

**CESCR**

**International Covenant on Economic,  
Social and Cultural Rights**  
**經濟社會文化權利國際公約**

List of Issues to be taken up in connection with the  
Consideration of the initial report of Republic of China (Taiwan)  
**Replies of Republic of China (Taiwan) to the list of issues**  
委員會審查中華民國(臺灣)初次報告所考慮的問題清單  
中華民國(臺灣)對問題清單的回應

[8 February 2013]中英併陳版本

## 中華民國初次報告經社文公約審查委員會提交之問題清單及政府機關回應

| 條文     | 編號 | 問題內容(原文)                                                                                                                                                                                                                                                                                                                                                                     | 中文參考翻譯                                                                                                         |
|--------|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| 共同核心文件 | 1. | Taiwan has not yet established a national human rights institution that complies with the Paris Principles adopted by the United Nations General Assembly Resolution 48/134 of 1993 (cf. Report, preface and para.143).Please report on the progress made in setting up such an institution, and will it include economic, social and cultural rights (esc-rights) analysis? | 台灣尚未建立與聯合國大會 1993 年 48/134 號決議通過之「巴黎原則」相符的國家人權機構(參照國家報告前言及第 143 段)。請說明為建立此等機構已取得之進展，以及說明該機構是否將包含經濟、社會與文化權利之分析？ |

### 中文回應(標楷體，12 號字，單行間距)

- 一、依總統府人權諮詢委員會第六次會議臨時提案「請國家人權諮詢委員會討論『成立國家人權機構規劃小組』」建議案，經決議：「成立國家人權機構研究規劃小組」，及第七次會議「兩公約內國法化之檢討」報告案決定：「成立國家人權委員會之必要性，可於下次委員會討論」。議事組依上開決定（議）於總統府人權諮詢委員會第八次會議提出「總統府人權諮詢委員會『成立國家人權機構研究規劃小組』草案」，經決議「照案通過。國家人權機構研究規劃小組幕僚工作由行政院指定部會擔任。」行政院已於 101 年 8 月 22 日指定法務部擔任該小組幕僚工作。法務部身兼總統府人權諮詢委員會議事組之幕僚工作，將依行政院之指示及 101 年 6 月 13 日總統府人權諮詢委員會第八次會議提出規劃辦理。（詳附件 1）
- 二、依該規劃，國家人權機構之籌備成立事涉政府機關建制及修憲、修法等程序，總統府人權諮詢委員會負有提供 總統政策諮詢之任務。小組研究規劃階段性成果，皆須提案由總統府人權諮詢委員會議事組（即法務部）彙整列入全體委員會議討論通過後，呈

報 總統作為政策諮詢參考，並依 總統指示，據以進行下階段之研究規劃工作，如經政策指示成立國家人權機構，即由行政院著手進行相關籌備工作。因我國已通過「經濟社會文化權利國際公約」，故如成立國家人權機構，應包含經濟、社會及文化權利之分析。

## 英文回應(Times New Roman, 12 號字，單行間距)

1.
  - (1) An impromptu motion was raised in the 6<sup>th</sup> meeting of the Presidential Advisory Committee on Human Rights (總統府人權諮詢委員會) to “request the national Advisory Committee on Human Rights to discuss a proposal that aims at establishing a task force to plan for a national human rights institution”. It was decided in the meeting to “establish a research and planning task force for a national human rights institution”. In the 7<sup>th</sup> meeting on “the review of the incorporation of the two Covenants into domestic laws”, it was decided “the necessity of establishing a national human rights institution can be discussed at the next committee meeting”. Following the above decision, the Conference Service Section (議事組) proposed “the draft of establishing a research and planning task force for a national human rights institution” in the 8<sup>th</sup> meeting of the Presidential Advisory Committee on Human Rights. It was decided in the meeting that “the proposal was passed and staff support for the research and planning task force will be assumed by an agency designated by the Executive Yuan.”
  - (2) On Aug 22, 2012, the Executive Yuan designated the Ministry of Justice (MOJ) as the staff unit (幕僚) to assist the task force. The MOJ, also functioning as the Conference Service Division of the Presidential Advisory Committee on Human Rights, follows the instructions of the Executive Yuan and the 8<sup>th</sup> meeting of the Presidential Advisory Committee on Human Rights on June 13, 2012, to do planning accordingly. (Please see the annex 1)
2. Based on the planning, to establish a national human rights institution involves the organization of government agencies and procedures to amend the Constitution and laws, and the Presidential Advisory Committee on Human Rights undertakes the mission to provide policy advice to the President. The research and planning results for each stage by the task force shall be compiled by the Conference Service

Section (i.e. MOJ), discussed by all committee members and proposed to the President as policy advice. The next-stage research and planning depends on the President's instructions, and if a policy is shaped to establish a national human rights institution, the Executive Yuan will start the preparatory work.

3. Since the R.O.C has signed and ratified the ICESCR, a national human rights institution, if established, will include economic, social and cultural rights analysis.

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| 共同核心文件 | 2. Taiwan has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the two Covenants ICESCR and ICCPR. Is it envisaged to ratify other more recent UN core human rights instruments, notably the Convention against Torture (CAT), the Convention on the Rights of the Child (CRC), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC), the Convention on the Rights of Persons with Disabilities (CPD), and the Convention for the Protection of All Persons from Enforced Disappearance (CPED)? | 台灣已經批准《消除對婦女一切形式歧視公約》(CEDAW)，以及《公民與政治權利國際公約》(ICCPR)、《經濟社會文化權利公約》(ICESCR)兩人權公約。貴國政府是否預定將批准其他聯合國核心人權公約，特別是《禁止酷刑公約》(CAT)、《兒童權利公約》(CRC)、《保護移徙工人及其家庭成員權利國際公約》(MWC)、《身心障礙者權利公約》(CPD)，以及《保障所有人不受強迫失蹤公約》(CPED)? |
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### 中文回應(標楷體，12 號字，單行間距)

#### 一、《禁止酷刑公約》(CAT):

(一) 1984 年聯合國通過禁止酷刑及其他殘酷不人道或有辱人格的待遇或處罰公約，我國雖非聯合國之會員國，無法參與簽約，但對於防止酷刑及維護人格尊嚴、保障人權仍不遺餘力，並透過相關法規之制定，防止有刑求逼供之情事。而且不管在任何情形下，均未考慮引進具有爭議性之鞭刑。

- (二) 為免刑求逼供之情事，我國刑法第 125 條規定：「有追訴或處罰犯罪職務之公務員，為左列行為之一者，處一年以上七年以下有期徒刑：一、濫用職權為逮捕或羈押者。二、意圖取供而施強暴脅迫者。三、明知為無罪之人，而使其受追訴或處罰，或明知為有罪之人，而無故不使其受追訴或處罰者(第 1 項)。因而致人於死者，處無期徒刑或七年以上有期徒刑。致重傷者，處三年以上十年以下有期徒刑。」第 126 條規定：「有管收、解送或拘禁人犯職務之公務員，對於人犯施以凌虐者，處一年以上七年以下有期徒刑(第 1 項)。因而致人於死者，處無期徒刑或七年以上有期徒刑。致重傷者，處三年以上十年以下有期徒刑(第 2 項)。」是以我國對於此等犯罪行為有處罰規定，且依刑法第 6 條規定，公務員中華民國領域外犯此類犯罪時，我國仍可依法追訴審判，符合公約之規定。
- (三) 我國刑事訴訟法已嚴格規範自白得為證據之條件及違法取供之舉證責任，第 156 條規定「被告之自白，非出於強暴、脅迫、利誘、詐欺、疲勞訊問、違法羈押或其他不正之方法，且與事實相符者，得為證據 (第 1 項)。被告或共犯之自白，不得作為有罪判決之唯一證據，仍應調查其他必要之證據，以察其是否與事實相符 (第 2 項)。被告陳述其自白係出於不正之方法者，應先於其他事證而為調查。該自白如係經檢察官提出者，法院應命檢察官就自白之出於自由意志，指出證明方法 (第 3 項)。」是以，自白需出於任意性且與事實相符，方得作為證據，且須有其他補強證據方得認定犯罪事實。在被告對於自白任意性有爭執時，法院即應調查並由檢察官負舉證責任，以避免非法取供情事。
- (四) 我國迭有輿論認為應對於性侵害犯罪者施以鞭刑。惟考量刑法學以矯正刑取代應報刑，為現代刑罰趨勢，鞭刑為專制時期刑罰報復主義下的產物，不符現代刑罰思潮。又參酌世界立法例，90%以上之國家並未採取鞭刑，況且我國已簽署兩公約，而「公民及政治權利國際公約」第 7 條規定「任何人不得施以酷刑或予以殘忍、不仁道或侮辱之處遇或懲罰。」是以，我國始終認為如引進鞭刑恐與上開公約之精神及國際刑罰趨勢相扞格是，因而未採鞭刑。
- (五) 綜上，禁止酷刑及其他殘酷不人道或有辱人格的待遇或處罰公約內容之精神，已落實於我國法制，且實務上亦少見是類案例，應無設立禁止酷刑委員會之必要，目前尚無簽署該公約之規劃。

## 二、《兒童權利公約》(CRC) 及《身心障礙者權利公約》(CPD):

- (一) 1989 年聯合國通過兒童權利公約，我國雖非聯合國之會員國，無法參與簽約，但對於維護兒童人權、保護兒童權益的殷切熱情卻絲毫不減，依然秉持著兒童權利公約的精神，積極制定各項保障兒童少年權益的法律，尤其在立法方面一直遙遙領先亞洲各國，不亞於歐美先進國家，其中以性侵害犯罪防治法、家庭暴力防治法、家庭教育法、兒童及少年福利與權益保障法，

以及性別平等教育法，都和兒童人權有關；期使每一個兒童及少年都能藉由政府規劃的兒童教育、福利、醫療、文化等完整的措施及家庭的照顧下平安、健康、快樂的成長。

- (二) 為踐行兒童權利公約精神，及回應國際兒童福利發展潮流，我國於 1993 年修正之兒童福利法中宣示：維護兒童身心健康，促進兒童正常發育，保障兒童福利，並增列保護專章以落實兒童保護理念；並為保障兒童之權益，特別參採聯合國「兒童權利公約」之精神，將兒童各項權益措施納入；2003 年將「兒童福利法」及「少年福利法」合併修正為「兒童及少年福利法」，使我國對兒童少年之照顧更周延具體與有一致性之規範，也更符合聯合國兒童權利公約對 18 歲以下兒童一體照顧之精神，2004 年完成施行細則等 13 項子法。
- (三) 我國為能更積極保障兒童及少年的各項基本人權，及因應社會與家庭結構變遷趨勢，並和國際兒童少年人權接軌，也在 2011 年 11 月 30 日公布修正「兒童及少年福利與權益保障法」，條文由現行 75 條增列至 118 條，該法係以「聯合國兒童權利公約」內涵為目標，增訂身分、健康、安全、受教育、社會參與、表意、福利、保護及遊戲休閒與發展機會等權益，將各項基本權益法制化，將隱私權保護、高風險家庭關懷輔導、媒體管理與規範、兒童及少年機構專業人員消極資格、兒童及少年表意權、社會參與權之精神納入，並增列國內收養為優先之原則規範，以提供兒童及少年更完善的福利，周延地維護兒童及少年的權益，展現我國落實聯合國兒童權利公約的努力。
- (四) 有關兒童權利公約內容我國已透過立法程序訂定有關兒童人權之法律規定外，亦積極推動各項兒童少年福利政策，維護兒童人權及提供福利服務，創造兒童及少年安全的成長環境。對於兒童權利公約第 7 條至第 11 條有關兒童國籍、身分保護、禁止與雙親分離、家人團聚及遏止非法移送國外等規定，均已落實在我國相關法律規定。
- (五) 依「性別工作平等法」第 23 條規定，僱用受僱者二百五十人以上之雇主應設置托兒設施 (Child-care facilities) 或提供適當托兒措施 (Child-care measures)；另對於雇主設置托兒設施或提供托兒措施，主管機關應給予經費補助。我們依據「性別工作平等法」規定，訂定「托兒設施措施設置標準及經費補助辦法」，對於企業提供托兒服務者，不限事業單位僱用員工規模人數多寡，均給予經費補助，以鼓勵雇主辦理托兒設施或提供適當托兒措施，協助員工解決子女托育需求，建構工作與家庭平衡友善職場，落實性別工作平權。
- (六) 另為保障 16 歲以下童工之勞動權益，查勞動基準法第 44 條至第 48 條，針對童工之年齡、工作性質、法定代理人之同意、工作時間及夜間工作之禁止訂有相關規定，並訂有相關罰則。上開規定業已符合「兒童權利公約」第 32 條第 2 項所定之各

項工作，惟有關是否預定批准「兒童權利公約」部分，因牽涉議題甚廣，仍需審議評估。

### 三、《身心障礙者權利公約》(CPD):

#### (一) 身心障礙者提早請領勞工保險老年年金給付部分：

1. 勞保年資 15 年、年滿 60 歲者，得請領全額老年年金給付，身障勞工有提前請領老年給付之需求時，得提前 5 年請領減額年金給付。又本會刻正規劃失能年金給付評估機制，擴大失能年金給付之範圍，未來被保險人如經個別化專業評估工作能力減損達一定百分比，即得請領失能年金給付。
2. 又勞工保險係提供被保險人適當之生活保障，僅為社會安全制度之一環，而失能者之生活照顧，應分別由社會保險、社會福利、職業重建及醫療保險等制度予以通盤考量。

#### (二) 我國於 96 年 7 月 11 日修正公布之身心障礙者權益保障法，訂定時已充分參考聯合國身心障礙者權利公約之精神及內容，將其轉化為具體法規條文，公約保障之權益已落實於我國法制。目前重點工作為協調各單位落實執行法規內容，尚無簽署身心障礙者權利公約之規劃。

### 四、因我國非聯合國會員國，有關我國批准或加入之條約未能存放，致生效要件不完備，故在我國尚未恢復聯合國代表權前，我國已草擬「條約締結法草案」及「多邊公約國內法化暫行條例（草案）」，期能解決我國締結之國際公約批准書、加入書、接受書、贊同書等無法交存及相關配套問題。惟在上開草案未完成立法前，我國為積極與國際接軌，已組成專案小組，依國際公約之性質擇定國內法化之方式，並推動執行，目前已積極推動下列國際公約之內國法化，包括瀕臨絕種野生動植物國際貿易公約、維也納領事關係公約、維也納領事關係公約關於取得國籍之任擇議定書、維也納領事關係公約關於強制解決爭端之任擇議定書、維也納條約法公約、聯合國氣候變化綱要公約、制止向恐怖主義提供資助的國際公約、聯合國打擊跨國有組織犯罪公約、聯合國打擊跨國組織犯罪公約關於預防、禁止及懲治販運人口（特別是婦女和兒童）補充議定書、聯合國反腐敗公約、聯合國禁止化學武器公約等國際公約。至於《保障所有人不受強迫失蹤公約》及《保護移徙工人及其家庭成員權利國際公約》，日後將規劃納入專案小組檢討之。

## 英文回應(Times New Roman , 12 號字 , 單行間距)

### 1. Convention against Torture (CAT):

(1) In 1984, the UN passed the Convention against Torture (CAT) and other instruments against atrocity and inhumanity and also the conventions against humiliation and penalty. Our country is not a US member, so that we are not able to join in the signing of these documents, but still we have left no stone unturned in preventing atrocity, upholding human dignity and protecting human rights. As evidence, we have made laws and statutes to prevent extracting confession through torture. Besides, we have refused to adopt lash punishment under any circumstances.

### (2) To prevent torture confession, the Criminal Code of our country provides:

“A public official charged with the duty of bringing offenders to justice who commits one of the following offenses shall be punished with imprisonment for not less than one year but not more than seven years:

(1) Abusing his authority in arresting or detaining a person,

(2) Using threat or violence to extract evidence,

(3) Unknowingly causing an innocent person to be prosecuted or punished or causing a guilty person not be prosecuted or punished (Paragraph 1).

If death results from the commission of the offense, the offender shall be punished with imprisonment for life or for not less than three but not more than ten years.”

Article 126 of the same law states: “A public official charged with the custody, conveyance, or detention of prisoners who commits an act of violence or cruelty to a prisoner shall be punished with imprisonment for no less than one year but not more than seven years. If death is resulted from the commission of the offense, the offender shall be punished for life or for not less than seven years; if serious bodily harm results, the offender shall be punished with imprisonment for not less than three but not more than ten years (Paragraph 2).” This is to say such crimes are to be punished in our country. Article 6 of the Criminal Code stipulates that this Code shall apply to a public official of the

Republic of China who commits same crime beyond the territory of the Republic of China, indicating our law is consistent with the UN convention.

- (3) The Code of Criminal Procedure of our country strictly defines the confessions good for proof and the burden of proof. Article 156 provides that confession of an accused not extracted by violence, threat, inducement, fraud, exhausting interrogation, unlawful detention or other improper means and consistent with facts may be admitted as evidence. Confession of an accused, or a co-offender, shall not be used as the sole basis of conviction and other necessary evidence shall still be investigated to see if the confession is consistent with facts. If the accused states that his confession has been extracted by improper means, his confession shall be investigated prior to investigating other evidences; if the said confession is presented by the public prosecutor, the court shall order the public prosecutor to indicate the method to prove that the confession is obtained under the free will of the accused.” This is to say that if a confession is disputed by a defendant, the court shall make an investigation, in which the burden of proof falls on the shoulder of the prosecutor so that unlawful extraction of confession can be avoided.
- (4) Our media have repeatedly urged the application of lashing as punishment for sexual assault criminals. But we know correction has replaced retribution in modern criminology and this has become the trend of crime penalty. Punishment by lashing, as a product of feudal period, is inconsistent with the thought of modern terminology. More than 90% of world nations have not adopted lashing punishment and, still, our country has endorsed two UN conventions, and Article 7 of the International Covenant on Civil and Political Rights states that nobody shall have the “Right to Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment.” Consequently, our government always believes the introduction of lash punishment is inconsistent to the foregoing Covenant and, therefore, we have not adopted lash punishment.
- (5) To sum up, the spirit of banning the use of torture and other atrocious and inhumane punishment has been carried out in our country and, therefore, there is no need to set up a committee on banning the use of torture. At present, we have no plan to endorse the Covenant. °

## 2. the Convention on the Rights of the Child (CRC) :

- (1) The Convention on the Rights of the Child was adopted by the United Nations in 1989. As not a member state of the United Nations, Republic of China (Taiwan) has not yet signed up the Convention but has always upheld the spirit of the Convention and devoted itself to the protection of children's rights and interests. Taiwan has been far ahead of the other Asian countries in the legislation of various laws and

acts to protect the human rights of children and adolescents. With a quality in legislation rivaling that of the advanced countries in Europe and America, Republic of China (Taiwan) has already stipulated many laws related to children's human rights, including the Sexual Assault Prevention Act, the Domestic Violence Prevention Act, the Family Education Law, the Protection of Children and Youths Welfare and Rights Act, and Gender Equity Education Act. It is hoped that every child and adolescent can grow safely, healthily, and happily under by the education, welfare, health care, culture and family care systems planned and designed by the government.

- (2) To fulfill the spirit of Convention on the Rights of the Child and respond to the trend of international child welfare development, Taiwan declared in its Child Welfare Act amended in 1993 that the aim of adding a special chapter to the Act is to maintain the physical and mental health of children, to promote the normal development of children, and to protect the welfare of children. Moreover, with reference to the spirit of Convention on the Rights of the Child adopted by the United Nations, all the measures to protect the interests of children were included in our Child Welfare Act. The Child welfare Act and Youths Welfare Act were amended and consolidated into the Child and Youths Welfare Act in 2003, so that our children and adolescents can be taken care of in accordance with a more comprehensive, specific and consistent specification, which is also more in line with the spirit of Convention on the Rights of the Child adopted by the United Nations on the custody of children under the age of 18. It was in 2004 that 13 sub-laws, including their Enforcement Rules, were completed.
- (3) To more actively protect the basic human rights of children and youths, respond to the changing trends in social and family structure, and align the human rights of children and adolescents with the international standards, the government amended and announced its Protection of Children and Youths Welfare and Rights Act on November 30, 2011. With its contents increased from 75 to 118 articles, aiming to reach the same connotation as the UN Convention on the Rights of the Child, we have added into the Act such contents as identity, health, safety, education, social participation, ideography, welfare, protection, recreation, leisure, and development opportunities. We have also legalized all the basic rights, privacy protection, care for high-risk families, media management and standards, negative qualification for professionals to serve at the child and youth agencies, ideographic rights for children and teenagers, and rights for social participation. We have also included domestic adoption as the priority principle. It is hoped that we can fulfill the UN Convention on the Rights of the Child to improve the welfare of our children and adolescents and safeguard their rights and interests.

(4) Our country has not only set relevant laws through legislative processes to protect the human rights of children to meet the requirements of the Convention on the Rights of the Child but has also actively promoted various Child Welfare Policies to safeguard the human rights of children and adolescents, provide them with welfare services, and create a safe environment for the growth of children and adolescents. With regards to children's nationality, identity protection, prohibition against separation from parents, family reunion, and curb on illegal transfer to foreign countries stipulated by Articles 7 to 11 of the Convention on the Rights of the Child, our country has been implementing them in accordance with the provisions of our relevant laws and regulations.

(5) Child-care service

According to Article 23 of the Act of Gender Equality in Employment, employers hiring more than two hundred and fifty employees are required to set up child-care facilities or provide suitable child-care measures, and competent authorities will provide certain subsidies. Acting in accordance with the Act of Gender Equality in Employment, we have enacted the Rules for the Standards of Establishing Child-Care Facilities and Measures and Providing Subsidies and subsidies are given accordingly to enterprises that provide child-care service, regardless of the number of their employees. The policy is to encourage employers to set up child-care facilities or provide suitable child-care measures to help their employees who are in need of child care, in order to develop friendly environments where work and family can be balanced and gender equality in employment can be ensured.

(6) Labor Standards Act

To protect the rights and interests of workers under 16 years of age, there are regulations and corresponding penalty provisions set forth in Articles 44 to 48 of the Labor Standards Act with regard to the age of children who are permitted to work, the types of work they are permitted to do, the requirement of a letter of consent from their legal guardians, their work hours, and the prohibition of child workers to work the night shift. The said regulations are in compliance with Paragraph 2, Article 32 of the Convention on the Rights of the Child. As for whether the government intends to ratify the said Convention, due to the comprehensiveness of the issues involved, it requires further review and assessment.

