; everyone has the right to seek and to enjoy in other countries asylum from persecution; no one shall be arbitrarily deprived of his property; everyone has the right to freedom of thought, conscience and religion; everyone has the right to expect and obtain favorable conditions of work; everyone has the right to equal pay for equal work; and everyone has the right to rest and leisure. This Report is prepared with a view to reinforce the fundamental stance of our constitution. We hope that such a stance will be honored and followed closely as we continue to demonstrate our sincerity and determination to safeguard the legitimate rights of all foreign workers in Taiwan.