3. the Convention on the Rights of Persons with Disabilities (CPD):

(1) The disabled filing early claims for Labor Insurance old-age pensions

- A. Workers who have had Labor Insurance coverage for 15 years and reached the age of 60 may file claims for full-amount old-age pensions. Those who are physically disabled and have the need to make early claims may file claims for a reduced amount of pension benefits 5 years earlier. The CLA is currently making plans to establish an assessment mechanism for the payment of disability pensions to extend the coverage of workers entitled to file disability pension claims. In the future, insured persons having been assessed by physicians as suffering work capacity impairment to a certain percentage may file their disability pension claims.
  - B. Labor Insurance is to provide the insured with proper protection so that they can meet their everyday needs. However, it is only one link in the social security system. The work of looking after the life of the disabled should be evaluated comprehensively with social insurance, social welfare, vocational rehabilitation, and healthcare systems all taken into consideration.
- (2) When the People with Disabilities Rights Protection Act was amended in 2007, it had not only referred to the spirit of the Convention on the Rights of Persons with Disabilities, also transferred the spirit from CRPD to People with Disabilities Rights Protection Act. We prefer to implement People with Disabilities Rights Protection Act rather than to ratify the Convention on the Rights of Persons with Disabilities in the near future.
4. Since the R.O.C is not a member state of the UN, the instrument of ratification or accession cannot be deposited at the UN and therefore the elements for international treaties to become effective in the State are incomplete. To address this issue, the R.O.C has drafted the “Conclusion of Treaties Act”\* and the “Provisional Act Governing the Incorporation of Multilateral Conventions into Domestic Laws”\* to guide the practice before the R.O.C can reinstate its representation at the UN. It is expected that these Acts will provide a solution to the issue of not being able to deposit the instruments of ratification, accession, acceptance and approval after signing international treaties. Before the two drafts are officially passed into laws and in order to keep up with the international community during this time, the R.O.C has established a task force that takes charge in selecting the approaches of incorporating international conventions into domestic laws. The task force has the responsibility to promote local implementation of international conventions and is actively doing so with the following international treaties: Convention on International Trade in Endangered Species of Wild Fauna and Flora, Vienna Convention on Consular Relations, Optional Protocol to the Vienna Convention on Consular Relations concerning Acquisition of Nationality, Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes, Vienna Convention on the Law of Treaties, United Nations

Framework Convention on Climate Change, International Convention for the Suppression of the Financing of Terrorism, UN Convention Against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, UN Convention Against Corruption, and Chemical Weapons Convention. The Convention for the Protection of All Persons from Enforced Disappearance (CPED) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC) will be included in the review conducted by the task force in the future.

\* This is translator's translation.

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| 共同核心文件 | 3. | <p>According to Article 8 of the Implementation Act all levels of governmental institutions and agencies should review laws, regulations, directives and administrative measures within their functions for any revision or amendments within a period of two years after the Implementation Act entered into effect ( i.e. by 10 December 2011). Please provide information on progress made and difficulties encountered in this review process (Preface and para. 99).</p> | <p>根據兩公約施行法第 8 條，各級政府機關必須在施行法施行後兩年內(亦即在 2011 年 12 月 10 日)，檢討所主管之法律、命令、指令與行政措施。請提供資訊，說明在檢討過程中，有哪些進展，遭遇何種困難(國家報告前言與第 99 段)。</p> |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、為落實兩公約施行法第 8 條規定，法務部自 98 年起，即統籌辦理該項法令及行政措施檢討業務，列冊 263 則檢討案例，包含各機關主動檢討之 219 則，及民間團體(兩公約施行監督聯盟)所提之 44 則意見；其中法律案 165 案；命令案 49 案；行政措施案 46 案；政策案 3 案。
- 二、自 98 年 12 月 10 日兩公約施行法施行以來，各主管機關皆積極辦理法令及行政措施之檢討工作，截至 102 年 1 月 28 日止，上開 263 案已辦理完成者計 198 案、占 75.29%；未能如期完成檢討之案例有 65 案，占 24.71%，其中法律案計

48 案(其中立法院審查中計 22 案、司法院研議中計 2 案、部會研議中計 24 案);命令案計 16 案;行政措施案計 1 案。

三、雖然各機關已於 2 年內將法律修正草案送請立法院審議，但立法院未能完成審議。目前未能如期完成修法之法律案，多係因立法院屆期不續審，各相關機關已重新陳報行政院審查，並經行政院送請立法院審議。至尚在部會研議中之法律案因攸關相關團體之利益，尚未獲共識，相關部會刻正溝通協調中。命令案則因須配合母法修正，而未能如期完成檢討。

四、對於無法如期完成檢討之案件，法務部業責請各該主管機關提出具體因應措施，並於 100 年 11 月 14 日起至同年 11 月 30 日再邀請人權學者專家召開法規是否符合兩公約規定之複審會議，審查並確認各該機關對無法如期完成修正之法令案所提之具體因應措施是否妥適，以避免因未及修法而損及人民之權益。亦責請主管機關積極推動相關法令案之修正事宜，並請各機關依前揭施行法第 4 條，各級政府機關行使其職權應符合兩公約有關人權保障之規定，落實人權保障。

五、依公民與政治權利國際公約及經濟社會文化權利國際公約施行法第 3 條之規定，適用兩公約規定，應參照其立法意旨及兩公約人權事務委員會之解釋，即已包括經濟社會文化權利委員會之解釋。

### **英文回應(Times New Roman, 12 號字，單行間距)**

1. In order to meet the requirement of Article 8 of the Implementation Act of both Covenants, the Ministry of Justice (MOJ) has been responsible for the review of relevant laws, regulations and administrative measures since 2009 and has collected 263 review cases, which include 219 cases submitted by various government agencies and 44 cases proposed by private organization Covenants Watch (兩公約施行監督聯盟). Among these cases, 165 are relevant to laws, 49 are relevant to directives, 46 are relevant to administrative measures and 3 are relevant to policies.
2. Since the Implementation Act of both Covenants has come into force on December 10<sup>th</sup>, 2009, government authorities concerned have been actively reviewing the laws, regulations, directives and administrative measures within their functions. By January 28<sup>th</sup>, 2013, out of the 263 cases mentioned above, 198 (75.29%) cases have been reviewed while the other 65 (24.71%) cases have not yet been reviewed as originally scheduled. Among the 65 cases, 48 are relevant to laws (22 are currently reviewed by the Legislative Yuan, 2 are studied by the Judicial Yuan, and 24 are studied by government agencies

concerned), 16 are relevant to directives and 1 is relevant to administrative measures.

3. Although the agencies have submitted the revision drafts to the Legislative Yuan within a two-year period, the Legislative Yuan has not been able to finish the review process. The reason for most cases of law revision that cannot be completed as scheduled is due to the expiry of tenure of the Legislators. The authorities concerned have already re-submitted the cases to the Executive Yuan for review before passing on to the Legislative Yuan. As to the cases that are still under discussion, consensus has not yet been made due to the concern for interest of relevant entities and the authorities concerned are currently communicating and negotiating with various entities. As to the cases relevant to directives, the review process has not been completed due to the pending of the parent laws.
4. As to the cases that cannot finish the review process as scheduled, MOJ has requested the authorities concerned to propose concrete responsive measures and invited scholars and experts in the field of human rights to host a review meeting during November 14<sup>th</sup> and 30<sup>th</sup>, 2011 to discuss whether these laws and regulations meet the requirement of the two Covenants and decide whether the responsive measures proposed by the authorities concerned are appropriate and to ensure that the delay of revision would not harm the right and benefits of the people. MOJ also requested the authorities concerned to actively promote the revision of relevant laws and regulations and fulfill the protection of human rights according to Article 4 of the Implementation Act mentioned above which stipulates that governments of all levels shall meet the requirement of human right protection of the two Covenants when exercising their rights and fulfilling their responsibilities.
5. According to Article 3 of the Implementation Act for the ICCPR and the ICESCR, laws and regulations that are applicable to the two Covenants should refer to the legislation intent and the interpretation of the Human Rights Committees of the two Covenants, which should include the interpretation of the Committee on Economic Social and Cultural Rights (CESCR).

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| 共同核心文件 | 4. | Please provide more specific information on the activities carried out by the Human Rights Protection Committee established by the Control Yuan (para.149). Does it conduct such activities only at the request of the Control Yuan or | 請提供具體資訊，說明監察院下設置之人權保障委員會(第 149 段)辦理之工作。該委員會是只依監察院之要求辦理，或是自行辦理？該委員會是否有權調查不利人權之可疑貪腐行為？ |
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|  | also on its own initiative? Would the Committee be entitled to investigate presumed corruption practices that adversely affect human rights? |  |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、「監察院各委員會組織法」第 2 條第 3 項規定：「監察院得應業務需要，於院內設置特種委員會。」為發揮人權保障之功能，監察院於 2000 年依據上開規定通過「監察院人權保障委員會設置辦法」，並成立監察院人權保障委員會，置委員 9 至 11 人，由監察院院長聘請監察委員兼任，召集人為監察院副院長。
- 二、人權保障委員會的職掌為：(1)妨害人權案件之發掘及提案調查；(2)監察院人權保障調查報告之研討及建議處理意見事項；(3)人權法案之建議事項；(4)與國內外人權團體之聯繫並蒐集有關資料；(5)研議人權教育之推廣工作；以及(6)其他人權保障事項。
- 三、對於可能違反人權之貪腐行為，人權保障委員會可推派/輪派監察委員調查，或由監察委員自動調查。而監察院 7 個常設委員會審議通過的調查案件，如涉及人權議題，也會印送人權保障委員會，由該會定期彙集重要人權調查案例，出版監察院人權工作實錄，以利各界瞭解政府部門在各類人權面向的表現。

### 英文回應(Times New Roman，12 號字，單行間距)

1. Under Section 3, Article 2 of the Organic Law for Control Yuan Committees, the Control Yuan shall establish special committees if necessary (in addition to standing committees). To safeguard human rights, the Control Yuan established the Human Rights Protection Committee in 2000, following the enactment of the “Regulations for Establishing Control Yuan’s Human Rights Protection Commission”. It is chaired by the Vice President of the Control Yuan and consists of nine to eleven members directly appointed by the President of the Control Yuan from among incumbent Control Yuan Members.
2. Control Yuan’s Human Rights Protection Commission serves to: 1) Identify and investigate cases involving violations of human rights; 2) Deliberate and advise on matters relating to human rights investigation reports; 3) Propose changes to existing human rights regulations; 4) Establish and maintain contact with human rights organizations in Taiwan and around the world; 5) Promote human rights awareness.

3. For cases of alleged corruptions that infringe upon human rights and require further examination, the Committee may form a task force by recommending or appointing on a rotational basis at least one of its sitting Members to investigate. The Members may also launch own-motion investigations of their own accord. The seven standing committees regularly inform the Committee of any human rights investigations having been reviewed and passed during their monthly committee meetings. Having selected significant cases from the above investigations, the Committee then puts together an annual report documenting important human rights investigations carried out by the Control Yuan, so as to raise public awareness of human rights protection works at different government levels.

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| 共同核心文件 | <p>5.</p> <p>While the corporate sector contributes in many instances to the realization of the rights enshrined in the Covenants, there may also be corporate activities that are detrimental to the enjoyment of these rights. Examples may occur in such matters as unsafe labour conditions, restrictions on trade union rights, discrimination against female workers and migrant workers, and corruptive practices. Please provide information on measures taken with regard to the role and impact of the corporate sector on the enjoyment and the realization of the rights enshrined in the Covenants.</p> | <p>儘管許多事例指出企業部門對於公約權利的實踐有所助益，但是企業活動亦可能危害權利的享有。此等案例包括不安全的勞動條件、限制工會權利、歧視女性勞工與外籍勞工，以及貪腐行為。請提供資料說明，針對本公約所保障的權利之享有及實現，(政府)*採取何種做法，(以規範)企業部門的角色及其影響。</p> <p>* 括號內文字為譯者所加</p> |
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### 中文回應(標楷體，12 號字，單行間距)

#### 一、 discrimination against female workers(有關歧視女性勞工):

(一) 為加強母性健康保護及消除對婦女一切形式之歧視，並兼顧女性勞工母性保護與就業平權之原則，考量國內醫學、科技、性別平等及促進女性就業參與率之發展情況，及「消除對婦女一切形式歧視公約施行法」已於 101 年 1 月 1 日施行，本會已於勞工安全衛生法修正草案，刪除「一般女性勞工禁止從事危險性及有害性工作」之規定；另對妊娠中或分娩後未

滿一年女性勞工，依保護之特殊性分別規定，修正禁止其從事部分危險性或有害性之工作範圍；而對於有母性健康危害之虞之工作，雇主應採取危害評估、控制及分級管理措施，對於妊娠中或分娩後未滿一年之女性勞工，並應依醫師適性評估建議，採取工作調整或更換等健康保護措施。

(二) 本修正法案業於 101 年 11 月 22 日送立法院審議。

## 二、unsafe labor conditions(有關不安全的勞動條件)：

### (一) 勞動基準法

政府為規定勞動條件 (working conditions) 最低標準，保障勞工權益，加強勞雇關係，促進社會與經濟發展，特制定勞動基準法 (Labor Standards Act)。該法定有工資、工時、休息、休假、退休、職業災害補償之最低標準，以及童工、女工等特別保護規定。凡適用該法之事業單位所僱用之勞工，不論國籍，均受該法之保障，雇主與勞工所訂勞動條件不得低於該法所定之最低標準。雇主違反該法強制禁止規定者，將依相關規定處罰。

### (二) 性別工作平等法

1. 查所有受僱者、求職者皆有性別工作平等法之適用。依性別工作平等法第 7 條至第 11 條規定略以，雇主對求職者或受僱者之招募、甄試、進用、分發、配置、考績、陞遷，及對受僱者舉辦或提供教育、訓練或其他類似活動、舉辦或提供各項福利措施、薪資給付、退休、資遣、離職及解僱等，不得因性別或性傾向而有差別待遇。但工作性質僅適合特定性別者，不在此限。受僱者如發現雇主有違反上開規定之情事，可向工作所在地之勞工行政主管機關提出申訴，經查證屬實，即依法處罰。
2. 為加強各界對性別工作平等法內容之認識與瞭解，勞委會自該法 91 年施行以來每年皆與地方勞工行政主管機關合作辦理性別工作平等宣導會；為培養承辦性別工作平等業務人員之核心知能，自 98 年起每年度皆辦理性別工作平等及職場性騷擾防治種子師資培訓研習會，邀請專家學者講授性別工作平等法法令及實務相關課程，參加對象為縣市政府性平業務相關人員、性平委員、事業單位相關部門主管及工會幹部，提升相關人員之性別歧視事件發生時之調查處理能力。

## 三、union rights(有關限制工會權利)：

- (一) 有關工會法第6條涉及教師勞動權行使範圍議題部分，本案經101年4月18日行政院人權保障推動小組第20次委員會議會前會討論，決議採漸進推動方式進行修法，預訂於105年5月20日前完成。
- (二) 行政院勞工委員會於101年5月底簽准成立「勞動三法專家學者修法小組」，將先行蒐集相關資訊後召開會議，目前正彙整修法意見。

#### 四、discrimination against migrant workers(有關歧視外籍勞工)

- (一) 外籍勞工在臺工作期間所享有之基本權益，受我國勞工相關法令保障，不論本、外勞在法律上悉屬平等且應一體享受法律平等保障，受僱於適用勞動基準法之行業，享有基本工資、工時等勞動條件之保障；另有關勞工保險條例、職工福利金條例等法令，不因其為外國人而受歧視，積極保障外籍勞工基本人權與工作權益保障，例如：明定雇主應全額給付薪資，禁止代扣仲介服務費、不得代收國外借款，違者以超收費用論處。
- (二) 聘僱外籍勞工之事業單位及雇主，應遵守我國相關勞動法令、就業服務法及其子法相關強制規定，一旦違反我國勞動相關法規，則政府將依法處以罰緩處分、廢止外籍勞工招募許可或聘僱許可，並管制其外籍勞工申請案件。

五、為強化公司治理及企業倫理，加強企業內、外部監督，保障投資人及員工權益，行政院業將「推動企業誠信」納入「國家廉政建設行動方案」，並於民國（下同）101年12月28日修正通過，函頒各機關辦理。

六、前開方案明示7項具體策略、11項執行措施、績效目標及辦理機關，具體策略如下：

- (一) 強化公司治理及企業倫理，推動相關配套措施，加強企業內、外部監督，保障投資人及員工權益。
- (二) 倡導企業社會責任，加強與企業及民間各界的溝通，凝聚企業與私部門反貪共識。
- (三) 輔導、獎勵企業建立倫理規範及內控機制。
- (四) 建立公司治理、企業誠信與倫理評鑑機制，以利社會大眾及員工監督企業經營。
- (五) 加強與跨國企業經理人及國際重要機構派駐人員溝通座談，改善妨礙競爭力的因素。
- (六) 加強企業貪瀆線索發掘、蒐證及調查偵辦。
- (七) 加強政府公股管理督導，促進公股事業誠信經營。

七、另金融監督管理委員會為引導企業逐步落實誠信經營理念，促進投資人及企業員工之權益保障，分別於民國91年10月4日及民國99年02月6日訂定「上市上櫃公司治理實務守則」及「上市上櫃公司企業社會責任實務守則」等規範，並分別於101年11月22日及100年8月22日修正在案。

## 英文回應(Times New Roman , 12 號字 , 單行間距)

### **1. discrimination against female workers**

- (1) To reinforce maternity health protection and eliminate all forms of discrimination against women, as well as to maintain the balance between maternity protection for female workers and equality in employment, the Council of Labor Affairs, taking into consideration the development in medicine and technology, promotion of gender equality and women's labor force participation, and the Enforce Act of Convention on the Elimination of All Forms of Discrimination against Women that had already taken effect on Jan. 1, 2012, the Council of Labor Affairs has made the decision and removed the provision on prohibition of female workers to engage in dangerous and hazardous work from the draft revision of the Labor Safety and Health Act. Meanwhile, regulations on the protection of female workers who are pregnant or have given birth less than one year ago have been added respectively and the level of danger or hazard of work female workers are allowed to do has been redefined. Employers are required to make risk assessment and control and adopt classified management measures for work entailing potential maternity health risks. For female workers who are pregnant or have given birth less than one year ago, work adjustment or change or other health protection measures must be adopted according to suggestions from physicians who have conducted fitness evaluation.
- (2) The draft was already presented on Nov. 22, 2012 to the Legislative Yuan for review.

### **2. unsafe labour conditions**

#### **(1) The Labor Standards Act**

The Labor Standards Act has been enacted to provide minimum standards for working conditions, protect workers' rights and interests, strengthen employee-employer relationships, and promote social and economic development. In addition to regulations on minimum wages, work hours, breaks, various types of leave, retirement, minimum compensation for occupational accidents, there are also provisions particularly stipulated for the protection of child and female workers in the said act. All workers employed by business entities to which the Labor Standards Act applies, regardless of their nationality, are protected by the act. The terms and conditions of any agreement between an employer and a worker shall not be below the minimum standards. Employers who violate any of the mandatory regulations and prohibitions shall be penalized according to related regulations.

#### **(2) The Act of Gender Equality in Employment**

- A. The Act of Gender Equality in Employment applies to people who are already employed and those applying for employment. According to Articles 7 to 11 of the Act of Gender Equality in Employment, employers shall not discriminate against applicants or employees because of their gender or sexual orientation in the course of recruitment, screening test, hiring, placement, assignment, evaluation and promotion, when organizing or providing education, training, other related activities and various welfare measures, or when making decisions regarding wages, retirement, severance and discharge from employment. However, when the work only suits a specific gender, the said regulation shall not apply. Employees who find their employers to be in violation of the aforesaid regulation may file complaints with the local labor authority. If the violation is confirmed, the corresponding penal sanction will be imposed according to law.
- B. To reinforce the awareness and knowledge of the contents of the Act of Gender Equality in Employment in various sectors, the Council of Labor Affairs has worked with local labor authorities and given presentations on gender equality in employment on an annual basis since the act took effect in 2002. Meanwhile, starting in 2009, gender equality in employment and workplace sexual harassment prevention seed teacher training workshops have been conducted each year to improve the skills and knowledge of personnel responsible for work associated with gender equality in employment. Scholars and specialists are invited to lecture on regulations regarding gender equality in employment and related practices. Those attending the courses are the personnel in charge of work related to gender equality in employment and the members of the gender equality committee in county and city governments, and the supervisors of related departments and labor union staff members of business entities. The objective is to improve the ability of related personnel to investigate and handle cases of gender discrimination when they happen

### 3. **union rights**

- (1) Regarding the range in which teachers are allowed to exercise their labor rights as indicated in Article 6 of the Labor Union Act, the issue was discussed on Apr. 18, 2012 in the preliminary meeting of the 20th Conference of the Human Rights Protection Subcommittee of the Executive Yuan and the decision was that a gradual approach would be adopted to revise the act. It is expected to be completed by May 20, 2016.
- (2) The Council of Labor Affairs approved at the end of May 2012 to put together a team composed of scholars and specialists to revise the

three major labor laws. The members will first collect related information before the first meeting is convened. Currently, they are drawing up their opinions with regard to the revision to be conducted.

#### 4. **discrimination against migrant workers**

- (1) The basic rights and interests of foreign workers are protected by labor laws and regulations during their work periods in Taiwan. All workers, local or foreign, are equal before the law and equally protect by the law. The minimum wages, work hours and other labor conditions of those employed in businesses to which the Labor Standards Act applies are protected. The Labor Insurance Act and the Employee Welfare Fund Act also provide protection of the basic human rights and labor rights of foreign workers who will not be discriminated against because they are foreigners. For example, it is stipulated that employers are required to pay wages in full amount to foreign workers without subtracting any service fee on behalf of an employment agency or collecting loan payments for any creditor overseas; those who violated the regulation will be sanctioned on the grounds of overcharging.
  - (2) Business entities and private employers that hire foreign workers are required to abide by labor laws and regulations as well as the Employment Services Act and its related regulations. Business entities and private employers found to have violated any related law and regulation will be subject to fines and have their permit for recruitment or employment of foreign workers revoked, and their applications for employment of foreign workers in the future will be rejected.
5. To strengthen corporate governance and business ethics, enterprise internal and external oversight and to protect the interests of investors and employees, the Executive Yuan has amended and adopted the incorporation of "Enterprises Integrity Promotion "into " National Integrity Building Action Plan" as well issued letter to each competent agency to implement on December 28, 2012.
  6. The preceding Plan clearly expresses seven specific strategies, eleven implementation measures, performance targets and executing units. Specific strategies are as follows:
    - (1) Enhance the corporate governance and ethics by promoting relevant measures, strengthening internal and external supervision, as well as protecting best interests of the investor and employees.
    - (2) Promote Corporate Social Responsibility (CSR); enhance communication between enterprises and public; as well as consolidating mutual understanding of anti-corruption between enterprises and private sectors.

- (3) Guide and reward the enterprises to establish ethics regulation and mechanism of internal control.
  - (4) Establish the mechanism for corporate governance, honesty and ethics assessment, so the general public and employees can supervise the corporate operation easily.
  - (5) Enhance communication and seminar with managers and employees from international corporate and institutes to improve the factors that obstructing the competitiveness.
  - (6) Strengthen clues excavations, evidence collections and investigations of enterprise corruptions.
  - (7) Strengthen management supervision of government owned enterprises to promote the integrity of management.
7. Furthermore, with a view to guiding enterprises to gradually implement the business philosophy of integrity so as to protect interests of investors and employees, the Financial Supervisory Commission has enacted rules of “Corporate Governance Best-Practice Principles for TWSE/GTSM Listed Companies” and “Corporate Social Responsibility Best Practice Principles for TWSE/GTSM-Listed Companies” on October 4, 2002 and February 6, 2010, and amended them on November 22, 2012 and August 22, 2011, respectively.

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| 經社文<br>第 1 條 | 6. | <p>The various thresholds required for the success of a referendum under the Referendum Act have been widely criticized as being too stringent. Would it be appropriate to lower the relevant thresholds in order to strengthen the internal dimensions of the right to self-determination?</p> | <p>公投法為成功舉行公投設下種種門檻，被批評為限制太嚴格。降低門檻以強化自決權的國內向度是否適當？</p> |
|--------------|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|

### 中文回應(標楷體，12 號字，單行間距)

降低門檻固然有助於強化人民自決之權利，然同時必須考量辦理公民投票仍需耗費相當人力、物力，且若門檻過低，甚有被濫用之可能，反而影響公民投票之正當性，是以目前門檻之設定應仍有必要。又公民投票門檻之訂定，攸關公民投票提案是否具有公共性，公民投票結果是否具有民主正當性，是否調降門檻，我國各界已有相關討論，目前意見尚屬紛歧，未來如各界具有共識，自可修法以降低門檻。

## 英文回應(Times New Roman，12 號字，單行間距)

Lower thresholds helps to strengthen people's rights to self-determination, however, a referendum requires considerable manpower and resource, if thresholds are too low, there is a substantial possibility of abuse, and the legitimacy of referendum might be compromised. Therefore, it is still necessary to set up thresholds for now. Furthermore, government also needs to review the referenda's legitimacy and if they are related to the publicity issues. Many people discussed whether to lower the bar in our society for the past few years, but they failed to reach a consensus. If there is a consensus on this issue in the future, we should take action to change the Referendum Act.

|              |    |                                                                                                                                                                                                |                                                                               |
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| 經社文<br>第 1 條 | 7. | To what extent does national law and policy provide for meaningful consultation with indigenous groups, when the latter's interests are affected by projects with important national benefits? | 當原住民團體的權益受到對國家有重大效益的(開發)計畫影響時，國家法律和政策如何規定要與原住民團體進行有意義的諮詢?<br><br>* 括號內文字為譯者所加 |
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## 中文回應(標楷體，12 號字，單行間距)

### 一、經濟部

經濟部水利署於原住民族地區辦理水資源開發規劃，諮商機制為依原住民族基本法第 21 條規定取得原住民族同意或參與。水資源開發需辦理環境影響評估部分，依環境影響評估法第 8 條規定需舉行公開說明會，另依該法 12 條規定辦理公聽會。為讓原住民地區對水資源開發計畫瞭解，於水資源開發可行性規劃時，水利署自行規劃辦理地方溝通宣導座談會，並邀請原住民頭目及部落會議主席參加，瞭解及聽取原住民意見進行諮商後爰進行該計畫。

### 二、交通部

- (一) 交通部觀光局於劃設國家風景特定區時，依據風景特定區管理規則第 4 條第 2 項辦理：原住民族基本法施行後，於原住民族地區依前項規定劃設國家級風景特定區，應依該法規定徵得當地原住民族同意，並與原住民族建立共同管理機制。
- (二) 依環境影響評估法第 11 條，開發單位應參酌主管機關、目的事業主管機關、有關機關、學者、專家、團體及當地居民所提

意見(包含原住民族團體)，編製環境影響評估報告書（以下簡稱評估書）初稿，向目的事業主管機關提出。評估書初稿應記載略以…(6)、環境現況、開發行為可能影響之主要及次要範圍及各種相關計畫。(11、12)、對有關機關意見之處理情形及對當地居民意見(包含原住民族團體)之處理情形。(15)、減輕或避免不利環境影響之對策。依同法第 12 條，目的事業主管機關收到評估書初稿後 30 日內，應會同主管機關、委員會委員、其他有關機關，並邀集專家、學者、團體及當地居民(包含原住民族團體)，進行現場勘察並舉行公聽會，於 30 日內作成紀錄，送交主管機關。

### 三、經建會

- (一) 為保障原住民族基本權利，促進原住民族生存發展，建立共存共榮之族群關係，我國業於 2005 年訂定「原住民族基本法」，以保障原住民族之平等地位及自主發展，實施原住民族自治。當政府與原住民族自治間權限發生爭議時，基本法第 6 條規定由總統府召開協商會議決定之。
- (二) 為就原住民族基本法相關立法工作及原住民族自治等重大議題，原民會分別於 1997(86)、1998(87)、2001(90)、2010(99)、2011(100)年舉行「原住民族行政會議」，邀請原住民籍立法委員、中央部會代表、直轄市及各縣(市)原住民族行政單位主管、原住民族地區鄉(鎮、市)長、原住民專家學者等，透過公開討論的平台，進行廣泛溝通及協調，凝聚集體共識。
- (三) 為尊重原住民自治權利、促進原住民族經濟發展及保障相關權益，原民會於研擬相關計畫時，均邀請相關原住民族團體參與討論。本(經建)會對於行政院原住民委員會所提報重大公共建設計畫，在審議過程中，除邀請相關部會外，亦邀請主管機關原民會共同討論，並儘量予以支持。

### 英文回應(Times New Roman，12 號字，單行間距)

#### 1. Ministry of Economic Affairs

To build up the water resource exploitation in indigenous area, we have to request indigene for agreement according to rule 21, Indigenous Basic Law. The water resource exploitation should be based on the assessment of environmental impact. The explanation meeting and the public hearing should be therefore held according to rule 8 and 12, respectively. To make the clear understanding of the water resource for indigene, we have to communicate with them to their approval during the examination of the feasibility of this plan, before the moving to the next phase.

2. Ministry of Transportation and Communication
  - (1) Tourism Bureau defined the boundary of designated scenic area according to “Regulations Governing the Management of Designated Scenic Areas Chapter II planning and Construction Article 4” which stated: Upon deployment of the Indigenous People’s Basic Law, the demarcation of the indigenous people’s regions as national scenic areas in accordance to the provision above shall be consented by the local indigenous people and a common management mechanism shall be formulated with the indigenous people in accordance to the said Law.
  - (2) As “Environmental Impact Assessment Act Chapter 2 Assessment, Review and Supervision Article 11” stated: The developer shall prepare a draft environmental impact assessment report based on a deliberation of the opinions of the competent authority, the industry competent authority, relevant agencies, scholars, experts, groups and local residents, and present the draft environmental impact assessment report to the industry competent authority.
  - (3) The draft environmental impact assessment report in the foregoing paragraph shall record the following.
    6. Current environmental conditions, primary and secondary areas that could possibly be impacted by the development activity and all related plans
      11. Handing of the opinions of relevant agencies
      12. Handing of the opinions of local residents
    15. Summary chart of strategies for the prevention and mitigation of the adverse impact of development activity on the environment And according to the same Act as above, Article 12, The industry competent authority shall, in conjunction with the competent authority, members of the Committee and other relevant agencies, invite together experts, scholars, groups and local residents to conduct an on-site inspection and hold a public hearing within thirty days after receipt of the draft environmental impact assessment report; records of the on-site inspection and public hearing shall be maintained and submitted to the competent authority within thirty days after the on-site inspection and public hearing.
3. Council for Economic Planning and Development

- (1) Taiwan enacted the Indigenous Peoples Basic Law in 2005 with the aims of protecting the basic rights of indigenous peoples, promoting their survival and development, and building ethnic relations on a basis of living side by side in co-prosperity. This law effectuates self-determination for indigenous peoples, guaranteeing their equality of status and autonomous development. Article 6 of the law stipulates that, when a conflict arises between the scope of authority of the government and indigenous peoples' self-determination, the Presidential Office will convene a coordination meeting to resolve the conflict.
- (2) To address important issues relating to the enactment of the Indigenous Peoples Basic Law, indigenous peoples' self-determination, and other such matters, the Council of Indigenous Peoples (CIP) has organized Indigenous Peoples Administrative Conferences in 1997, 1998, 2001, 2010 and 2011. Bringing together Aboriginal legislators, representatives of central government agencies, officials from city and county government agencies responsible for indigenous peoples' affairs, the mayors of Aboriginal towns and townships, and Aboriginal experts and scholars, the conferences have provided an open discussion platform for conducting extensive communication and coordination and gathering consensus on the issues under consideration.
- (3) To respect indigenous peoples' right to self-determination, promote indigenous peoples' economic development, and safeguard related rights and interests, when drawing up plans, programs and projects, the CIP routinely invites participation and discussion by related indigenous peoples' organizations. When conducting the review process for major public works projects proposed by the CIP, the Council for Economic Planning and Development (CEPD), in addition to inviting input from related Cabinet agencies, also invites the CIP to join in discussions, and does its utmost to give it support.

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| 經社文<br>第2條第<br>1款 | 8. | <p>The 2009 Act to implement the two Covenants provides that both have domestic legal status and that interpretations of both Covenants by the Human Rights Committee should be taken into account by domestic authorities. Please list the principal instances in which the courts and the administrative authorities have invoked specific provisions</p> | <p>兩公約施行法(2009 年)規定各級政府應參照人權事務委員會對兩公約的解釋。請舉出重要事例說明法院和行政機關引用經濟社會文化權利公約的條文，或參照相關的國際解釋。兩公約施行法是否亦將參照經濟社會文化權利委員會之解釋？若為否，請解釋；若為是，為何未於施行法中明確陳述？</p> |
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|  | <p>of the ICESCR, or referred to the relevant international interpretations. Did the 2009 Act intend that account should also be taken of interpretations adopted by the Committee on Economic, Social and Cultural Rights (CESCR); if not, why not; if so, why is it not specifically stated?</p> |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

## 中文回應(標楷體，12 號字，單行間距)

一、

### (一) 司法院經搜尋各級法院判決結果

1. 高雄地方法院 98 年度簡上字第 201 號民事判決 1 件曾於判決中引用兩公約相關條文。
2. 臺北高等行政法院 100 年度訴字第 1751 號判決於有關環保事務等事件，該判決以我國環境影響評估法制採預防原則，開發行為如對於環境有不良影響之虞時，應實施環境影響評估，評估審查程序有嚴謹規定，主要就對環境有不良影響之虞之開發行為進行審查。故上揭法條規定有保障開發行為可能影響範圍內之居民之個人權益，在此範圍內之居民係屬開發行為之當地居民，為利害關係人，具有當事人適格。再依公民與政治權利國際公約及經濟社會文化權利國際公約（下稱兩公約）施行法第 2 條、經濟社會文化權利國際公約第 11 條第 1 款所保障之相當生活水準權，兩公約保障之人權應包括實體環境人權受到侵害時應予司法救濟。從而認原告游藝等 10 名自然人，為保障自身權益而爭訟，其居住環境與系爭開發案直線距離，依環境影響評估法第 5 條 1 項等規定均屬開發行為可能影響範圍內居民，渠等之居住生存環境因系爭環評審查結論處分而直接受影響，自具爭訟之當事人適格。審理後判決原告部分勝訴，而將臺北市政府 100 年 9 月 29 日府訴字第 10009115100 號撤銷建造執照事件訴願決定及內政部 100 年 11 月 22 日台內訴字第 1000230119 號都市設計及土地使用開發許可審議事件訴願決定部分均撤銷。

(二) 行政院人權保障推動小組列管不符合兩公約之 263 則檢討案，皆請各主管之行政機關依照兩公約及其一般性意見內容為法令及行政措施之修正，並對於有疑義之檢討案召開法規檢討複審會議，針對不符兩公約及其一般性意見之部分成決議請機關修正之。

(三) 法務部辦理行政院及其所屬各機關法規通用之諮詢時，均有注意兩公約之適用，例如有關「公務員身兼勞工身分者可否參加罷工」

及「曾依流氓檢肅條例裁定交付感訓處分確定者不得辦理計程車駕駛人執業登記」兩案，分別援引經社文公約第 8 條及第 6 條第 1 款條文做成行政函釋回復。

- (四) 國科會作為一個規劃與協調全國整體的科學與科技政策的政府部門，其中一件重要的工作即是支援國內學術研究的推動。為了符合經濟社會文化權利國際公約，第 15 條第 3 款「尊重進行科學研究和創造性活動所不可缺少的自由。」本會在 2012 年 7 月放寬專題計畫的經費限制，給予科研經費更大的運用空間。
- (五) 我國政府基於對客家族群文化訴求的正視及尊重，爰於 2001 年 6 月 14 日成立「客家委員會」，並於 2010 年 1 月 27 日制定公布「客家基本法」，傳承與發揚客家語言、文化，繁榮客庄文化產業，推動客家事務，保障客家族群集體權益，建立共存共榮之族群關係，並宣告以往未受到平等待遇的客家基本權利內涵及族群價值理念，作為語言、教育、媒體及文化等部會於法制舉措上的規範義務，此等措施均符合經濟社會文化權利公約第十五條保障人民有參與文化之權利之規定。

## 二、

- (一) 公民與政治權利國際公約及經濟社會文化權利國際公約施行法第 3 條規定：「適用兩公約規定，應參照其立法意旨及兩公約人權事務委員會之解釋。」，兩公約係公民與政治權利國際公約及經濟社會文化權利國際公約之合稱，本處所指兩公約人權事務委員會，事實上係包含了人權事務委員會及經濟社會文化權利委員會，業於施行法中明確陳述為「兩公約」。
- (二) 法務部於 2012 年 12 月完成之兩公約一般性意見正體中文版之校正一書，亦係包含「人權事務委員會」及「經濟社會文化權利委員會」針對公政公約及經社文公約內容解釋，且廣送各行政機關參考，俾利各機關日後對兩公約條文內容有所疑義時得隨時查閱，並依照公約及其一般性意見作為日後行政行為之依據。

## 英文回應(Times New Roman, 12 號字，單行間距)

1.

- (1) After Judicial Yuan searching judgments from courts at all levels
- A. One civil case judgment Jian-Shang-Zi No. 201 from Taiwan Kaohsiung District Court in 2009 cited the contents of ICCPR and ICESCR.

- B. Judgment about environmental issues, and events such as the Taipei High Administrative Court 2011 Su Zi No. 1751 of the judgment the legal system is computed using the precautionary principle of environmental impact assessment, development of behavior, such as the risk of adverse effects of the environment, an environmental impact assessment, assessment review process has stringent rules, the main concern of adverse impact of development activity on the environmental review. Therefore, the Act stipulates on mortgage safeguard the development of behavior that may affect the personal interests of the residents within the scope of the Department of residents in this range is a development activity as local residents, interested parties, the parties qualified. In accordance with the International Covenant on Civil and Political Rights (ICCPR) and the Economic Social and Cultural Rights and the International Convention (hereinafter referred to two of the two conventions) Enforcement Act, the International Convention of Economic, Social and Cultural Rights as guaranteed in Article 11, Subparagraph 1, of living standard of the two conventions Protection of human rights should include the physical environment of human rights violations should be judicial relief. Recognized the plaintiff Yu,Yi and other 10 individuals to protect their own rights and interests, and contentious, their living environment and the development of the disputed case straight line distance may affect the range of residents, according to an Article 5, paragraph 1 of the Environmental Impact Assessment Act and regulations are developed behavior drains of residential living environment disputed the conclusions of the review of the EIA sanctions directly affected, since the party with contentious eligibility. Hearing after judgment part in favor of the plaintiff, and the Taipei City Government 2011 September 29 Fu Su No. 10009115100 revoke the construction permit event the appeal decision and the Ministry of the Interior of urban design and land station within 2011 November 22 Tai Nei Su Zi No. 1000230119 development permit consideration of events revoke part of an appeal decision.
- (2) The Group for Promotion and Protection of Human Rights, Executive Yuan (行政院人權保障推動小組), compiled 263 review cases in current laws and regulations that are inconsistent with the two Covenants. Competent authorities were then asked to revise laws and administrative measures in order to comply with the Covenants and general comments. Where there were disputes, review meetings were convened and resolutions submitted to competent authorities.
- (3) The Ministry of Justice (MOJ) takes the application of the two Covenants into consideration when it engages in general consultations regarding laws and regulations with the Executive Yuan and other agencies under the executive branch. For instance, in the two cases on

“whether a civil servant who doubles as a laborer can participate in strikes” and “people who have been sent to reforms under the Gangster Prevention Act (檢肅流氓條例) shall not register as taxi drivers”, the Ministry invoked Article 8 and Paragraph 1 under Article 6 of the ICESCR respectively when drafting administrative letters of interpretation to respond to these queries.

- (4) In addition to being an academic research funding body, National Science Council (NSC) is also a government ministry for S&T policy implantation. In July 2012, NSC announced to loosen regulations to give more flexibility for project funds usage. This decision exactly meet the requirements described in the ICESCR 15-3, "to respect the freedom indispensable for scientific research and creative activity".
- (5) Based on the regard and respect for the Hakka culture, the government established “Hakka Affairs Council” on 14th of June, 2001, and promulgated ‘Hakka Basic Act’ on 27th of January, 2010, for passing down and thriving Hakka language and culture, developing Hakka cultural industries, promoting Hakka affairs, securing the collective rights and interests of the Hakka ethnic group, establishing harmonious coexistence with common prosperity and also declaring the fundamental rights and the ethic value of Hakka, which had not been treated equally before, to stipulate other authorities of language, education, mass media and culture as normative duties in legal system. Besides, these measures should be a standard of the legal policies for other administrative authorities. ICESCR Article 15 about the rights of participation in cultural life is taken into account of all of these policies.

- 2.
- (1) Article 3 of the Implementation Act provides that “the application of the two Covenants shall refer to the intentions of the Covenants and the interpretations made by the two Covenants’ Human Right Committees”\*. In the Implementation Act, the “two Covenants” include both the ICCPR and the ICESCR, while the “two Covenants’ Human Right Committees” refer to both the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, thus the wording of “the two Covenants” preceding “Human Right Committees”.
  - (2) The book titled “General Comments, ICCPR & ICESCR” (Traditional Chinese version) edited and published by the MOJ in December, 2012, contains interpretations of the two Covenants adopted by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights. Copies of this book were given to and widely circulated among administrative agencies, so that government agencies may look into it and clear any doubts over the content of the two Covenants and follow the Covenants as well as the general comments

when conducting administrative business.

\*This is translator's translation.

|                      |    |                                                                                                                                                                                                      |                                                        |
|----------------------|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| 經社文<br>第 2 條第<br>1 款 | 9. | Please indicate which laws were found by the Executive Yuan, in applying Article 8 of the Implementation Act, to be inconsistent with the ICESCR, and indicate what subsequent amendments were made. | 請指出依照兩公約施行法第 8 條，行政院發現哪些法律不符經濟社會文化權利國際公約，並請說明後續做了哪些修正？ |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、經檢討不符合經社文公約之法律、行政命令及行政措施共有 30 案，其中已修正完成之法律，計有「平均地權條例第 56 條」、「身心障礙者權益保障法第 46 條第 1 項」、「保全業法第 10 條之 1」、「教師法第 26 條及工會法第 4 條」、「技師法第 26 條」及「民法第 1114 條、第 1117 條」等 6 種法律。修正內容說明如下。  
二、平均地權條例第 56 條規定對於市地重劃之辦理，雖有重劃地區私有土地所有權人半數以上，而其所有土地面積超過重劃地區土地總面積半數者，表示反對，主管機關亦僅「參酌反對理由，修訂市地重劃計畫書，重行報請核定」，未能尊重多數土地所有權人之意見，並規定「土地所有權人不得再提異議」，似有過度限制人民財產權及訴願與訴訟權利之虞，並經檢討認有違經社文公約第 4 條規定，爰將前開「土地所有權人不得再提異議」之規定刪除。  
三、身心障礙者權益保障法第 46 條第 1 項原規定：「非視覺功能障礙者，不得從事按摩業。」經檢討認有違反經社文公約第 6 條規定，且依司法院大法官第 649 號解釋，認為違反憲法第 7 條平等權、第 15 條工作權及第 23 條比例原則等規定。該規定業於 100 年 10 月 31 日失其效力。  
四、原保全業法第 10 條之 1 未區分所犯之罪與保全業務是否相關，一律限制於刑執行完畢滿十年，始能擔任保全人員，容屬過嚴。基於保障人民基本權利及比例原則之考量，酌予放寬保全人員消極資格之限制。

五、工會法第 4 條原規定各級政府行政級教育事業、軍火工業之員工，不得組織工會，認有違反經社文公約第 8 條第 1 項第 1 款及第 3 款規定，爰於 99 年 6 月 1 日修正工會法第 4 條，開放教師得組織工會，雖未納入公務人員得組織工會，惟銓敘部承諾儘速推動公務人員協會法修法，放寬公務人員協會之協商及建議權，至軍火工業員工則放寬至除軍人及國防部依法監督之軍火工業員工外，均得組織工會。

六、有關技師公會之設置方式，技師法未修正前之規定需於省、直轄市設立，認有違反經社文第 8 條規定。為使組織方式更具彈性，行政院公共工程委員會修正第 26 條規定，得以全國性公會方式設立，

七、現行民法第 1114 條、第 1117 條有關「扶養」之規定，於扶養權利人對扶養義務人或扶養義務人之一定親屬為遺棄、家暴或性侵害等行為時，並無減輕或免除扶養義務之規定，顯有違權利義務之衡平，且恐與經社文公約第 10 條第 1 項規定不符。法務部增訂扶養義務人減輕或免除扶養義務之相關規定(增訂民法第 1118 條之 1)。

### 英文回應(Times New Roman, 12 號字，單行間距)

1. There are 30 cases of laws, regulations, directives and administrative measures that are inconsistent with the ICESCR. Those have been corrected with amendments include “Article 56 of Equalization of Land Rights Act (平均地權條例); Article 46-1 of People with Disabilities Rights Protection Act (身心障礙者權益保障法); Article 10-1 of Private Security Industry Law (保全業法); Article 4 of Labor Union Act (工會法) and Article 26 of Teacher’s Act (教師法); Article 26 of Professional Engineer’s Act (技師法) and Article 1114 and 1117 of Civil Code (民法). The amendments and revisions are stated as follows:
2. Article 56 of Equalization of Land Rights Act stipulates that objections to the project are raised by more than half of the interested landowners who own among themselves more than half of the land to be consolidated, the competent authorities shall “conciliate and revise the plan showing how the land is to be consolidated in consideration of the objections, and re-submit to the competent superior authorities for approval.” The law did not fully respect the opinions of the majority of the interested land owners and stipulated that “landowners shall not re-submit objections”, which seemed to overly control the property right and the right of filing appeal and lawsuit. It was considered violating Article 4 of the ICESCR, therefore the stipulation of “landowners shall not re-submit objections” is removed.

3. Article 46-1 of People with Disabilities Rights Protection Act originally stipulated that “people without seeing disability cannot engage in massage service.” It is considered that the stipulation violates Article 6 of ICESCR. Also according to the Council of Grand Justices, it violates Article 7 of the Constitution on Right of Equality. Therefore the part of the article had lost its efficacy on October 31, 2011.
4. Originally the private Security Industry Law stipulated that people who had committed any crimes can only serve as security service personnel 10 years after finishing the term of imprisonment regardless of the crime’s relevance with the security activities. In consideration of protection the basic rights of people and the principle of proportion, the restriction on the passive qualification for security service personnel has been loosened.
5. Article 4 of the Labor Union Act originally stated that employees of educational institutions of all levels of government and the employees of the firearms and ammunition industry shall not organize labor union, which is considered violating Article 8-1 and 8-3 of the ICESCR. Therefore amendment of Article 4 of the Labor Union Act was made on June 1<sup>st</sup>, 2000 to allow teachers to organize labor unions. While civil servants have not yet been allowed to organize labor unions, the Ministry of Civil Service (銓敘部) had promised to promote the amendment of Civil Servant Association Act (公務人員協會法) to expand the negotiation and suggestion rights of civil servant associations. As to the employees of the firearms and ammunition industry, the act has been relaxed to allow workers to organize labor union except for military personnel and the employees of the firearms and ammunition industry supervised by the Ministry of Defense according to law.
6. Before the amendment, the Professional Engineer’s Act stipulated that the professional engineer association shall be established in the province (municipality) association, which is considered violating Article 8 of the ICESCR. In order to provide more flexibility, Public Construction Commission of the Executive Yuan (行政院公共工程委員會) had revised Article 26 to allow the establishment of national association.
7. In the original stipulation of “maintenance” in Article 1114 and 1117 of the Civil Code, the person assumed the obligation of furnishing maintenance was not able to relieve or being exempted from such an obligation when the persons entitled to maintenance deserted, conducted domestic violence or sexual assault on the obligation-bearer or certain relatives of the obligation-bearer, which apparently violates the principle of equality between rights and obligations and Article 10-1 of the ICESCR. Ministry of Justice therefore has made an amendment of exempting or relieving the obligation of furnishing maintenance for the person assumed the obligation of maintenance. (The

amendment of Article 1118-1 of Civil Code)

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| 經社文<br>第 2 條第<br>1 款 | 10. | What actions have been taken by the Control Yuan specifically designed to promote implementation of the ICESCR? What alleged violations of esc-rights have been investigated by the Human Rights Protection Committee operating under the auspices of the Control Yuan? | 監察院採取了哪些特定行動以提升經濟社會文化權利公約之落實？監察院人權保障委員會曾經針對哪些可能違反經社文權利公約的事例進行調查？ |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、監察院為我國的國家監察機關(National Ombudsman)，依據五權憲法獨立行使職權，受理人民陳情並進行調查，監督各級政府機關及其公務員有無違法失職情事，實務上已具有國家人權機關的部分功能。「經濟社會文化權利國際公約」內國法化後，監察院更得以國際人權標準檢視政府機關的作為，並監督政府落實國際人權義務情形，以促進我國人權缺失的改善。
- 二、自第 4 屆監察委員於 2008 年 8 月就職以來至 2012 年止，監察院審議通過的 2,083 案調查報告中，有 1,176 案涉及人權保障議題，其中，又有 827 案涉及經社文公約所揭示的各項權利，占全部調查案件的 39.7%、人權議題調查案件的 70.3%，類別涵蓋：生存權及健康權、工作權、財產權、文化權、教育權、環境權以及社會保障等。
- 三、歷年來監察院調查涉及經社文人權議題的重要案例包括：高齡老人長期照護體系；毒奶粉、塑化劑及蔬果農藥殘留等食品安全問題；外勞及外傭的引進及人權問題；苗栗大埔農地土地徵收爭議；媒體置入性行銷的管理；原住民教育問題；校園霸凌、性侵害、性騷擾事件的宣導及防治；土壤及水資源的污染問題；以及保護性業務社工人力長期不足等。

### 英文回應(Times New Roman，12 號字，單行間距)

1. The Control Yuan is the National Ombudsman of the Republic of China (Taiwan). The five-power Constitution foresees its independent powers in handling public complaints and launching investigations when necessary. In practice, its role as government watchdog partially fulfills the function of a national human rights institution. The ratification of ICESCR provides the Control Yuan with concrete

- international norms against which it measures government actions in an effort to improve human rights conditions in Taiwan.
2. Among the 2,083 investigations conducted during the period between inauguration of 4th Control Yuan in August 2008 and 2012, a total of 1,176 cases have been identified to involve human rights issues. Furthermore, 827 of these human rights cases involve the rights set forth by ICESCR, accounting for 39.7% of all investigations and 70.3% of those dealing with human rights violations. To specify, some of the categories include: the right to health and life, right to work, right to property, right to cultural life, right to education, environmental rights and right to social security.
  3. Over the years, the Control Yuan has investigated numerous cases involving rights covered in ICESCR, including: long-term care for the elderly; food security (tainted milk, plasticizer and pesticide residues); recruitment and rights of foreign workers and domestic helpers in Taiwan; controversial land expropriation in Dapu Township, Miaoli Country; control of placement marketing in media; aborigines' rights to education; campaigns against and prevention of school bullying, sexual assault, and sexual harassment; soil and water pollution, as well as chronic shortage of protective services social workers.

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| 經社文<br>第 2 條第<br>1 款 | 11. | <p>Paragraph 10 of the Report describes how foreign aid was utilized largely for economic development, and Taiwan's provision of foreign aid to various causes which are laudable. In line with the CESCR treaty-specific Guidelines on Reporting (E/C.12/2008/2) please indicate the impact of international assistance and cooperation, whether received or provided, on the realization of the Covenant rights in Taiwan and, as the case may be, in other countries.</p> | <p>國家報告第 10 段描述台灣如何運用外援進行經濟建設，並因各種理由提供對外援助，值得讚賞。依照經社文權利公約報告指引(E/C.12/2008/2)，請指出國際援助與合作，無論是接受或提供，對實現台灣或其他國家的經社文公約權利有何效果？</p> |
|----------------------|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|

中文回應(標楷體，12 號字，單行間距)

- 一、臺灣自 1951 年起接受美國提供之援助，援助範圍包括經濟援助、農產品援助及開發援助貸款等，其中以經濟援助為主，總額達到 14.82 億美元，此項援助持續至民國 65 年方終止。此外，臺灣也曾接受其他國家與國際組織如世界衛生組織(WHO)、國際發展協會(IDA)、世界銀行(World Bank)與亞洲開發銀行(ADB)等之援助。
- 二、臺灣政府運用前述國際援助於交通道路、電力及供水等基礎建設，初級產業及金融發展，醫療及公共衛生提升、教育人才培訓等逐步發展，並藉由農業自給自足、提供產業發展基礎，並以「進口替代」及「出口導向」之經濟發展政策，協助創造就業及提升人民生活水準，使臺灣的人均所得由民國 50 年的 197 美元達到至民國 101 年之 20,101 美元。
- 三、由於臺灣之成功發展經驗，部分需歸功於國際社會之援助，因此基於敦睦邦交、善盡國際責任、回饋國際社會及發揮人道精神，臺灣政府致力推動國際合作工作，並以「目的正當、程序合法、執行有效」原則，及「進步夥伴、永續發展」之目標，並配合「經濟、社會及文化權利國際公約」(以下簡稱公約)之規範，來協助友邦進行發展。
- 四、在實務作為上，我國對外國際合作計畫主要以農漁技術合作計畫為主，其目的在於透過示範與訓練，協助友邦農民種植作物，提升當地民眾食物供給，進而提昇生活水準(公約第十一條)。例如我國在甘比亞推動之陸稻擴展計畫，由我駐甘比亞技術團於 2009 年至 2012 年協助當地政府及農民共同開發 32,000 公頃的陸稻田，每公頃稻米年產量逾三公噸，期間訓練農民人次逾 38,000 人，參與推廣計畫的農民人數超過 67,000 人，除為當地人民提供自給自己的食物外，亦為當地人民創造諸多工作機會(公約第六條及第七條)，計畫總受益者約 170,000 人。
- 五、此外，在海地地震後，為協助災民重建，我駐海地技術團不僅協助 Torbeck 地區農民改善灌溉設施，種植水道，共生產白米 21,000 噸，不僅讓當地農民自給自足，並有餘糧供應市場所需，進而導入市場行銷觀念，不僅在協助當地 8400 戶農民的就業及提昇生活水準上有所幫助，同時讓海地稻米進口減少約 2.4%(7,200 噸)。
- 六、我援外計畫除協助友邦發展農牧及初級產業外，對於醫療缺乏地區，我國亦推展醫療協助計畫。依據世界衛生組織(WHO)統計，在太平洋島國區域之我國友邦平均每萬人所覆蓋的醫師人力皆不到 10 人，醫療資源匱乏且均集中於首都。我國每年為協助當地醫療照護，均派遣「臨床醫療小組」赴各國辦理專科診療(公約第十二條)。以 101 年計，我國共派遣 8 團 47 位醫護人員，針對當地當地人民易染疾病進行診療及救護，計診治患者 3,296 人。在非洲的甘比亞，我與甘比亞衛生部合作，協助甘國上河省區(Upper-River Region) 提升孕產婦保健服務相關從業人員對婦女懷孕至生產各階段之保健技能，並增加計畫區域內孕產婦定期訪視之覆蓋率，強化對孕產婦之服務品質，以協助降低孕產婦及新生兒之死亡率。

七、臺灣的經濟成長，教育建設佔有相當比重，因此我國在推動國際合作業務時，不僅重視教育計畫，同時還善用我國的科技實力，加強教育合作(公約第七條及第十三條)。我國在若干非洲及太平洋國家均推動「一盞燈」計畫，透過政府與廠商合作，提供太陽能及省電的 LED 燈具，使當地學童得以在夜間進行閱讀；另政府亦與 APEC 合作，在會員國推行「A-Doc」計畫，推廣電腦使用，降低數位落差。

八、近來，我國在國際開發合作上也分享先進技術之運用，例如我國在中美洲的尼加拉瓜、宏都拉斯、薩爾瓦多等國進行之「地理資訊系統(GIS)運用」計畫，不僅與各該國合作運用我國福衛二號衛星之影像分析，用於天災救援、農地規劃及森林保育等方面，同時每年辦理訓練班，邀請這些國家的官員來華學習運用 GIS 科技資訊作為政策規劃參考。

### 英文回應(Times New Roman，12 號字，單行間距)

1. Beginning in 1951, the US provided a total of US\$1.482 billion of project and non-project assistance to the Republic of China (Taiwan) over the course of 15 years. Of this, most came as economic aid, then agricultural products and development loans. Furthermore, international organizations such the World Health Organization, the International Development Association, the World Bank and the Asian Development Bank also provided loans and technical cooperation to help Taiwan.
2. The ROC government used these aids in its transportation infrastructure, industrial facilities, financial development, improvement of medical care and public health, agricultural and fisheries development, education and personnel training programs. With the self-sufficiency of agriculture which provides a foundation for industrial development, the government adopted an import substitute and export oriented economic development policy to help create employment and increase living standards. Taiwan's GDP has increased from 197 dollars in 50s to 20,101 dollars in 2012.
3. Thanks to these aids, Taiwan enjoys a great success in development. Taiwan government endeavors in promoting international cooperation for the goals of promoting friendly relations with diplomatic allies, fulfilling Taiwan's responsibility as a member of international community, giving back to the international community, and developing humanitarianism. In helping our allies in development, we focus on the principles of appropriate motives, due diligence and effective practices; set up the goals for partnerships for progress and sustainable

development; and follow the articles of the *International Covenant on Economic, Social and Culture Rights*.

4. In practice, our international cooperation projects have focused on agricultural and fishery technical cooperation. The purposes are to demonstrate and to train our allies' farmers in cultivation, to increase food supply for the local people, thus increasing their living standards (Article 11). For example, the Upland Rice Expansion in the Republic of The Gambia was established in 2009. The purpose of this project is to achieve self-sufficiency in rice production over a four-year period by reclaiming 32,000 hectares for the cultivation of upland rice, and raise average rice yields to more than 3 tons/hectare. In that 4 years, there were more than 38,000 farmers trained in the project, the total involved participant are more than 67,000 farmers. This project not only helped in providing self-sufficient food, but also created a lot of work opportunities (Articles 6 & 7). The total people benefited are some 170,000.
5. Aftermath the earthquake in Haiti, the Taiwan Technical Mission in Haiti helped the victim farmers in Torbeck to improve their irrigation facilities and plant paddy rice. Yields of rice in totaled 21,000 tons. This is not only for self consumption but there is a surplus to sell at market, thus the concept of marketing is brought in. It helps 8,400 local farmers be employed and increases their living standards. As a result, Haiti has reduced its rice import by 2.4% (7,200 tons).
6. Besides the agriculture/fishery and basic industry, Taiwan also provides medical assistance projects in areas lacking of medical resources. According to the statistics of WHO regarding our allies in Pacific Islands, there are less than 10 doctors for every 10,000 people, especially in capitals the situation is worse. Every year, we send Mobil Medical Missions to our allies to help in medical care. (Article 12) For example, in 2012, we sent out 9 teams and a total of 47 medical professionals to diagnosis disease for local people. In total of 3,296 patients was treated. In Gambia, we work with their Ministry of Health for pregnant women's health service in Upper-River Region. The project was to help in improving the skill of pregnant women's health service providers for better quality of service, and reduce the death rate of pregnant women and new born babies.
7. Taiwan's education has made a lot of contribution to its economic growth. Thus, in promoting the international cooperation, we focus both in education and our technology strength to enhance the education cooperation. (Article 7 & 13) We launched projects of "Lighting Up Africa" and "Lighting Up Pacific" in some Africa and Pacific countries. Through the cooperation between the government and manufactures, Taiwan provides solar and energy-saving LED lights, which allow the school kids to read at night. Furthermore, Taiwan government works

- with APEC in promoting “A-DOC” project among members to expand the usage of computer for reducing the digital divide.
8. Most recently, Taiwan started in sharing the advanced technology application in international development cooperation. For example, Taiwan established “Geographic Information Systems (GIS) Application” projects in Central American countries, such as Nicaragua, Honduras, and Salvador. We share with the FORMOSAT-2 satellite image analyses in disaster rescue, farm land planning, forest reservation, etc. Every year, we invite officials from these countries to visit Taiwan to learn how to apply the GIS technology information in policy planning.

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| 經社文<br>第 2 條第<br>2 款 | 12. | <p>In Taiwan, discrimination against different groups of people is dealt with by different bodies created by different laws, such as Task Force, Review Committee or Review Panel, and in a very limited way. Has there been any discussion on the need to enact a comprehensive Anti-Discrimination Act which encompasses all grounds of discrimination and in all areas?</p> | <p>在台灣，對不同群體的歧視是由根據不同法律所成立的各種機構處理，例如任務小組、審查委員會、審查小組，並且處理範圍有限。是否曾經討論需要制定一部完整的反歧視法，以涵蓋各領域、基於各種原因之歧視？</p> |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、不同群體的歧視規範在不同的法律並由不同的機構處理，可確保其專業性，更能落實對人權的保障。
- 二、法務部為研議馬總統人權政策中有關制定反歧視法之必要性及可行性，並因應立法委員鄭麗文等 22 人於 2009 年所提出以反歧視為主軸之平等法草案，通盤考量有無制定反歧視法或平等法之必要，曾於 2010 年函請中央各相關機關針對「應否制定反歧視專法」表示意見，經法務部彙整後，表示無意見有 22 個機關，反對制定或暫不推動有 13 個機關，認為應制定亦有 13 個機關，故中央各部會對於應否制定反歧視專法尚無共識。另外，由於我國國情特殊，社會各界對於是否制定反歧視法以及其規範內容為何有不同意見，爭議仍多，尚有待聆聽社會各界意見，以凝聚共識。

## **英文回應(Times New Roman , 12 號字 , 單行間距)**

1. Discrimination against different groups of people is dealt with by different bodies based on different laws ensures the specialized field and makes the protection of human rights workable.
2.
  - (1) For the necessity and practicability of President Ma's propose on formulating Anti-discrimination Law, which is not only highly relevant to his human rights policy , but also formal response to the anti-discrimination which drafted by 22 Legislators including Ms. Cheng Li-wen in 2009.
  - (2) Department of Justice asked for other department's opinions and the result was 13 agreed, 13 disagreed, and 22 had no position on Anti-discrimination Law. Therefore, the central government still has no consensus on this topic and there are still many controversies and arguments in every aspect of our society too. We still need to pay more attention on what our society expects on human rights issues and foster common consensus.

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| 經社文<br>第 2 條第<br>2 款 | 13. From Table 2 (p. 12) of the Report on ESC-Rights, when the Employment Discrimination Review Committee decides on the complaints that there were in fact violations, the penalty is only fines. What remedies are provided to the victims of discrimination? To be reinstated and/or to get compensation, do the victims have to pursue another legal procedure such as filing a civil lawsuit? | 由經社文公約報告表 2(第 12 頁、中文第 7 頁)，當就業歧視評議委員會議決申訴案確實成立時，其處罰僅限於罰款。對於遭受歧視的受害者有何補救？受害人是否必須尋求其他法律途徑，例如民事訴訟，才能復職或得到補償金？ |
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## **中文回應(標楷體 , 12 號字 , 單行間距)**

雇主如有違反就業服務法第 5 條第 1 項規定，求職者或受僱者可提供相關具體事證，依就業服務法第 6 條規定逕向當地直轄市、縣市政府（勞工局或社會局）申請評議，如經就業歧視評議委員會評議成立就業歧視之案件，將依就業服務法第 65 條規定處新臺幣

30 萬元以上 150 萬元以下罰鍰。上開法律係對違反法律之雇主進行罰鍰，尚未規定雇主須對受害人付有相關賠償規定。

### **英文回應(Times New Roman , 12 號字 , 單行間距)**

If a job applicant or employee should find that the employer has violated Paragraph 1, Article 5 of the Employment Services Act, he or she may provide related evidence and apply according to Article 6 of the Employment Services Act to the labor or social welfare authority in the local government for deliberation. If the committee on the review of discrimination in employment confirms the employer as having indeed engaged in discriminatory conduct, the employer will be subject to a fine no less than NT\$300,000 and no more than NT\$1,500,000 imposed in accordance with Article 62 of the Employment Services Act. The said act only provides the legal basis for the imposition of fines on employers in violation of the law; there are no provisions with regard to employers' compensation to victims of discrimination.

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| 經社文<br>第 3 條 | 14. | Bearing in mind that in the Covenant, the equal enjoyment of men and women of economic, social and cultural rights is not an “ideal” ( Report, para.32) but a human rights standard, and that the State’s obligation is to ensure that this standard is enjoyed in law and in fact, please provide information as to how the numerous initiatives to promote equality are being implemented, the impact on the ground, and the difficulties encountered. | 請銘記在心：公約中關於男女平等享有經濟、社會與文化權利的規範並非僅是「理想」(國家報告第 32 段)，而是人權標準，國家的義務是必須確保該標準能在法律與現實中落實。請提供資訊，說明各種促進平等的措施是如何實施，產生哪些效果，以及遭遇何種困難。 |
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### **中文回應(標楷體 , 12 號字 , 單行間距)**

一、我國保障性別平等之法律如下：憲法第7條規定：「中華民國人民，無分男女、宗教、種族、階級、黨派，在法律上一律平等。」次按憲法增修條文第10條第6項規定：「國家應維護婦女之人格尊嚴、保障婦女之人身安全、消除性別歧視、促進兩性地位之實質平等。」性別平等教育法以「促進性別地位之實質平等，消除性別歧視，維護人格尊嚴，厚植並建立性別平等之教育資源與環境」

做為我國推動性別平等教育之立法目的。勞動基準法第25條明定雇主對勞工不得因性別而有差別之待遇。依性別工作平等法第7條至第11條規定略以，雇主對求職者或受僱者之招募、甄試、進用、分發、配置、考績、陞遷，及對受僱者舉辦或提供教育、訓練或其他類似活動、舉辦或提供各項福利措施、薪資給付、退休、資遣、離職及解僱等，不得因性別或性傾向而有差別待遇。就業服務法第5條第1項規定：為保障國民就業機會平等，雇主對求職人或所僱用員工，不得以性別、性傾向為由，予以歧視。大量解雇勞工保護法第13條亦規定事業單位大量解僱選擇解僱對象時，不得因性別而有差別待遇。另考量男女生理上不同，並保障男女平等享有各項權利，公務人員請假規則第3條業規定，家庭成員預防接種、發生嚴重之疾病或其他重大事故須親自照顧時，得請家庭照顧假；因配偶分娩者，給陪產假3日；女性公務人員因生理日致工作有困難者，每月得請生理假1日等假別，以落實政府保障男女平等之義務。

- 二、我國為提升我國之性別別人權標準，落實性別平等，於2007年總統批准並頒發CEDAW加入書。又為明定CEDAW具國內法效力，經總統2011年6月8日公布「消除對婦女一切形式歧視公約施行法」，自2012年1月1日起施行。該施行法第8條明文規定，各級政府機關應於本法施行3年內完成法令之制定、修正或廢止，及行政措施之改進，以符合CEDAW規定。爰於2012年訂定「性別平等大步走—落實消除對婦女一切形式歧視公約計畫」，由各級政府機關依計畫進行檢視人員培訓及宣導等工作，依時程於2014年前完成法規檢視及修訂等相關工作，以落實推動CEDAW及保障性別人權。2012年度行政院性別平等處督導各級政府機關共辦理303場CEDAW法規檢視訓練，受培訓之公務人員總計20,253人。
- 三、**我國並已建立中央政府性別平等機制**，包括：成立行政院性別平等會以整合、協調及督導性別平等事務；設置行政院性別平等處，專責性別平等政策、法案、計畫之綜合規劃、研究發展、協調、審議、監督等業務；由各部會性別平等專案小組推動各項性別平等業務；成立「推動性別主流化專案會議」，作為行政院性別平等會民間委員與各部會之間持續交流及精進性別主流化各項工具之平台。
- 四、另為規劃我國性別平等施政藍圖，於2011年12月2日行政院核定性別平等政策綱領，作為未來性別平等政策指導方針，並由2012年成立之行政院性別平等處主政推動。該綱領內容涵蓋「權力、決策與影響力」、「就業、經濟與福利」、「教育、文化與媒體」、「人身安全與司法」、「健康、醫療與照顧」、「人口、婚姻與家庭」及「環境、能源與科技」等7項核心議題及255項之具體行動措施明列為短、中、長程須完成之項目，將婦女權益與性別平等理念具體化，以作為各權責機關推動性別平等依循方向與目標，並委託廠商建置「性別平等政策綱領填報資訊系統」，以利定期管考各權責機關之推動辦理情形。相關辦理措施舉例如下：

- (一) 為了解不同性別的社會處境，各機關均積極建置性別統計資料，除公告於機關網頁供各界查閱外，亦為機關政策規劃及分析之重要參考。惟我國性別統計項目仍與國際重要公約或重要指標無法完全對應或符合，故已著手研議與國際接軌之性別統計項目及資訊平台，以利我國在國際上展現性別平等推動成果之統計資料。
- (二) 針對影響人民權益福祉甚鉅之中長程個案計畫及法律案，自 2009 年起全面實施性別影響評估，將對不同性別的影響及受益程度之預評估結果，作為研提促進性別平等有效措施之參考。各機關每年度辦理中長程個案計畫約 200 案，惟辦理過程中也發現性別影響評估機制面臨性別統計不足、無法釐清問題等，更詳細之性別統計正在建立中，相關制度刻正進行滾動修正中。
- (三) 修正「性侵害犯罪防治法」並於 2012 年度起實施相關配套措施，包含發布「性侵害犯罪防治法施行細則」等法規。此外，為預防性侵害加害人再犯，於 2012 年 4 月發布相關法規及計畫，提出各警察局對於轄內列管性侵害犯罪加害人每月至少查訪 1 次，並依監獄、衛生局等評估之再犯危險程度，提高查訪密度，以達到性侵害犯罪加害人社區處遇監督「無縫接軌」。
- (四) 內政部為有效防治性別暴力事件，已設置有 113 保護專線電話，提供民眾通報有關家庭暴力、性傾害、兒少保護案件的窗口。以 101 年統計數據結果顯示，女性通報率約占 7 成，未來將持續強化接線人員性別敏感度，並擴大專線服務內容，提供相關法令諮詢服務。並培育如司法、檢查等相關單位資深工作者成為家庭暴力安全防護網督導人才，使 113 保護專線網絡完善化。
- (五) 長期以來，警政、消防、移民等機關工作性質，較屬於陽剛、男性的工作場域，內政部為深化上述機關人員之性別平等意識，辦理多樣化的課程，積極於上述各機關推廣兩性平權的平衡概念。逐年增加相關單位女性員工合理之比例，如截至 2012 年 11 月底止，全國消防人員 1 萬 3,425 人，其中女性消防人員比率已由 2006 年 6.57% 逐年增加至 2012 年 11 月底之 10.42% 。
- (六) 101 年「全國孝行獎」表揚 30 位孝行楷模，其中男性 17 名、女性 13 名，為該項活動首次出現男性得獎者多於女性的情形，顯示現代人認為孝順這件事不應有性別差異，也打破女性扮演照顧者之性別刻板印象。
- (七) 為推廣新時代喪禮「殯葬自主・性別平等・多元尊重」觀念，內政部於 2012 年 6 月 22 日《現代國民喪禮》新書出版之際舉辦研討會；內容包括演講及議題研討，並邀請性別學者、殯葬業者及同志團體幹部就「重建多元性別平等的喪禮如

何可能？」融入尊重每個人的性傾向及性別認同議題，其中更重要的是，以往我國傳統文化中認為喪禮的重要儀式皆由男性擔負進行之角色，而今內政部提倡新式的現代葬禮觀念，認為女性也能擔當此一任務。

- (八) 教育方面，設置性別平等教育資源中心學校、強化各級性別平等教育委員會之運作、規劃性別平等教育課程與教學、並強化教育人員職前及在職教育、督導學校落實校園性別事件通報及處理、培訓校園性別事件專業人員、出版性別平等教育季刊，編制多元宣導媒材，補助辦理性平議題宣導與推廣活動，落實推動性別平等教育社會推廣及家庭教育。

五、我國國中學生參加 2009 年國際教育成就評量協會（IEA）辦理的國際公民素養調查計畫（ICCS2009），其對性別平權的支持度排名世界第 1 名，公民認知排名第 4 名，僅次於芬蘭、丹麥與韓國，不難看出我國長年以來持續落實性別平權之努力，我國將持續深耕與落實，期使不同性別與多元性傾向者，都能活得更平等、更有尊嚴。

### **英文回應(Times New Roman，12 號字，單行間距)**

1. Many laws of our country can guarantee the gender equality. As stipulated in Article 7 of the ROC Constitution, “all citizens of the Republic of China, irrespective of sex, religion, race, class, or party affiliation, shall be equal before law.” Article 10, Paragraph 6 of the Additional Article of the Constitution prescribes, “the state shall protect the dignity of women, safeguard their personal safety, eliminate sexual discrimination, and further substantive gender equality.” Gender Equity Education Act was enacted to “promote substantive gender equality, eliminate gender discrimination, uphold human dignity, and improve and establish education resources and environment” in hopes of building a civil society that respects gender equity. Article 25 of the Labor Standards Act stipulates that an employer may under no circumstances discriminate between the sexes in the payment of wages. In Articles 7 to 11 of the Act of Gender Equality of Employment, it is stipulated that employers may not discriminate against employees or job applicants because of their gender or sexual orientation in the course of recruitment, screening test, hiring, placement, assignment, evaluation and promotion, when organizing or providing education, training, other related activities and various welfare measures, or when making decisions regarding wages, retirement, severance and discharge from employment. For the purpose of ensuring national’s equal opportunity in employment, in article 1 of the Employment services Act, employer is prohibited from discriminating against any job applicant or employee on the basis of gender and gender orientation.

According to the Act for Worker Protection of Mass Redundancy, when implementing a mass redundancy plan, gender shall not be taken as the cause of discharge. In further consideration of biological differences between males and females, and in order to safeguard the rights of males and females to gender equality, the terms of Article 3 of the Civil Service Leave Regulations stipulate that where family members undergo vaccination, experience serious illness, or other major events requiring personal care of family members, civil servants may apply for family care leave; maternity leave of three days may be granted for the spouse of a woman giving birth; and female civil servants unable to perform work tasks due to menstrual issues may be granted leave of one day per month, in fulfillment of the government's obligation to safeguard gender equality.

2. In addition, the CEDAW was clearly stipulated that it has the effect of domestic law. On June 8, 2011 the President promulgated Enforcement Act of Convention on the Elimination of All Forms of Discrimination against Women and this was executed from January 1, 2012. Article 8 of that Act specified that within three years after this act is implemented, government departments and agencies at all levels should complete the stipulation, amendment or abolishment of the laws and improve the administrative measures in order to conform to the provisions of CEDAW. In 2012 the “Big Step on Gender Equality-Implement the Plan on the Convention on the Elimination of All Forms of Discrimination against Women” was established. Government departments and agencies at all levels must train relevant personnel according to the plan and must complete law reviews and amendments before 2014 according to schedule so as to realize the implementation of the CEDAW and to protect gender human right. In 2012, the Gender Equality Department of the Executive Yuan supervised government departments and agencies at all levels to conduct 303 sessions of CEDAW law review training and a total of 20,253 government employees were trained.
3. Our country has built the gender equality mechanism of the central government. The Committee of Gender Equality, Executive Yuan was established to integrate, coordinate and supervise the gender equality affairs; establish the Gender Equality Department responsible for the comprehensive planning of gender equality policy, laws and plans, research and development, coordination, examination and supervision. The gender equality project team of various departments will promote various gender equality affairs; establish the “Task Force of Gender Mainstreaming” as the platform of continual opinions exchange between the non-government members of the Committee of Gender Equality, Executive Yuan and for refining the tools of gender mainstreaming.

4. In order to plan the administration blueprint of the gender equality of our country, the Executive Yuan approved the Gender Equality Policy Guidelines on December 2, 2011 as the guiding direction of the future gender equality policy. In addition, the Gender Equality Department of the Executive Yuan was established in 2012 to administer the promotion. The contents of that guiding principle covers 7 core issues including “Gender on Equal Rights, Decision-Making and Influence”, “Gender on Employment, Economy and Welfare”, “Gender on Education, Culture and Media”, “Gender on Safety and Justice”, “Gender on Health and Healthcare”, “Gender on Demography, Marriage and Family” and “Gender on Environment, Energy and ICT” and 255 concrete measures are items that should be completed in short, medium and long term. The philosophy of the women’ s rights and interests and gender equality is substantiated that will become the direction and goals to be followed when various authoritative departments are popularizing the gender equality. The Gender Equality Department of Executive Yuan has established the “Gender Equality Policy Guidelines Report Information System” in order to examine the promotion process of various authoritative institutions. Parts of relevant administrative measures which are processing are as the followings:
  - (1) In order to understand the social condition of different gender, various departments are actively establishing the gender statistical information. Apart from announcing in the departmental web page for various sectors, this will be an important reference for policy planning and analysis for departments. However, the gender statistical items of our country still cannot extremely correspond or conform to CEDAW or other important indicators. Therefore our country has started to study the gender statistical item and information platform that can connect internationally in order to facilitate our country to unfold the statistical information on the gender equality promotion results internationally.
  - (2) Aiming at the medium and long term plan and law that will affect the rights and benefits and welfare of the people most, starting from 2009 the gender impact assessment was implemented in full and the effect on different gender and the estimate evaluation result on the level of benefit will be the reference for effective measures on promoting gender equality. Every year various departments will process about 200 medium and long term plans. However, there are findings that in the course of processing, the gender impact assessment system encounters shortage of gender statistics and problems cannot be clarified sometimes. More detail gender statistics are in the course of construction and relevant systems are in the course of amendments.

- (3) The government amended the Sexual Assault Crime Prevention Act, and implemented related measures since 2012 which included releasing Enforcement Rules for the Sexual Assault Prevention Act ". Besides that, in order to prevent the sexual offenders commit the crime again. New laws which released in April, 2012, stated that the local police need to inspect the Sexual Assault offender in its jurisdiction at least once a month. Moreover, that local police are able to increase the frequency of inspection based on the assessment of the health bureau or prisons. The laws were aimed to create a seamless integration for central and local supervision to the Sexual Assault offenders.
- (4) The Ministry of Interior (MOI) established the "113 hotline program" for public to report domestic violence, sexual assaults, and children protection. According to the records from 2012, 70 percent of the callers were from women, these results are consistent with the domestic violence incidents. In the future, MOI will strengthen the gender sensitivity for the operators and provide the law consulting services (for women especially). Furthermore, senior staffs from judiciary and inspectors will be trained as supervisors for the Domestic Violence Safety Net to perfect the 113 hotline.
- (5) Strengthen the awareness of Gender Equality in National Police Agency, National Fire Agency and National Immigration Agency. For a long term, the National Police Agency, National Fire Agency and National Immigration Agency are indicated as virile –described career. MOI aim to deepen the Gender Equality consciousness by conducting multiple training programs, and increasing the proportion of female in these fields gradually. For example, the firefighters consist of 103,425 people national wide, of which the female ratio increases from 6.57% in 1996 to 10.42% at the end of Nov, 2012.
- (6) 30 people won the award of "Nationwide Filial Piety Award" held by the government in 2012. Among them, 17 were male, and 13 were female. It was the first time in history that awards winners had more men than women. The results showed that filial piety should not have gender difference. It also broke the gender stereotypes of women play caregivers.
- (7) In order to promote the Concept of Funerals for the new era: "Funeral self-assertion, gender equality, multicultural respect", MOI hosted a conference when the book of "A Guide for funeral customs and modern practices in Taiwan" was released in 22nd, June 2012. During the conference, gender scholars, professionals from funeral industry and staff from LGBT organizations were invited to input their opinions for the discussion of "How to reconstruct the funerals which are based on the diversity and gender equality". More

importantly, in the Taiwanese culture, it was used to be men play key roles in the ceremony in the past, but MOI tried to promote the concept that women can also play the same roles in the new age.

- (8) About education, the Ministry of Education (MOE) subsidizes local governments in an annual basis to help promote initiatives on gender equality education. On-site inspections, evaluation trips, and trainings have been planned to enhance the operation of the committees and schools' consciousness of gender equality education. Gender equality has been officially included into school curriculum outline in order to promote respect for gender diversity and eliminate discrimination. Pre-job and on-the-job trainings are available for educators; counseling panels are set up. Such efforts, including the provision of courses and activities on the topic, are aimed at arousing the public's awareness and knowledge about gender equality. The supervision over the reporting and treatment of campus gender incidents has been strengthened. Specialized personnel on the topic have been trained to deal with such incidents. Handbooks and teaching materials have been prepared. Training programs on the investigation and treatment of such incidents have been provided and the mechanism to ban teachers involving in an offence has been reinforced. The efforts are made to help schools at varying levels to cope with campus gender incidents and to create a friendly and safe campus environment. To promote gender equality education, quarterly materials have been published. Diversified promotion materials are developed. There are also promotion initiatives and advertisements planned to further gender equality.
5. In the ICCS2009 (International Civic and Citizenship Education Study 2009) held by IEA (International Association for the Evaluation of Educational Achievement), Taiwanese junior high school students ranked first on supportive attitudes toward gender equality, fourth on civic knowledge, after Finland, Denmark, and South Korea. That is a solid proof of what has been achieved after years of efforts to promote gender equality. The government of Taiwan will continue its efforts to bring a more equal and dignified life to different genders.

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| 經社文<br>第 3 條 | 15. | The principle of equality that applies to men and women is similarly applicable to those whose gender identities are different from their biological sex. Please describe to what extent the Government has taken into consideration the | 適用於男性與女性的平等原則也同樣適用於性別認同不同於生理性別的人們。請描述為使這些族群享有經濟社會文化權利，政府做了哪些考量。 |
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|  | enjoyment by these groups of their esc-rights. |  |
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### **中文回應(標楷體，12 號字，單行間距)**

- 一、我國行政院於 2011 年 12 月 19 頒布「性別平等政策綱領」，其中涵括多元性別族群各項權利之保障與權益之促進，由 2012 年成立之行政院性別平等處專責統整及督導相關單位辦理。「性別平等政策綱領」中與多元性別族群權益相關之部分，分述如下：
- (一) 「就業、經濟與福利」篇明定應對多元性傾向者提供就業面向之服務。
  - (二) 「人口、婚姻與家庭」篇明定應積極推動對非婚同居伴侶相關權益之保障，包括研修相關法規，並應研議其他面向之福利及權益保障對策；
  - (三) 「教育、文化與媒體」篇明定應發展教學方法與媒材，培力弱勢性別族群，強化其性別平等意識能力，同時推動媒體自律提升其性別敏感度。2004 年教育部也制定「性別平等教育法」做為我國性別平等教育之法源依據。
  - (四) 「人身安全與司法」篇明定應開展對遭受暴力之同志被害人多元處遇模式，同時強化相關服務人員的性別敏感度。
  - (五) 「健康、醫療與照顧」篇明定應推動性別友善之醫療與照護環境，瞭解多元性別族群的健康醫療需求，以提供適切服務。
- 二、其中同志婚姻與家庭之權利尤為政府關注重點，因涉及我國民法家庭制度之重大變革，除待社會共識之形成外，政府相關單位亦積極推動相關法制研究：法務部已於 2011 年委託專家針對已有同性伴侶及同性婚姻制度之國家，擇定德國、加拿大及法國等三個國家進行研究，瞭解他國文化背景、立法演進及歷程、立法推動時程、立法遭遇之困難及解決方法等，以作為政府政策評估之參考。未來政府並將規劃辦理我國同性伴侶法制化之意見調查研究計畫，以瞭解國民對於同性伴侶法制化之接受度及相關制度應如何設計等問題，俾作為政策研議之參考。另針對性別登記部分，內政部刻正研議多元化登記機制之可行性。

### **英文回應(Times New Roman，12 號字，單行間距)**

1. The “Guiding Principles for Gender Equality Policy” was promulgated by the Executive Yuan on December 19, 2011. It covers the protection of various rights of diversified gender groups and the promotion of their rights and interests. The Gender Equality Department of the Executive Yuan established in 2012 was responsible for the integration and supervision on relevant units to process. The rights and interests of the diversified gender groups in the 「Guiding Principles for Gender Equality Policy」 are as follows:

- (1) The “Employment, Economy and Welfare” chapter clearly stipulates that employment service should be provided to persons with sexual diversity;
  - (2) The “Population, Marriage and Family” chapter clearly stipulates that protection on the rights and interest of de facto partners should be actively promoted and there should be study on the welfare of other aspect and countermeasures on the protection of their rights and interests;
  - (3) The “Education, Culture and Media” chapter clearly stipulates that teaching method and media material should be developed to train disadvantaged gender group, to enhance their consciousness ability in gender equality; and promote the media’s self motivation to enhance its gender sensitivity. In 2004, the Ministry of Education also enacted and promulgated Gender Equity Education Act as the legal base for our country’s gender equity education.
  - (4) The “Personal Safety and Judiciary” chapter clearly stipulates that diversified treatment should be developed on homosexual victims from violence. At the same time, the gender sensitivity of relevant service personnel should be strengthened.
  - (5) “The Health, Medical Treatment and Care” chapter clearly stipulates that gender friendly medical treatment and care environment should be promoted ; and there should be an understanding on the health and medical treatment requirements of diversified gender groups to provide appropriate service.
2. The rights of the marriage and family of homosexuals are the point of concern by the government. As this involves in major reform on the family system in the civil code of our country, apart from anticipating on the formation of common consensus of the society, other units of the government also actively conducts relevant legal system research.
3. In 2011, Germany, Canada and France were selected by the Ministry of Justice to conduct the research of same-sex partners and same-sex marriage system, evolution of legislation and its course, the schedule of promotion of legislation, the difficulties encountered during legislation and its solutions that will be the reference for the evaluation on the policies of the government.
4. In the future, the government will conduct the opinion survey on the legalization of same-sex partners of our country to understand the level of acceptance by our citizens on the legalization of same-sex partners, and difficulties may encounter during the designing of the relevant mechanism. In the other hand, the Ministry of Interior also conducts assessments for the feasibility of the incorporating Diversification

Registration Mechanism.

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| 經社文<br>第3條 | 16. Throughout the report, gender equality and gender equity are used interchangeably. While appreciating the explanation given (Report, para.32), ICESCR prescribes women's equal enjoyment of esc-rights – thus gender equality should not be replaced with the term gender equity. Has there been any consultation with the women's rights and human rights organizations on this issue? | 在整份國家報告中，性別平等(gender equality)與性別公平(gender equity)交替使用。雖然(審查委員)對報告所提供之解釋表示感謝，但是經社文公約規定婦女平等享有經濟社會文化權利，因此不應以性別公平來替代性別平等。對於此議題，是否曾經諮詢婦女權利與人權團體?<br><small>* 括號內文字為譯者所加</small> |
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中文回應(標楷體，12 號字，單行間距)

- 一、我國為落實《消除對婦女一切形式歧視公約》（CEDAW）保障婦女各面向之權利規定，於2012年1月1日起施行〈消除對婦女一切形式歧視公約施行法〉。〈消除對婦女一切形式歧視公約施行法〉第4條規定「各級政府機關行使職權，應符合公約有關性別平等之規定，消除性別歧視，並積極促進性別平等之實現。」此處我國所欲實現之性別平等為「實質平等」（substantive equality），係正視不同性別的差異以解決結構上的不平等（structural inequality），而非僅止於「形式平等/公平」（formal equality/ equity）。為達上述目標，我國行政院性別平等處在推動全面檢視各級行政機關法規與行政措施是否符合 CEDAW 規定前，已多次諮詢相關婦女團體代表（包括財團法人婦女權益促進發展基金會、中華民國女法官協會等）、行政院性別平等會之外聘民間委員（多位為民間婦女團體代表，包括臺灣婦女團體全國聯合會、婦女新知基金會、主婦聯盟環境保護基金會、中華民國基督教女青年會協會、彭婉如文教基金會、臺灣原住民族產業經濟發展協會等）與多位法律及性別平等專家學者，共同規劃設計法規/行政措施檢視之教育訓練課程內容與檢視流程。
- 二、目前正持續進行的法規/行政措施是否符合 CEDAW 規定之檢視流程不僅要求各級行政機關須檢視法規本身是否符合 CEDAW 規定，更要求其須提供相關之性別統計，以瞭解法規實施結果是否符合性別實質平等，或有落差須改進之處。在這樣的檢視過程中，除使各級政府機關公務人員學習及理解性別實質平等之意義外，更可瞭解我國目前性別平等現況，以作為各級政府機關日後施政之

參考。

## **英文回應(Times New Roman · 12 號字 · 單行間距)**

1. In order to implement the protection of the rights of women in various aspects in the CEDAW, our country started to exercise Enforcement Act of Convention on the Elimination of All Forms of Discrimination Against Women on January 1, 2012. Article 4 of the Enforcement Act of CEDAW stipulates that “Upon exercising its authority, all government units shall do so in accordance with all rules and regulations regarding protection to genders and human rights specified in the Convention, eliminate gender discrimination, and actively promote the realization of gender equality.” The gender equality that our country intends to realize is its “substantive equality” and this is to look at the difference of different gender positively to solve the “structural inequality” instead of only “formal equality/equity”. In order to reach the above goals, before the Gender Equality Department of the Executive Yuan conducts a full review of all rules, regulations and administrative measures of government departments and agencies at all levels whether these can conform to the provisions of the CEDAW, the Department had counseled relevant women group representatives many times (including The Foundation of Women’s Rights Promotion and Development, Chinese Women Judges Association etc.), non-government members of the Committee of Gender Equality, Executive Yuan (many are non-government women group representatives including the National Alliance of Taiwan Women’s Associations, Awakening Foundation, Homemakers United Foundation, The YWCA of Taiwan, Peng Wan-Ru Foundation, Taiwan Indigenous Peoples Enterprise and Economic Development Association) and many legal and gender equality experts and scholars to jointly plan and design the educational training course content and the flow reviewing laws/administrative measures.
2. On whether the laws/administrative measures presently in the process can conform to the examination flow provided by CEDAW, not only there is requirement on administrative departments and agencies at all levels to review whether the law itself can conform to the provisions of CEDAW, there is also requirement that relevant gender statistics have to be stipulated so as to understand whether the implementation result of the laws can conform to the gender substantial equality or there are gaps that require improvement. In the course of this kind of reviewing, besides that the government employees of the government departments and agencies at all levels can learn about and realize the

meaning of gender substantive equality, they can also understand the present condition of gender equality of our country so that this can be the reference for administrative measures for government departments and agencies at all levels in the future.

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| 經社文<br>第3條 | 17. | For equal rights of women in the enjoyment of the esc-rights it is essential to eliminate gender role stereotypes. What efforts has the Government taken to change the stereotyped gender roles in the family, as well as in society in general? | 為使婦女平等享有經濟社會文化權利，必須去除性別角色刻板印象。政府已經做了哪些努力，以改變家庭、以及社會中對性別角色的刻板印象？ |
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### 中文回應(標楷體，12 號字，單行間距)

一、依據〈消除對婦女一切形式歧視公約〉（CEDAW）第5條a款「締約各國應採取一切適當措施：改變男女的社會和文化行為模式，以消除基於性別而分尊卑觀念或基於男女任務定型所產生的偏見、習俗和一切其他做法」，我國於2011年公布之「性別平等政策綱領」，亦於各篇章中強調消除性別刻板印象與定型化任務之重要性，我國行政院性別平等處並持續督導行政院各部會積極落實包括：

(一) 教育方面：將性別平等教育列為教育改革項目，頒布《性別平等教育法》，使性別教育的實施具有正當性與權威性。發布「性別平等教育白皮書」，以學校為主體，從組織、資源、課程教學、事件防治等構面，落實性別平等教育，同時擴及家庭和社會。國民中小學課程綱要明訂性別平等教育融入各學習領域，揭示性別平等教育為正式教育的一部分。鼓勵性別平等教育學術研究之發展與教材教法之開發。我國為使婦女平等享有經濟社會文化權利，去除性別刻板印象，教育部每年針對各直轄市、縣（市）家庭教育中心工作人員及志工辦理性別平等融入家庭教育工作培力工作坊；2011年起為加強家庭教育中心業務決策層級對性別平等與性別主流化概念之認知，進而落實於家庭教育業務，舉辦組長以上層級之業務座談會，並於全國家庭教育工作會議，安排專題講座。為提升婦女福利並充權其能力，內政部積極結合民間團體辦理各項以婦女為主體之福利活動與培力課程，創造並增進婦女公平發展的機會，減少性別角色之刻板印象及社會排除，俾享有平等之權利。

- (二) 文化方面：持續檢視並轉化宗教、傳統民俗儀典觀念中貶抑女性的部分，積極鼓勵推展性別平權文化，例如為推廣新時代喪禮「殯葬自主・性別平等・多元尊重」觀念，內政部於 101 年 6 月 22 日發行《現代國民喪禮》，推廣女性在喪禮也可以擔任重要儀式進行之角色。委託辦理「原住民族傳統性別文化專輯編撰計畫」，針對原住民各族群分作傳統性別文化探究。
- (三) 媒體方面：為促進媒體製播內容尊重性別差異，消除性別刻板印象，並進而呈現性別多元角色形象，我國國家通訊傳播委員會邀請性別領域學者專家及民間團體召開諮詢會議，修定既有「廣電媒體製播性別議題內容原則」之內容，更名為「廣電媒體製播涉及性別相關內容指導原則」，明定媒體應避免性別歧視之內容，並於「衛星廣播電視事業及境外衛星廣播電視事業評鑑及換照作業要點」、「有線電視系統經營者評鑑要點」中，將「性別平權」重要辦理事蹟列為評鑑報告書、換照計畫書應載事項。公告實施「遊戲軟體分級管理辦法」，將內含性特徵、性暗示或不當言語等性別歧視內容納入分級管理。
- 二、此外，政府已逐步建立各職業之性別統計資料，以瞭解我國職業性別隔離（sex segregation）現況，希望能逐步建立我國各職業領域性別分布圖像，提升各職業領域少數性別之比例，消弭性別隔離現象。由於發現我國照顧專業領域及理工專業領域存在性別隔離現象：照顧及幼教領域從業人員以女性為多數，理工領域從業人員則以男性為多數。長期以來，警政、消防、移民等機關工作性質，較屬於陽剛、男性的工作場域，內政部為深化上述機關人員之性別平等意識，辦理多樣化的課程，積極於上述各機關推廣兩性平權的平衡概念，並逐年提高女性從業人員的錄用。
- 三、行政院性別平等處亦製作 CEDAW 宣導電視短片、電影短片、廣播宣導帶、網路廣告與平面文宣等，積極推廣不同性別在學習、工作、家務分工、政治參與上之平等觀念，現在各媒體播放及刊載中。性別平等處並製作 CEDAW 數位學習課程，提供政府機關公務人員進修學習，加強公務人員之性別平等觀念，逐步消弭各面向之定型化與刻板化的性別角色社會期待，使不同性別皆能充分獲得社會資源與支持以自主發展潛能，開創人生無限可能性。

### **英文回應(Times New Roman , 12 號字 , 單行間距)**

1. The Article 5(a) of the CEDAW states “States Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of

conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” In various chapters in the Gender Equality Policy Guidelines promulgated by our country in 2011 also emphasize the importance of elimination of stereotyped impression and the mission of regularization. The Gender Equality Department of the Executive Yuan continues to supervise the active implementation by various departments of the central government including:

- (1) Education: the gender equality education is listed as the education reform item and the Gender Equity Education Law is promulgated so that the implementation of gender education can be proper and authoritative. The “White Paper on Gender Equality Education was also promulgated” . The school is the principal body and the gender equality education is implemented from organization, resource, course teaching and incident prevention. At the same time, this is expanded to family and the society. The primary and middle school course outline shall clearly stipulate inclusion of gender equality education as part of the formal education. The development of academic research on gender equality education and teaching material and method is encouraged. For equal rights of women in the enjoyment of esc-rights and eliminating gender role stereotypes, each year, empowerment workshops on gender equality in family education are held by the Ministry of Education for staff and volunteers in family education centers nationwide. In 2011, to help the decision-making level in family education centers form better ideas about gender equality and gender mainstreaming and promoting family education, seminars were held for officers at director level or higher, conferences were arranged in national meetings for family education. In order to promote women’s welfare and empower women, the government (Ministry of the Interior) actively collaborates with civilian groups, and provides women with multidimensional services such as empowerment courses and women welfare activities, to increase women’s opportunities in society, and eliminate the stereotyped gender roles and social exclusion. These measures are all aimed to let both women and men can enjoy gender equality in society.
- (2) Culture: continues to examine and transform the misogyny in religious and traditional folk rituals and concept; actively encourage the development of gender equal right culture. For example, in order to promote the Concept of Funerals for the new era: “Funeral self-assertion, gender equality, and multicultural respect” , MOI issued the book of “A Guide for funeral customs and modern practices in Taiwan” in 22nd, June 2012, to show that women can play important roles in the funeral ceremony.Consigns to process

the “Indigenous People Traditional Gender Culture Special Edition Writing Plan” to conduct study on the traditional gender culture of various indigenous tribes.

- (3) Media: In order to promote that the content of media production can have respect on the gender difference and to eliminate the stereotyped impression thereby revealing the diversified role image of gender, the National Communication Commission of our country invites gender scholars and experts and non-government groups to convene counseling meetings to amend the content of the existing Broadcast Media Gender Issue Content Principle and change its name to Guiding Principle for Broadcast Media Involving Content Relevant to Gender . It clearly stipulates that media should avoid the content of gender discrimination and in the Satellite Broadcast TV Enterprise and Offshore Satellite Broadcast TV Enterprise Appraisal and License Renewal Operation Essentials and Cable TV Systems Operators Appraisal Essentials , the past achievements of Gender Equality being processed are listed as items to be stated in the appraisal report and license renewal plan. The implementation of the Games Software Classification Management Method is promulgated and implemented and gender discrimination contents including gender characteristics, sexual hint or improper speech etc. are included in the classification management.
2. In addition, the government has progressively established the gender statistical information on various occupations so as to understand the present condition of the occupational sex segregation of our country It is hoped to establish the gender distribution diagram of various occupations in our country, to enhance the ratio of minority gender in various occupations and to eliminate the phenomenon of sex segregation. There are findings that there is gender segregation in the nursing aid domain and science and technology domain: nursing aid and early childhood education employees are mostly females and science and technology employees are mostly males. For a long term, the National Police Agency, National Fire Agency, and National Immigration Agency are indicated as virile – described career. However MOI expect to achieve the goal as deepen the gender consciousness by conducting lots of training programs, in the end of to create a balance and hire more females in working fields mentioned above.
3. The Gender Equality Department of Executive Yuan also produced the CEDAW television short film, broadcast publicity tape, network advertisement and plane DM etc. to actively promote the concept of equality in different gender in learning, work, dividing housework and participation in politics. Now this is being broadcasted and published in various medias. The Gender Equality Department also produced the

CEDAW digital learning course that is provided to government employees to conduct further studies in order to strengthen their gender equality concept and to eliminate the regularization in various aspects and stereotyped gender role social anticipation so that different gender can obtain sufficient social resource and support to autonomously develop their potential and to create unlimited possibility in their lives.

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| 經社文<br>公約<br>第 6 條至<br>第 9 條 | 18. | <p>To what extent do workers in the informal economy share in the enjoyment of basic esc-rights (see Report, paras. 59 and 122-123), such as equal pay for work of equal value, adequate social security coverage, notably health insurance and national pension insurance, safe and healthy working conditions (cf. CESCR General Comment 19, para.34)?</p> | <p>非正式經濟部門勞動者享有基本經濟社會文化權利的程度如何(請見國家報告第 59、以及 122-123 段)，例如同工同酬、適足之社會保障、特別是健康保險以及國民年金保險，安全與健康之勞動條件 (參照經社文公約第 19 號一般性意見第 34 段)?</p> |
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### 中文回應(標楷體，12 號字，單行間距)

#### 一、 Labor Safety and Health Act 勞工安全衛生法：

- (一) 現行勞工安全衛生法僅規定適用礦業及土石採取業、營造業、製造業、水電及煤氣業及交通運輸業等 14 行業及部分事業之工作場所，適用範圍尚未涵蓋自營作業者及各業全部之工作者。
- (二) 本會已參酌 ILO 及芬蘭、美國、澳洲及韓國等國關於職業安全衛生立法意旨及適用範圍，配合當前國內外實際情形，修正勞工安全衛生法為職業安全衛生法，一體適用於各業，保障所有工作者之安全與健康，不因行業不同而有所差別，同時，將擴及保障自營作業者、志工、職業訓練機構學員等之工作安全與衛生。
- (三) 本修正法案業於 101 年 11 月 22 日送立法院審議。

#### 二、 Dispatched employment 勞動派遣：

有關非正式經濟勞動者之勞動權益，如該勞動者係受僱於適用勞動基準之事業單位，則雇主對該勞工之勞動條件，如工資、工時、休息休假、資遣費、退休金等，應符合勞動相關法令規範，與事業單位僱用一般勞工之權益保護並無差別。另本會刻

正研議勞動派遣保障法制，對派遣勞工權益保障不足部分，增訂要派單位責任及均等對待相關規範，以加強該等勞動者之權益保障。

**三、Health insurance 健康保險：**

全民健保屬於強制性的社會保險，凡具有中華民國國籍，且在臺灣地區設有戶籍滿4個月的民眾，都必須依法參加全民健保，另在臺灣地區領有居留證明文件，且居留滿4個月之非本國籍人士，也應依法參加，但具受僱身分者則不受前述4個月之限制。民國100年底，總投保人數共有2,319萬8,664人，實質納保率達99%以上，已接近全民納保目標。非正式經濟部門勞動者在健康保險制度下，享有相同社會保障。

**四、national pension insurance 國民年金：**

- (一) 2008年開辦國民年金制度，採社會保險方式辦理，以年金方式發放給付，將未能享有軍、公教、勞、農保之25歲以上未滿65歲之國民，包括非正式經濟部門勞動者，都能納入社會安全網，使其在老年、生育、身心障礙甚至死亡時，被保險人及其遺屬能獲得適足的基本經濟生活保障。
- (二) 由於國民年金保險被保險人多屬未就業之經濟弱勢者，故國民年金法對於未繳保費者採柔性強制加保，不繳納保費對被保險人沒有罰則，且不會移送強制執行。國民年金法第17條規定被保險人於10年內均得以補繳保險費，未依規定期限繳納保險費及利息，不予計入保險年資；且被保險人未繳清保險費及利息前，保險人得對被保險人暫行拒絕給付。
- (三) 截至2012年10月底止，納保人數計有374萬3,063人。

**英文回應(Times New Roman, 12號字, 單行間距)**

**1. Labor Safety and Health Act**

- (1) The Labor Safety and Health Act currently applies only to mining, quarry, construction, manufacturing, plumbing and electrical service, transportation, and eight other types of businesses and the work venues of certain operations. It does not cover self-employed workers or all the workers in each profession.
- (2) After studying related information from the ILO, Finland, the US, Australia, and Korea regarding the legislative purposes and range of

application of occupational safety and health regulations as well as the practices in and outside Taiwan, the Council of Labor Affairs has changed the title of Labor Safety and Health Act to Occupational Safety and Health Act to make it applicable to all professions and protect the safety and health of all workers. At the same time, it will also be extended to protect the workplace safety and health of self-employed workers, volunteer workers, and trainees in occupational training institutions.

- (3) The draft was already presented on Nov. 22, 2012 to the Legislative Yuan for review.

## 2. **Dispatched employment**

As for the labor rights of unofficially employed workers, if they are hired by business entities to which the Labor Standards Act applies, all the labor conditions an employer provides for such workers, including wages, work hours, breaks and leave, severances and retirement pensions must comply with related laws and regulations and must be the same as those provided for the regular workers employed by the same business entity. The CLA is currently formulating regulations to protect dispatched workers. Where the protection of the rights and interests of dispatched workers is insufficient, regulations on the responsibility of the user business entities and equal treatment will be added to enhance the protection of the rights and interests of dispatched workers.

## 3. **Health insurance-National Health Insurance Act (NHI)**

The National Health Insurance is a mandatory social insurance. All individuals holding the Republic of China nationality and having registered their household in Taiwan for more than four months shall, by law, be enrolled in the NHI. Legal aliens with certification documents for residency and having resided in Taiwan for more than four months shall also, by law, be enrolled in the NHI. However, those with employee status are not subject to the restrictions of the aforementioned four-month period. By the end of 2011, the total enrollment was 23,198,664 persons, with the enrollment rate of higher than 99% of the population, nearly approaching the goal of full insurance enrollment. The extent do workers in the informal economy have the same equality social security coverage in the National Health Insurance system °

## 4. **National pension insurance**

- (1) The national pension system came online in 2008. It is a form of social insurance with payments made by a pension fund. Citizens(include workers in the informal economy) aged 25 to 65 ineligible for the military, civil servant and teacher, labor, or farmer' s insurance programs are thus enrolled in the social security network so that the insured and their families receive basic

- economic protection upon reaching old age, childbirth, suffering physical and/or mental disabilities, and dying.
- (2) As people insured under the national pension program are mostly unemployed and/or financially disadvantaged, the National Pension Act employs a “soft” compulsory approach for those who have not paid the premium. Failure to pay the premium does not subject enrollees to any penalty, nor is there any compulsory enforcement of payment made. Article 17 of the National Pension Act stipulates that the insured person is responsible to pay past due premiums within a 10-year timeframe. Those who fail to pay the premium and interest incurred within said timeframe, unpaid years will not be included as insured years. In addition, benefits will be suspended prior to the insured’s paying premiums and interest due.
  - (3) As of the end of October 2012, there were a total of 3,743,063 people enrolled in the program.

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| 經社文<br>公約<br>第 6 條至<br>第 9 條 | 19. | <p>Describe the role of the judiciary and of other competent authorities in settling labour disputes and provide an overview of the nature of cases that were subject to labour dispute litigation (Report,paras.63-67).</p> | <p>說明司法部門以及其他主管機關在勞資爭議處理的角色，並提供進入勞資爭議訴訟之案件性質概觀（國家報告第 63-67）。</p> |
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### **中文回應(標楷體，12 號字，單行間距)**

一、勞動法令於現行勞資爭議處理法第 5 條明定法院為處理勞資爭議權利事項，必要時應設立勞工法庭，近年來，依我國勞資爭議案件之統計，約有近 98%為勞資爭議權利事項之爭議，如無法透過主管機關調解或仲裁解決爭執，須透過訴訟尋求救濟。100 年 5 月 1 日修正施行之「勞資爭議處理法」明訂設置「勞工權益基金」，本會亦訂定「勞資爭議法律及生活費用扶助辦法」，依該法規定提供勞工適當之訴訟扶助，降低訴訟障礙。.

二、

(一)

1. 有關訴訟外勞資爭議處理，得依據「勞資爭議處理法」所定之調解、仲裁或裁決程序處理，其主管機關在中央為行政院勞工委員會；在直轄市為直轄市政府；在縣（市）為縣（市）政府。因本院（廳）非屬主管機關，就此部分爰不表示意見。

2. 勞資爭議雙方若因勞資爭議事項提起訴訟時，依民事訴訟法第 403 條第 1 項第 8 款規定，係屬強制調解事件，依法於起訴前，應經法院調解，若雙方調解不成立，其因僱傭契約涉訟，其僱傭期間在一年以下者，不問其標的金額，一律適用簡易訴訟程序（民事訴訟法第 427 條第 2 項規定參照）。倘若其僱傭期間在一年以上者，則視其標的金額大小分別適用通常訴訟程序、簡易訴訟程序或小額訴訟程序。
  3. 法院就上開勞資爭議訴訟事件，係本於中立、客觀之角色，依法裁判。
- (二) 行政訴訟乃是對於違法行政處分，給予人民權利救濟之程序，藉以保障人民權益及確保國家行政權之合法行使。工作權在我國憲法第 15 條及憲法第 152 條、第 153 條、第 154 條等所建構起之基本權保障體系下，行政法院則透過法令之適用，如勞動基準法、工會法、勞工安全衛生法、勞動檢查法、職業訓練法、就業服務法、職業災害勞工保護法、性別工作平等法、就業保險法、勞工教育實施辦法等，並結合團體協約法、勞資爭議處理法、勞工保險條例等，共同建構工作權之實質內容。而 98 年 7 月 1 日修正公布，自 100 年 5 月 1 日施行之勞資爭議處理法明定勞資爭議在調解、仲裁或裁決期間，資方不得因該勞資爭議事件而歇業、停工、終止勞動契約或為其他不利於勞工之行為（第 8 條前段）。按該等規定顯然是有意在勞資爭議期間內，盡可能維護勞資雙方並且可讓企業之正常運作與勞工之工作權獲得暫行性之穩定狀態，學理上稱為「冷卻期間」。當資方違反該條規定時，雇主部分可由主管機關處以新臺幣 20 萬元以上 60 萬元以下之罰鍰（第 62 條第 1 項）。經查各級行政法院於兩公約施行法 98 年 4 月 22 日公布後，裁判之案由為勞資爭議事件者計有 11 件，除程序不合法（高雄高等行政法院 98 年訴字第 123 號裁定、最高行政法院 99 年度裁字第 1402 號裁定、臺北高等行政法院 101 年度訴字第 765 號判決、最高行政法院 101 年度裁定第 2597 號裁定）、未補正繳納裁判費（臺北高等行政法院 99 年度訴字第 139 號裁定）、課予義務訴訟實體法上無請求權存在（臺北高等行政法院 98 年度訴字第 1362 號判決）經駁回，另以無受理訴訟權限者裁定移送（臺北高等行政法院 99 年度訴字第 930 號裁定）外；為實體裁判者，計有三案。其中高雄高等行政法院 100 年度簡字第 112 號判決，認臺南市政府就台灣百事食品股份有限公司（下稱台灣百事公司）於勞資爭議事件調解期間，終止與訴外人曾育彬之勞動契約，致使勞資爭議在調解期間內未具冷卻，反而因之擴大，違反行為時勞資爭議處理法第 7 條（現為同法第 8 條）規定，乃依勞資爭議處理法第 40 條（現為同法第 62 條第 1 項）規定裁處台灣百事公司罰鍰 2 萬元（折合新臺幣 6 萬元整）並無違誤；行政院勞工委員會 100 年 5 月 11 日勞訴字第 0990028035 號訴願決定遞予維持，亦無不合；台灣百事公司起訴求為撤銷為無理由，應予駁回。其餘兩案案情類似，不再贅述。（最高行

政法院 98 年度判字第 1127 號判決、臺北高等行政法院 98 年度簡字第 338 號判決、最高行政法院 99 年度裁字第 967 號裁定)

### 英文回應(Times New Roman · 12 號字 · 單行間距)

1. Article 5 of the Act for Settlement of Labor-Management Disputes stipulates that the court may set up a labor tribunal, if necessary, when handling labor-management disputes. Statistics show that 98% of the labor-management dispute cases processed in recent years have been related to disputes over labor rights that had to be taken to court to seek remedies since they could not be settled through mediation or arbitration by the competent authority. In the revised provisions of the Act for Settlement of Labor-Management Disputes that went into effect on May 1, 2011, it is stipulated that the central labor authority is to contribute to help set up a “Labor Rights and Interests Fund”. The CLA has also established the **“Regulations on Legal Assistance and Financial Aid for Workers in Lawsuits over Labor-Management Disputes”** in which there are clauses regarding the provision of appropriate aid to workers going through litigation procedures to reduce the obstacles that they may face in lawsuits.
2.
  - (1)
    - A. Disputes, which are not entering litigation, may be settled by the procedures of mediation, arbitration or decision on unfair labor practices in accordance with the Act for Settlement of Labor-Management Disputes. The competent authority shall be the Council of Labor Affairs, Executive Yuan at the central level, the municipal government at the municipal level, and the county (city) government at the county (city) level. Civil Department is not the competent authority for labor-management disputes, so no comment to this sub-issue.
    - B. When both parties file suit for labor-management disputes, the case shall be mandatory mediation case in accordance with Article 403, Paragraph 1, and Subparagraph 8 of Code of Civil Procedure. Mandatory mediation cases shall be mediated by courts before proceedings in accordance with the same law. In case the mediation failed, actions between an employer and an employee arising

from an employment contract with an employment term of less than one year shall apply to summary proceedings (see Article 427, Paragraph 2 of the Code of Civil Procedure). In case the employment contract with an employment term of more than one year, general proceedings, summary proceedings or small claim proceedings shall be applied in accordance with the value of the claims.

- C. Courts shall maintain their neutral and objective character in the proceedings of labor-management disputes and try by the laws.
- (2) Administrative proceedings provide people with remedy procedures against unlawful administrative action, in order to protect the rights and interests of the people and to ensure that the state administrative power is lawfully exercised. The right to work is protected by basic rights constructed by Article 15, 152, 153, and 154 of the Constitution. The Administrative Court constructs the content of the right to work through the application of the laws and regulations, such as the Labor Standards Act, the Labor Union Act, Labor Safety and Health Act, Labor Inspection Act, the Vocational Training Act, the Employment Services Act, Act for Protecting Worker of Occupational Accidents, Act of Gender Equality in Employment, the Employment Insurance Act, Labor Education Implementation Regulation, etc., combined with the Collective Agreement Act, Act for Settlement of Labor-Management Disputes, Labor Insurance Act. The Act for Settlement of Labor-Management Disputes, amended and promulgated on July 1, 2009 and enter into force on May 1, 2011, stipulates that an employer may not suspend or shut down the business, terminate the labor contract, or undertake any other activities unfavorable to employees due to a labor-management dispute during the procedures of mediation, arbitration or decision on unfair labor practices. (the first part of Article 8 ). Such regulation apparently tend to protect both labor and employer and temporarily balance the normal operation of the enterprises and labors' right to work , and this is academically known as the "cool-down period. When employers violate provisions, the competent authority may impose fines of no less than N.T. \$200,000 but not exceeding N.T. \$600,000 (Article 62, paragraph 1). After the Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights was promulgated on April 22, 2009, there has been 11 cases of labor-management dispute in administrative courts at all levels. Besides the cases that are revoked due to illegal arbitration procedure (Kaohsiung High Administrative Court 2009 Su-Zi No. 123, Supreme Administrative Court 2010 Cai-Zi No. 1402, Taipei High Administrative Court 2012 Su-Zi No. 765 judgment, and Supreme Administrative Court 2012 Cai-Zi No. 2597), no correction is made to pay court fees (Taipei High Administrative Court 2010 Su-Zi No. 139), the right to request in substantive law (Taipei High

Administrative Court 2009 Su-Zi No. 1362 ) were dismissed, and the cases are transferred without jurisdiction(Taipei High Administrative Court 2010 Su-Zi No. 930 ), there are three substantive cases. Kaohsiung High Administrative Court, 2011 Jian-Zi No. 112,deems that Tainan City Government fined Taiwan Pepsi Foods Co., Ltd. (hereinafter referred Pepsi Co.) \$20,000 yuan (equivalent to N.T. \$ 60,000) in accordance with Article 40 of the Act for Settlement of Labor-Management Disputes Article 40 (now Article 62, Paragraph 1 of the same Act ) for terminating contract with Tsang Yuk Bun during the labor dispute mediation, which resulted in heating labor dispute during mediation, and violated Article 7 (now Article 8) of the Act for Settlement of Labor-Management Disputes, was lawful; Council of Labor Affairs of the Executive Yuan May 11, 2011 of Lao-Su No. 0990028035 appeal decisions shall be maintained; Taiwan Pepsi Co. appeal for the revocation is no reason that should be rejected. Similar to the merits to the remaining two cases will not be repeated. (Supreme Administrative Court 2009 Pan-Zi No. 1127, Taipei High Administrative Court 2009 Jian-Zi No.338, and Supreme Administrative Court 2010 Cai-Zi No. 967)

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| 經社文<br>公約<br>第 6 條至<br>第 9 條 | 20. | <p>While the Labour Standards Act applies to a large majority of the working population, some categories of professional and other workers do not fall under the coverage of this Act. What measures are being taken that the protection provided by the Act will apply to all who are part of the labour force, including dispatched workers (Report, paras. 72-74)?</p> | <p>儘管勞動基準法適用於大部分的勞動人口，某些特定行業與其他勞動者並未被涵蓋在內。政府目前採取哪些措施，以期讓所有勞動者都能受到勞動基準法保障，包括派遣勞工(國家報告第 72-74 段)?</p> |
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### 中文回應(標楷體，12 號字，單行間距)

#### 一、 Labor Safety and Health Act 勞工安全衛生法：

- (一) 現行勞工安全衛生法僅規定適用礦業及土石採取業、營造業、製造業、水電及煤氣業及交通運輸業等 14 行業及部分事業之工作場所，適用範圍尚未涵蓋自營作業者及各業全部之工作者。

- (二) 本會已參酌 ILO 及芬蘭、美國、澳洲及韓國等國關於職業安全衛生立法意旨及適用範圍，配合當前國內外實際情形，修正勞工安全衛生法為職業安全衛生法，一體適用於各業，保障所有工作者之安全與健康，不因行業不同而有所差別，同時，將擴及保障自營作業者、志工、職業訓練機構學員等之工作安全與衛生。
- (三) 本修正法案業於 101 年 11 月 22 日送立法院審議。

## 二、Dispatched employment 勞動派遣：

- (一) 凡以人力派遣為主要經濟活動者係屬人力供應業，自 87 年 4 月 1 日起適用勞動基準法，因此，派遣事業單位僱用派遣勞工從事工作，有關派遣勞工之勞動條件，如工資、工時、休息休假、資遣費、退休金等，應符合勞動相關法令規範。
- (二) 另因派遣係三方勞動關係，各界對於目前勞動法令有保障不足之疑慮，因此，本會刻正研議勞動派遣保障法制，以加強保障派遣勞工之勞動權益；本會於法制完成前，將積極落實督促派遣業者遵守勞動法令之措施，如推廣派遣勞動權益保障之教育宣導、研訂勞動派遣保障相關行政指導及辦理勞動派遣專案檢查等。

## 英文回應(Times New Roman, 12 號字，單行間距)

### 1. Labor Safety and Health Act

- (1) The Labor Safety and Health Act currently applies only to mining, quarry, construction, manufacturing, plumbing and electrical service, transportation, and eight other types of businesses and the work venues of certain operations. It does not cover self-employed workers or all the workers in each profession.
- (2) After studying related information from the ILO, Finland, the US, Australia, and Korea regarding the legislative purposes and range of application of occupational safety and health regulations as well as the practices in and outside Taiwan, the Council of Labor Affairs has changed the title of Labor Safety and Health Act to Occupational Safety and Health Act to make it applicable to all professions and protect the safety and health of all workers. At the same time, it will also be extended to protect the workplace safety and health of self-employed workers, volunteer workers, and trainees in occupational training institutions.
- (3) The draft was already presented on Nov. 22, 2012 to the Legislative Yuan for review.

### 2. Dispatched employment

- (1) Businesses whose main economic activity is labor dispatching are considered labor suppliers. Starting on Apr. 1, 1998, they have been subject to the Labor Standards Act. Therefore, when hiring and dispatching workers, the labor conditions, including wages, work hours, breaks and leave, severances and retirement pensions, must comply with related laws and regulations.
- (2) Labor dispatching involves trilateral relations and there are doubts that current labor laws and regulations cannot provide enough protection. Therefore, the CLA is currently working out regulations on labor dispatching to enhance the protection of the rights and interests of dispatched workers. Before completing the said regulations, the CLA will take active measures to ensure that labor dispatching businesses abide by related laws and regulations, including holding educational presentations on the protection of the rights and interests of dispatched workers, establishing administrative guidelines for the protection of the rights and interests of dispatched workers, inspecting labor dispatching operations, etc.

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| 經社文<br>公約<br>第 6 條至<br>第 9 條 | 21. | What steps is the State Party taking to raise the minimum wage levels (Report, para.81) to meet the minimum requirements of an adequate standard of living? | 締約國採取那些做法來提高最低工資水準(國家報告第 81 段)，以滿足適當生活水準之最低需求？ |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、依經濟社會文化權利國際公約第 7 條規定，締約國家應確保所有工作者之報酬使其最低限度均能：(1) 獲得公允之工資…(2) 維持本人及家屬符合本公約規定之合理生活水平。
- 二、復依國際勞工公約第 131 號公約【有關決定最低工資－尤指開發中國家－公約】亦揭蘋：最低工資旨在保護工資所得者不受不當低工資之剝削。惟決定最低工資之要素，除須符合國情外，尚需考量：勞工及其家庭之需要（應顧及國內一般工資水準、生活費用、社會安全給付），以及經濟因素（包括經濟發展需求、生產力水平，及達到維持高度就業之期望）。
- 三、基本工資旨在維持勞工之基本生活。查勞動基準法第 21 條規定，工資由勞雇雙方議定之。但不得低於基本工資。又依我國基本工資審議辦法第 4 條規定，為審議基本工資，基本工資審議委員會應蒐集國家經濟發展狀況、躉售物價指數、消費者物價指數、國民

所得與平均每人所得、各業勞動生產力及就業狀況、各業勞工工資、家庭收支調查統計並研究之。前開規定與國際公約規範相符。

### **英文回應(Times New Roman, 12 號字, 單行間距)**

1. According to Article 7 of the International Covenant on Economic, Social and Cultural Rights, a signatory country has to responsibility to ensure the remuneration all workers receive is, at the minimum: 1) fair wages…, 2) able for them to maintain a decent living for themselves and their families in accordance with the provisions of the Covenant.
2. Again, as set forth in International Labor Convention No. 131 (Convention Concerning Minimum Wage Fixing, with Special Reference to Developing Countries): Minimum wage fixing is to provide protection for wage earners against unduly low wages. The elements to be taken into consideration in determining the level of minimum wages shall, in addition to national practice and conditions, include: the needs of workers and their families (taking into account the general level of wages in the country, the cost of living, social security benefits, and economic factors (including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment).
3. To ensure that the minimum wages established can provide the aforesaid protection, Article 21 of the Labor Standards Act stipulates that a worker will be paid such wages as determined through negotiations with the employer, provided, however, that such wages do not fall below the basic wage. It is also prescribed in Article 4 of the Minimum Wage Review Regulations that, to review minimum wages, the Minimum Wage Review Committee must gather and study the data with regard to the national economic development status, wholesale prices, consumer prices, national income and income per capita, the labor productivity, employment situation and wages of various industries, and household income. Both regulations comply with the norms of international conventions.

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| 經社文<br>公約<br>第 6 條至 | 22. | Please provide information on the so-called “de-linking” of wages of foreign labourers from the basic wage. | 請提供所謂外籍勞工工資與基本工資「脫鉤」之資訊。 |
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| 第 9 條 |  |  |  |
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### 中文回應(標楷體，12 號字，單行間距)

依現行規定，凡受僱於適用勞動基準法事業單位的勞工，不論其國籍，雇主給付的工資均不得低於基本工資。

### 英文回應(Times New Roman，12 號字，單行間距)

According to existing regulations, the wages all business entities to which the Labor Standards Act applies pay to their workers, regardless of their nationality, may not fall below the basic wage.

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| 經社文<br>公約<br>第 6 條至<br>第 9 條 | 23. | The Report expresses concern about wages being insufficient for workers and their families to maintain an adequate standard of living (paras. 81-83). This applies in particular to persons with disabilities who generally receive lower wages. What measures are taken to remedy this poverty gap? ( see also Core Document, para. 215 on the rights of low income families). | 國家報告對於工資不足以滿足勞動者及其家庭成員維持適當生活水準之狀況，表示關注(國家報告第 81-83 段)。此關注更應給予身心障礙者，因為他們普遍而言薪資較低。政府採取哪些措施來彌補此貧窮落差？(請同時參見核心文件第 215 段關於低收入家庭之權利)。 |
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### 中文回應(標楷體，12 號字，單行間距)

#### 一、社會救助法：

社會救助法 99.12.29 修正公布，新增中低收入戶的認定標準及權益法制化，擴大弱勢照顧範圍。第 12 條明定對於低收入戶之身心障礙者得依其原領取現金給付之金額增加補助。

#### 二、就業促進：

因應低所得者(低收入戶及中低收入戶)在就業市場競爭力較為弱勢，規劃「100-105 年低收入戶及中低收入戶就業促進實施計畫」，提供輔導參加職業訓練、補助參加技術士技能檢定費用、辦理職場體驗及優先推介低收入戶及中低收入戶參與多元就業開發方案及

提供個案管理個別化專業服務等各項措施。協助培養專業技能、瞭解與運用就業資源，加強其自身能力、建立正確職涯觀念，並結合社會資源建立聯繫機制，促進適性就業及積極自立，進而脫離貧窮改善家庭經濟。

### 英文回應(Times New Roman , 12 號字 , 單行間距)

#### **1. The Public Assistance Act**

In order to increase the range and help more low income people, the qualification and legalization of rights for middle and low income people were amended in the Public Assistance Act of R.O.C amended in 29th Dec, 2010.In article 12 of the Public Assistance Act of R.O.C has entitled the low income persons with disabilities the right to apply more aids (cash benefit) to remedy this poverty gap.

#### **2. Promotion of Employment**

In view of the weaker competitiveness of low income earners (low-income and lower-income households) in the job market, the “2011-2016 Program for Promotion of Employment for Individuals from Low-income and Lower-income Households” has been established and implemented to provide assistance for such people to receive vocational training and subsidies for them to take part in technician skills certification, provide them with practical training opportunities, and help them find employment. Other efforts include teaching them to learn to utilize employment resources, improve employment qualifications, and develop correct career concepts. Social resources are consolidated to build a network to ensure suitable employment so that such individuals can become independent, lift themselves out of poverty, and improve the finances of their families.

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| 經社文<br>公約<br>第 6 條至<br>第 9 條 | 24. | <p>It is submitted that correctional and remedial measures are being taken in connection with sexual harassment in the working place (Report, paras.39-41, 86 and 103,as well as Tables 4-6).Please elaborate more in particular what preventive measures are taken.</p> | <p>根據國家報告，政府就工作場所性騷擾已採取矯正與補救措施 (國家報告第 39-41、86 和 103 段，以及表 4-6)。<br/>請再詳加說明採取了哪些預防措施。</p> |
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### 中文回應(標楷體 , 12 號字 , 單行間距)

## 一、性別工作平等法：

- (一) 為加強各界對性別工作平等法內容之認識與瞭解，協助事業單位建立性騷擾防治機制，本會與各縣市政府、科學工業園區管理局、經濟部加工出口區管理處合作辦理 101 年度「性別工作平等法暨性騷擾防治宣導會」25 場次，共計 2,606 人參加。
- (二) 為培養承辦性別工作平等業務人員之核心知能，本會業於 101 年 10 月辦理 2 梯次「性別工作平等及職場性騷擾防治種子師資培訓研習會」，邀請專家學者講授性別工作平等法法令及實務相關課程，參加對象為縣市政府性平業務相關人員、性平委員、事業單位相關部門主管及工會幹部，共約 100 人參與，藉以提升相關人員之性騷擾事件發生時之調查處理能力。
- (三) 為加強職場性騷擾防治之勞動教育，本會辦理「職場性騷擾反制案例」於報紙連載廣宣案，共計 10 則，業於 101 年 12 月登載完畢。

## 二、性騷擾防治法：

依據性騷擾防治法第 7 條有關性騷擾之防治與責任規定，機關、部隊、學校、機構或僱用人，應防治性騷擾行為之發生。於知悉有性騷擾之情形時，應採取立即有效之糾正及補救措施。內政部亦製作「禁止性騷擾」海報，供機關、部隊、學校、機構、受僱人或受服務人員達 30 人以上者公開揭示性騷擾防治措施及填寫所設立之受理性騷擾申訴電話。

## 英文回應(Times New Roman, 12 號字, 單行間距)

### **1. The Act of Gender Equality**

- (1) To improve the awareness and knowledge of the Act of Gender Equality in Employment in all sectors as well as to help business entities establish sexual harassment prevention mechanisms, the Council of Labor Affairs cooperated with county and city governments, science park administrations, and export processing zone administrations and conducted 25 sessions of the 2012 “Act of Gender Equality in Employment and Sexual Harassment Prevention Presentation”. A total of 2,606 people attended.
- (2) To develop the related knowledge and skills of personnel responsible for work associated with gender equality in employment, the Council of Labor Affairs conducted two sessions of the “Gender Equality in Employment and Workplace Sexual Harassment Prevention Seed Teacher Training Workshop” in Oct. 2012. Scholars and specialists were invited to lecture on regulations regarding

gender equality in employment and related practices. About 100 people in total attended these courses. They were personnel in charge of work associated with gender equality in employment and the members of the gender equality committee in county and city governments, and the supervisors of related departments and labor union staff members of business entities. The objective was to improve the ability of related personnel to investigate and handle sexual harassment cases if they should happen.

- (3) To educate workers on prevention of sexual harassment in the workplace, the Council of Labor Affairs posted in newspapers a series of 10 cases of successful counteraction against sexual harassment in the workplace as examples. The series ended in Dec. 2012.

## 2. **Sexual Harassment Prevention Act**

According to Sexual Harassment Prevention Act 7, the organizations, troops, schools, institutions or employers should prevent incidents of sexual harassment as well as taking effective corrective measures immediately when becoming aware of the occurrence of sexual harassment. Ministry of the Interior has prepared a "No Sexual Harassment" sign. Organizations, armed forces, schools, institutions and companies having 30 or more employees are encouraged to write the Ministry's special phone number for lodging complaints on the sign and place it in the most notable spot in their offices or public places.

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| 經社文<br>公約<br>第 6 條至<br>第 9 條 | 25. | Please provide further information on legal and other measures to expand the coverage of the Labour Safety and Health Act to all the categories of workers not yet covered by the Act (Report, paras. 87-88). | 請提供更多資訊，說明採取哪些法律及其他措施，使勞工安全衛生法得以適用至尚未涵蓋之各行業勞工(國家報告第 87-88 段)。 |
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### **中文回應(標楷體，12 號字，單行間距)**

- 一、 現行勞工安全衛生法僅規定適用礦業及土石採取業、營造業、製造業、水電及煤氣業及交通運輸業等 14 行業及部分事業之工作場所，適用範圍尚未涵蓋自營作業者及各業全部之工作者。
- 二、 本會已參酌 ILO 及芬蘭、美國、澳洲及韓國等國關於職業安全衛生立法意旨及適用範圍，配合當前國內外實際情形，修正勞工安全衛生法為職業安全衛生法，一體適用於各業，保障所有工作者之安全與健康，不因行業不同而有所差別，同時，將擴及保

障自營作業者、志工、職業訓練機構學員等之工作安全與衛生。

三、本修正法案業於 101 年 11 月 22 日送立法院審議。

### 英文回應(Times New Roman, 12 號字，單行間距)

#### Labor Safety and Health Act

1. The Labor Safety and Health Act currently applies only to mining, quarry, construction, manufacturing, plumbing and electrical service, transportation, and eight other types of businesses and the work venues of certain operations. It does not cover self-employed workers or all the workers in each profession.
2. After studying related information from the ILO, Finland, the US, Australia, and Korea regarding the legislative purposes and range of application of occupational safety and health regulations as well as the practices in and outside Taiwan, the Council of Labor Affairs has changed the title of Labor Safety and Health Act to Occupational Safety and Health Act to make it applicable to all professions and protect the safety and health of all workers. At the same time, it will also be extended to protect the workplace safety and health of self-employed workers, volunteer workers, and trainees in occupational training institutions.
3. The draft was already presented on Nov. 22, 2012 to the Legislative Yuan for review.

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| 經社文<br>公約<br>第 6 條至<br>第 9 條 | 26. | <p>Does not the current policy on importing foreign workers (Report, paras 92-94), notably the role of brokerage firms that often levy excessive fees, lead to treatment of these workers as commodities? (i) What measures are being taken to protect foreign workers against exploitation and unfair practices? (ii) While foreign workers employed by industries to which the Labour Standards Act applies are entitled to the protection of their working conditions, what are the rights of foreign workers employed by industries to</p> | <p>當前進用外籍勞工之政策(國家報告第 92-94 段)，特別是經常收取過高費用的仲介公司角色，豈不造成這些勞工被視為商品？(i) 目前採取哪些措施以保障外籍勞工不受剝削或不公平對待？(ii) 雖然產業外籍勞工之勞動條件受到勞動基準法保障，受雇於不適用勞基法行業之外籍勞工享有哪些權利？(iii) 更進一步，外籍勞工享有哪些就業服務法的權利？(參見公政公約國家報告第 31、116 段)。</p> |
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|  | which the Labour Standards Act does not apply? (iii)<br>Further, to what extent do foreign workers have the benefit of the Employment Services Act? (see ICCPR Report, paras. 31 and 116) |  |
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## 中文回應(標楷體，12 號字，單行間距)

### 一、workers as commodities(勞工被視為商品?)

基於考量政府能夠開放由民間經營之事業，應適度開放由民間經營，避免與民爭利，係世界潮流。於我國，私立就業服務機構（以下簡稱仲介機構）係為特許行業，開放由民間申請設立營利或非營利仲介機構，經主管機關許可及核發許可證後，始得從事就業服務業務。仲介機構接受雇主委託辦理外籍勞工引進業務，往往包括申請許可手續、協助雇主國外選工、安排外籍勞工入出國接送機、安排外籍勞工接受健康檢查、翻譯、諮詢及輔導等相關工作，並協助外籍勞工來臺工作相關事宜，並非將外籍勞工視為商品。而仲介機構之許可及管理，一向為外籍勞工政策之一環，例如明定仲介機構之費用項目及金額標準，如有超收費用情事，即依法處以罰鍰、停業或廢止其設立許可；另勞委會業將仲介機構評鑑法制化，強制仲介機構均需接受評鑑，並依評鑑結果加強訪查密度，如查有違法事證，則從嚴處分，以促使劣質仲介機構退出仲介市場，透過加強仲介機構管理以保障雇主及外籍勞工相關權益。

### 二、protect foreign workers against exploitation and unfair practices(保障外勞不受剝削與不平等對待)

為保障外籍勞工不受剝削與不平等對待，勞委會於 2007 年 12 月 31 日成立「直接聘僱聯合服務中心」，協助雇主自行招募原聘僱之外勞，無需透過仲介機構，為外勞節省高額國外仲介費用；向各外勞來源國建議仲介費用應以不超過我國基本工資之 1 個月薪資為限、協調各來源國應明確訂定外籍勞工來臺工作相關費用項目及金額標準；於雙邊勞務合作會議，促請各外籍勞工來源國檢討仲介費用收費標準，與加強管理仲介業者超收費用情形；明定雇主應全額直接給付外勞薪資，如查獲有代扣服務費等非屬法定規定費用，依規定限期令雇主給付工資或處以罰鍰、廢止雇主之招募許可及聘僱許可之一部或全部，且同意外籍勞工轉換雇主。

### 三、The rights of foreign workers employed by industries to which the Labour Standards Act does not apply(不適用勞基法之外勞權利)

- (一) 對於受雇於不適用勞基法行業之外籍勞工，包括家庭看護工及幫傭（不論本外國籍，現行均不適用勞動基準法），其權利由雇主及外籍勞工所簽訂之聘僱契約進行規範。惟勞委會為落實外籍勞工權益保障，已於就業服務法授權訂定之「雇主聘僱外國人許可及管理辦法（以下簡稱本辦法）」明定勞雇雙方須簽定工資切結書，爰外籍勞工來臺工作前，應由雇主、外籍勞工、國內仲介、國外仲介簽署切結「外國人入國工作費用及工資切結書」，登載來臺後工資及來臺前相關費用，並經外籍勞工來源國查驗驗證，另雇主需與外籍勞工簽定書面勞動契約，又本辦法第 43 條規定雇主應直接給付外籍勞工薪資及勞動契約內容不得為不利外籍勞工之變更。
- (二) 家事勞工係受僱於個人，在家庭從事看護、照料家庭成員起居、處理家務等工作，因工作時間與休息時間不易釐清等因素，適用勞動基準法確有窒礙難行之處。為保障家事勞工之勞動條件權益，本會經多次邀集勞、雇團體、學者專家及相關單位研商後，已研訂擬具「家事勞工保障法」草案（Draft of Labor Protection Act for Domestic Workers），並已報請行政院審議中。本會仍將持續以務實的態度推動家事勞工保障法立法。
- (三) **social insurance system (社會保險)**

查依勞工保險條例第 6 條第 1 項第 1 款至第 5 款規定，受僱於僱用 5 人以上事業單位之員工、依法不得參加公教人員保險之政府機關及公、私立學校之員工及受僱從事漁業生產之勞動者，應以其雇主為投保單位，參加勞工保險。同條第 3 項規定，所稱勞工，包括在職外國籍員工。外籍人士如係依法在我國工作，並符合上開規定，即應依規定參加勞工保險。又依規定參加勞工保險為被保險人者，無論本國人或外國人，於符合保險給付請領條件時，得請領相關保險給付。

#### **四、the Benefit of the Employment Services Act?((外籍勞工)享有哪些就業服務法的權利?)**

我國就業服務法以第 5 章專章方式，規範外國人之聘僱與管理，包括聘僱外國之工作類別、聘僱外國人需訂定書面契約與工作許可申請、禁止雇主違法事項、外國人健康檢查、外國人轉換雇主及行蹤不明通報等相關規定。其中依就業服務法第 54 條第 1 項第 15 款規定，略以其他違反保護勞工之法令情節重大者，中央主管機關應不予核發招募許可、聘僱許可，已核發招募許可者，得終止引進。又依「雇主違反就業服務法第 54 條規定不予許可及中止引進裁量基準」規定，前開違反保護勞工之法令情節重大者，包括：未依勞工保險條例與全民健康保險法辦理保險事宜、未依勞動基準法規定終止勞動契約、雇主與被看護者或其他共同生活之親屬對聘僱之外國人有刑法所定強制性交猥褻及傷害、入出國及移民法所定人口販運行為等情事之一，經警察機關移送、檢察機關起訴或司法機關一審判決有罪者等等。

## 英文回應(Times New Roman · 12 號字 · 單行間距)

### **1. Are foreign workers treated as commodities?**

That the government should allow private businesses to operate in areas where private management can be allowed is a general tendency in the modern world. In Taiwan, private employment service agencies (hereinafter referred to as employment agencies) are operations that required special permission. Private businesses or individuals can apply to the competent authority for permission to set up profit-seeking or non-profit employment agencies and obtain the license before they can begin operation. When employment agencies accept the delegation of employers to bring in foreign workers, they have to go through the process of applying for permission, helping the employers select workers overseas, making transportation arrangements for foreign workers to leave their homes and arrive at the workplace in Taiwan, taking the workers to have physical examinations, providing interpreters, information and consultation, and going through other procedures needed to bring the workers into Taiwan. They do not treat foreign workers as commodities. The licensing and administration of employment agencies have also been an important part of the foreign worker policy. Employment agencies' charge items and standards are clearly specified. Any one who overcharges will be subject to a fine, business suspension, or license revocation imposed according to law. Meanwhile, the Council of Labor Affairs has also established regulations on compulsory accreditation of employment agencies. Inspection frequencies are increased if accreditation results suggest the necessity. If violations are confirmed, severe sanctions will be imposed to remove obnoxious employment agencies from the market. Through reinforcing the administration of employment agencies, the government is able to protect the rights and interests of both employers and foreign workers

### **2. Protection of foreign workers against exploitation and unfair practices**

To protect foreign workers against exploitation and unfair practices, the Council of Labor Affairs created on Dec. 31, 2007 the “Direct Hiring Service Center” to help employers rehire foreign workers upon expiration of contract without going through an employment agency. Foreign workers are able to save the large amount of money that an employment agency overseas normally charges. The Council of Labor Affairs has proposed to the source countries of foreign workers that employment agency fees should not be any more than one month of

basic wages in Taiwan and also coordinated the source countries to specify employment agencies' charge items and standards. At bilateral labor service cooperation meetings, the Council of Labor Affairs has requested the source countries of foreign workers to review the criteria of fees their employment agencies charge and reinforce the control on overcharging. Meanwhile, it is clearly stipulated that employers must pay wages in full amount to foreign workers. If found to have withholding portions as employment service charges on behalf of employment agencies or for other non-statutory expenses, the employer will be ordered to pay the withheld portions back to the worker within a specified period or face fines, revocation of the recruitment permit, or part or the entire foreign worker employment license and agree to allow the worker to change employers.

### **3. The rights of foreign workers employed by businesses to which the Labor Standards Act does not apply**

- (1) The rights of foreign workers employed in professions to which the Labor Standards Act does not apply, such as domestic caregivers and helpers (to whom, whether ROC citizens or foreign nationals, the Labor Standards Act currently does not apply), are to be defined in the employment contract signed between the employer and the foreign worker. However, to ensure that the rights and interests of foreign workers are protected, the Council of Labor Affairs has stipulated in the Regulations on the Permission and Administration of the Employment of Foreign Workers (hereinafter referred to as the RPAEFW) enacted pursuant to the Employment Services Act that the employer and the foreign worker must sign an affidavit of wages. Before a foreign worker enters Taiwan, the employer, the worker, the domestic employment agency, and the foreign employment agency have to sign an affidavit regarding the expenses incurred for the worker to enter the Republic of China to work and his/her wages/salary. The affidavit must carry information with regard to the wages/salary of the worker in Taiwan and the expenses accrued before entering Taiwan and verification by the competent authority in the source country is required. Also, the employer must sign a labor contract with the foreign worker. Meanwhile, Article 43 of the RPAEFW stipulates that an employer has to pay the wages to the foreign worker directly and no part of the contents of the contract may be altered to the disadvantage of the worker.
- (2) Domestic workers are employed by individuals to tend the sick or the elderly, take care of the family members, and do housework. Due to the unclear distinction of work hours and rest time, it is difficult to apply the Labor Standards Act to such workers. Therefore, after inviting domestic worker groups and employer groups, as well as scholars, specialists and related authorities to discuss and

consult several times, the Council of Labor Affairs has formulated the Draft of Labor Protection Act for Domestic Workers to protect the rights and interests of domestic workers,. The draft has been presented to Executive Yuan for review. The Council of Labor Affairs will remain practical and continue to push for the legislation of the Labor Protection Act for Domestic Workers.

**(3) Social security for foreign workers**

According to Subparagraphs 1 to 5, Paragraph 1, Article 6 of the Labor Insurance Act, the employees of business entities hiring more than five workers, employees of government offices, public or private schools who are not legally entitled to enroll in the insurance programs for civil servants and teachers, and workers in the fishing industry are required to enroll in the Labor Insurance program under their employer as an insured unit. As specified in Paragraph 3 of the same article, the same provision apply to foreign workers. Foreign nationals who work in Taiwan legally and comply with the aforesaid regulation are required to enroll in the Labor Insurance program. According to law, all insured persons covered by Labor Insurance, whether ROC citizens or foreigners, may file claims for insurance benefits when meeting the requirements.

**4. Which of the rights stated in the Employment Services Act do foreign workers have?**

Chapter 5 of the Employment Services Act is specifically dedicated to the employment of foreign workers and the corresponding administration. It covers the types of work foreigners can be hired to do, the requirements of contract signature and work permit application, things employers are forbidden to do, physical examinations of foreign workers, the requirement of reporting to the competent authority when foreign workers change employers or their whereabouts are unknown, etc. Subparagraph 15, Paragraph 1 of Article 54 particularly stipulates that with employers who have seriously violated laws and regulations on the protection of the rights and interests of workers, the central competent authority may reject applications for permits to recruit and employ foreign workers or revoke such permits if they have already been issued. As specified in the said article, serious violations include failure to enroll the workers in insurance programs in accordance with the Labor Insurance Act and the National Health Insurance Act, failure to terminate labor contracts in accordance with the regulations set forth in the Labor Standards Act, commitment of sexual assault, molestation or physical abuse by the employer, the care receiver or any of the household members, commitment of human trafficking as described in the Immigration Act, etc., and the employer has been confirmed by the police as having committed illegal conduct, indicted by the prosecution, or ruled by a first instance court as guilty.

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| 經社文<br>公約<br>第 6 條至<br>第 9 條 | 27. | <p>To what extent are basic human rights, such as those relating to food, health care, shelter and protection against exploitation and abuse, ensured and respected with regard to non-documented migrant workers? (see ICCPR Report, para.140).</p> | <p>無工作許可之移工(無證外勞)之基本人權，例如涉及食物、醫療、庇護、以及免於剝削和虐待之權利，是如何被保障與尊重?(參見公政公約國家報告第 140 段)</p> |
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### 中文回應(標楷體，12 號字，單行間距)

行蹤不明外勞或非法外勞（無工作許可外勞）於其尚未被查獲前，政府因無法掌握其行蹤，尚無以保障其人身安全與相關權益。倘行蹤不明外勞經查獲，入出國及移民署將依入出國及移民法規定，予以收容及依規定遣送出境，於此收容期間，其食物、醫療、保護及相關權益自受保障，其所生之伙食費及雜支項目由勞委會就業安定基金編列預算補助，另收容費用及返國機票費則由勞委會先以就業安定基金代墊費用。

### 英文回應(Times New Roman，12 號字，單行間距)

The government is unable to protect the personal safety and rights and interests of foreign workers whose whereabouts are unknown or those working illegally (without work permits) before they are tracked down. Once they are found, the National Immigration Agency will act according to the Immigration Act, put them in detention, and then deport them. During the detention period, food and medical care are provided and their rights and interests are protected. All related expenses are paid by a budget set aside from the Employment Stability Fund of the Council of Labor Affairs. The detention cost and air fares are covered by the Employment Stability Fund.

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| 經社文<br>公約<br>第 6 條至 | 28. | <p>Some categories of workers and workers in special circumstances are excepted from the right to strike (Report, para.118). Explanation is needed why members of the</p> | <p>某些類別之勞動者，或處於特殊情況之勞動者未能享有罷工權(國家報到第 118 段)。請解釋為何教師，以及國防部員工不能擁有罷工權 (請見公政公約國家報告第</p> |
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| 第 9 條 | teaching profession – together with employees of the Ministry of National Defence – find themselves in this category? (see ICCPR Report, para.282). | 282 段)。 |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、勞動三法之修正對於罷工權有更加明確之規範，包括罷工議決程序簡化，避免因程序造成罷工障礙；確立合法罷工時勞工民刑事責任免責，以降低勞工罷工時之恐懼；除考量國家安全、學生受教權之前提下，禁止國防部及其所屬機關（構）、學校之勞工及教師不得罷工外，已無禁止任何勞工罷工權，勞資爭議處理法相關條文均有明定。
- 二、不否認給予教師或國防部各相關單位勞工有罷工權之選擇機會，但仍要看每個國家在法律立法過程中取得社會共識及承諾程度而定，不全然認為教師或國防單位可以罷工。工會法解除對教師、國防單位部分員工組織工會之限制後，考量中華民國各界對教師得否罷工尚意見紛歧及各界傾向保護國防安全，故為防止妨礙學生受教權益（憲法第 21 條、第 23 條）及軍事安全，爰於勞資爭議處理法第 54 條明定教師、國防部及其所屬機關（構）、學校之勞工不得罷工。又為避免禁止範圍過大，勞委會依勞資爭議處理法第 54 條第 6 項規定，會同相關目的事業主管機關範圍為依法規聘任之專任教師，其他依法規聘任於教學時間之兼任、代課教師及依行政規則適用於教學時間之專兼職人員等。另上開人事雖禁止罷工，但仍得依勞資爭議處理法第 53 條規定為其他爭議行為，如遊行示威、靜坐等，享有爭議權；且依勞資爭議處理法第 25 條第 2 項規定，渠等對於涉及調整事項之勞資爭議，得單方交付仲裁，此為勞資爭議處理法第 54 條明定渠等不得罷工之代償措施。

### 英文回應(Times New Roman，12 號字，單行間距)

1. After amendment, the regulations in the three major labor laws on the right to strike have become more specific, including simplification of the procedure to reach the resolution of holding a strike to prevent procedural obstacles, confirmation of exemption of workers partaking in legal strikes from civil and criminal responsibilities to minimize their apprehension about being part of a strike. Workers are no longer prohibited to go on strikes, except those employed by the Ministry of Defense and its subsidiaries and teachers due to national security considerations and students' right to education. All these are clearly prescribed in the Act for Settlement of Labor-Management Disputes.

2. Teachers or workers employed in the various units of the Ministry of Defense are still given the option of exercising their right to strike, but it depends on whether social consensus can be achieved during the legislative process and the level of commitment. Teachers and national defense personnel are not entirely free to choose to go on a strike. After the restriction in the Labor Union Act on the organization of labor unions by teachers and certain employees in national defense units was lifted, the opinions in different sectors appeared divided on whether teachers could go on strikes but concurred on the priority of national security. Hence, it is stipulated in Article 54 of the Act for Settlement of Labor-Management Disputes that teachers, workers employed by the Ministry of Defense and its subsidiaries, and other school employees may not go on strikes in order to protect students' right to education (Articles 21 and 23 of the Constitution) and military security. However, to make the scope of prohibition reasonable, legally employed full-time teachers, part-time teachers and substitute teachers, and other full-time and part-time school personnel employed according to administrative regulations, though prohibited to go on strikes, may resort to other actions, such as parades, demonstrations and sit-ins, to exercise their right to dispute. Plus, according to Paragraph 2, Article 25 of the Act for Settlement of Labor-Management Disputes, the aforesaid personnel may unilaterally apply for arbitration when a labor-management dispute involves adjustment. This is a compensatory measure for the prohibition of such personnel to go on strikes as set forth in Article 54 of the Act for Settlement of Labor-Management Disputes.

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| 經社文<br>公約<br>第6條至<br>第9條 | 29. | <p>Article 115 of the Constitution provides for the establishment of a social insurance system. (Report, paras. 119 et seq.) More information is needed to what extent the social security system applies to workers and their families who fall into the categories of part-time, casual, self-employed and home workers, workers in the informal economy, indigenous peoples and minority groups, non-nationals - including migrant workers, refugees, asylum seekers and stateless persons- (see also in this</p> | <p>中華民國憲法第115條規定必須建立社會保險制度(國家報告第119段起)。請提供更多資訊，說明部分工時、臨時工、自營作業、在家工作之勞動者及其家庭成員，以及非正式經濟部門勞工、原住民族與少數族群、外國人 - 包括移工、難民、尋求庇護者以及無國籍人士，適用社會安全制度之程度。(請同時參見經社文權利委員會第19號一般性意見第33-38段)。</p> |
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|  | context CESCR General Comment 19, paras.33- 38). |  |
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## 中文回應(標楷體，12 號字，單行間距)

### 一、保障勞工部分

依勞工保險條例規定，受僱於僱用勞工5人以上事業單位之員工，雇主應為其辦理參加勞工保險。另實際從事工作並以所獲報酬維生之無一定雇主或自營作業而參加職業工會者，由所屬職業工會辦理加保。又所稱勞工，包括在職外國籍員工。爰不論正式員工、部分工時、臨時工、自營作業、在家工作之勞動者，不分族群及外籍勞工，均依上開規定辦理參加勞工保險。又勞工保險為在職保險，有工作時參加勞工保險，沒工作時則納入國民年金保險保障。

二、照顧原住民族部分：原住民族與我國其他國人權益平等，一樣適用有工作者參加勞保，沒工作者參加國保的原則，但因為原住民通常屬於社會中相對較弱勢族群，故由行政院原民會訂有「原住民族社會安全發展計畫」，就原住民的就業、社會福利、衛生等方面加強照顧。

### 三、難民部分

目前我國所訂難民法尚為草案，故尚無法適用我國相關社會安全制度，以下針對草案對此部分人員的照顧措施說明：

- (一) 依據難民法草案第7條規定，審查難民認定案件期間，得給予申請在臺灣地區停留許可，該審查期間，申請人享有法律諮詢、醫療照顧及維持基本生活權利，並應遵守我國相關法規。
- (二) 依據難民法草案第13條規定，取得難民身分者，主管機關應發給難民證明文件。持有難民證明文件者，得申請外僑居留證及難民旅行文件，並得依法申請永久居留或歸化。復依全民健康保險法第9條規定，在臺灣地區領有居留證明文件者，在臺居留滿6個月即可為全民健保對象。

## 英文回應(Times New Roman，12 號字，單行間距)

### 1. The Labor Insurance

According to Labor Insurance Act, labors employed by a company or firm with more than five employees shall all be enrolled in this program by the employer. For the unemployed or self-employed people, they can enroll the Labor Insurance by joining the Labor Union.

The term “employee” is defined as people employed by a company or firm in whether in full-time, part-time, foreign, self-employed or casual. People can join the Labor Insurance or other occupational insurance when being employed, otherwise, they can join the National Pension Insurance when being unemployed.

## 2. Indigenous people

The indigenous people have equal human rights as other nationals in our country; they are eligible to enroll the Labor Insurance when employed or enroll the National Pension Insurance when unemployed. Relatively, they are the disadvantaged group in the society, hence, in addition to above insurance, the Council of Indigenous People from Executive Yuan formulated the “Society Security for Indigenous People Project” to look after their social security, employment and hygiene issues.

## 3. Refugees

The Refugee Act is still under legislating; therefore it is unable to implement into the social security system. Details of the draft for this act are described below :

- (1) Based on Article 7 of the draft of the Refugee Act, during the timeframe of reviewing the refugee recognition cases, the competent authority may give applicants permission to stay in the Taiwan. The applicants are entitled to receive legal counseling services, medical care and other basic rights as well as abide by the laws and regulations of our country.
- (2) Based on Article 13 of the draft of the Refugee Act, for an individual who has obtained refugee status, the competent authorities shall issue corresponding documents certifying such status. For an individual holding refugee status certification documents, he/she shall be able to apply for ARC or refugee travel documents, and will be entitled to apply for APRC or naturalization in accordance with the related law. Furthermore, according to Article 9 of the National Health Insurance Act, those who have ARC and established a registered domicile for at least six consecutive months are eligible to be insured by National Health Insurance.

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| 經社文<br>第 10 條 | 30. | Please provide annual statistics on the proportion of international marriages out of total marriages for the past ten years, disaggregated by country of origin of women. | 請提供過去十年，跨國婚姻佔所有婚姻之年度統計資料；統計資料應按女性之來源國分類。嫁給台灣男性之女性外籍配偶處境如何？台灣有哪些法律、政策和計畫 |
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|  |                                                                                                                                                                 |             |
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|  | What are the situations of the foreign immigrant wives of Taiwanese men, and what laws, policies and programmes does Taiwan have to protect their equal rights? | 以保障他們的平等權利? |
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## 中文回應(標楷體，12 號字，單行間距)

### 一、嫁給臺灣男性之女性外籍配偶處境如何

外籍與大陸配偶離開原生國和國人共組家庭，面對新的地理環境、天候、社群、人文環境與文化變化，常面臨處境如下：

- (一)生活適應問題：外籍配偶因語言不同，需要一段時間適應我國生活，而大陸配偶雖無語言溝通問題，因地方風土人情差異，也有適應問題。
- (二)人際關係問題：外籍配偶由於語言、文化因素，與鄰居及社區參與較不熟悉、陌生，尚需時間調適及建立關係。
- (三)子女教養問題：外籍配偶受限語言問題，對幼兒教育、衛生保健知識了解受限，對子女教養較不易參與。
- (四)就業問題：由於外籍與大陸配偶受限於學歷認證、教育程度及語言問題，尋找工作不易，或多為薪資少之工作，致影響其勞動權益。
- (五)家庭婚姻：外籍與大陸配偶因年齡、認知及文化等種種差異，婚後易面臨夫妻相處、家庭成員互動、婆媳相處、家庭地位低落等問題；選擇離婚者，亦面臨居留、法律訴訟及子女監護權等問題。

### 二、臺灣有哪些法律、政策和計畫以保障他們的平等權利？

- (一) 92 年訂定「外籍與大陸配偶照顧輔導措施」，包括生活適應輔導、醫療優生保健、保障就業權益、提升教育文化、協助子女教養、人身安全保護、健全法令制度及落實觀念宣導等 8 大重點工作，分由相關部會及地方政府共同辦理。
- (二) 為加強新住民照顧輔導工作，有效整合政府與民間資源，特設置外籍配偶照顧輔導基金，自 94 年度起分 10 年籌措計 30 億元。
- (三) 推動「外籍配偶生活適應輔導實施計畫」，為落實外籍配偶照顧輔導措施，提升其在臺生活適應能力，使能順利適應我國生活環境，共創多元文化社會，補助地方政府辦理生活適應輔導班、種籽研習班、推廣多元文化活動、生活適應宣導等。
- (四) 行政院於 97 年 3 月 10 日核定人口政策白皮書，訂有移民六大對策，並將深化移民輔導列入對策目標，透過強化移民入國前

輔導機制，促進移民入國後社會權、文化權、教育權與經濟權之保障，提升移民生活適應及就業自主能力。

(五) 為加強新住民及其子女生活適應，於 101 年推動「全國新住民火炬計畫」，藉內政部、教育部、各級學校及民間團體之跨部會與跨域合作，於全國新住民重點學校，共計 362 所辦理校園多元文化活動、新住民輔導志工培訓、母語學習、東南亞母語師資培力及家庭關懷訪視等工作，以強化輔導網絡運作及家庭功能。

(六) 大陸地區人民或香港澳門居民為臺灣地區人民之配偶，為維護其家庭團聚權利，可以配偶為依親對象，申請進入臺灣地區，其係因為維持婚姻生活而許可在臺居住及設立戶籍，並不會因男女性別而有所差異，一律平等對待，尊重婚姻自由。

(七) 外籍配偶因結婚來臺，可依入出國及移民法相關規定取得居留之身分；另對於因依親對象死亡、遭受家庭暴力、離婚後取得在臺灣設有戶籍之未成年子女監護權或因居留許可被廢止而遭強制出國，對在臺灣設有戶籍之未成年子女造成重大且難以回復損害之虞者，移民法亦予以繼續居留之保障。

### 三、落實大陸配偶權益保障及大陸配偶與外籍配偶權益衡平之政策

兩岸交流日趨頻密，兩岸婚姻型態隨著兩岸關係發展，漸趨正常化，為因應兩岸婚姻發展趨勢及進一步落實「公民與政治權利公約」、「經濟社會文化權利國際公約」對於人權保障的精神，本會參照外籍配偶來臺制度，研擬兩岸條例第 17 條修正草案，調整放寬大陸配偶取得身分證年限為 4 年至 8 年，以落實大陸配偶權益保障及大陸配偶與外籍配偶權益衡平之政策原則。該修正草案行政院業於 101 年 11 月 14 日報請立法院審議在案。

### 四、跨國境婚姻統計資料如附件 2。

## 英文回應(Times New Roman, 12 號字，單行間距)

### 1. The situations of the foreign immigrant wives

Foreign and Mainland Chinese spouses leave their countries of origin to establish families with Taiwanese. Due to the changes in geographical environment, weather conditions, societal groups, linguistic environment, and culture, they often encounter the following situations:

- (1) Adjusting to a new lifestyle: Due to different mother tongue language, foreign spouses need time to learn the new language and get accustomed to life in our country. Although Mainland Chinese spouses do not have language barrier, they still have difficulties in adjusting to our local culture and environment, which may be different and strange to them.
  - (2) Human relationship: Due to the language barriers and cultural differences, foreign spouses do not know their neighbors very well and less involved in the local community. They need time to adjust and establish relationships.
  - (3) Employment: Since foreign and Mainland Chinese spouses have limited qualified education verification, and language barriers, it is difficult for them to look for jobs. As most jobs available to them are low-paying, their employment rights are negatively affected.
  - (4) Relationship with the other members in the family: Due of the large discrepancies between foreigners or Mainland Chinese and their spouses in terms of age, know-how, and cultural differences, they often encounter many problems after marriage. These problems may involve spouses, other family members, in-laws, or having low status in the family. Those who choose to file for divorce encounter problems with regards to residency, legal proceedings, child custody... etc.
2. Laws, policies, or projects aim to protect their equal rights
    - (1) The “Counseling Mechanisms for Foreign and Mainland Chinese Spouses” was established in 2003. It has eight main functions: life-adjustment counseling, health services, employment rights protection, enhancing education and culture, assisting in children’s education and upbringing, ensuring safety and life-protection, establishing a sound legal system, and promoting public awareness. These will be carried out collaboratively by governing bodies, including local governments.
    - (2) In order to strengthen counseling services for new migrants, government and private resources are combined effectively to establish a special fund for foreign spouse counseling, which starting 2005 and estimated to raise three billion NTD in ten years.
    - (3) By pushing forward the “Foreign Spouse Life-Adjustment Counseling Implementation Project”, which establishes counseling resources for foreign spouses. It is aimed to increase their ability to adjust to life in Taiwan and help them to integrate into the new lifestyle successfully. The project also strives to foster a multicultural society by assisting local governments in offering life-adjustment counseling, workshops, multicultural events, life-adjustment information sessions, etc.

- (4) The Legislative Yuan issued a white paper on Population Policy on March 10, 2008,. It establishes six main immigration policies, and added counseling as a policy objective. By strengthening counseling mechanisms at the pre-arrival stage of immigration, the policies promote the protection of social, cultural, educational, and economic rights, and increase the ability of migrants to adjust to the local lifestyle and allow them to become autonomous in employment.
  - (5) In order to help life-adjustment for new migrants and their children, the “National New Migrants Torch Project” was newly pushed forward in 2012. By combining the resources from the Ministry of the Interior, Ministry of Education, schools of all different levels, and private institutions, the “Torch Project” is an inter-governmental, joint effort which also involves different segments of society. Multicultural events are held in 362 “key new migrant schools”, which have a significant number of students whose parents are new immigrants. In addition, there are new migrant volunteer counseling training sessions, native-language classes, Southeast Asian language instructor accreditation, and family support programs. The aim of this project is to strengthen the effectiveness of counseling networks and support family functioning.
  - (6) When residents of Mainland China, Hong Kong, or Macao become spouses of Taiwanese citizens, they may apply for entry into Taiwan by family-sponsorship based on marriage. This is in order to protect the right to family reunification, to allow such couples to continue marital life, and enable foreign spouses to obtain residency and household registration in Taiwan. The process is without discrimination based on gender, with equal treatment across the board, and with respect for the freedom of marriage.
  - (7) Foreign spouses, according to relevant regulations of Entry and Exit Immigration Law, may obtain residency status. Immigration law also guarantees the residency status of foreign spouses who have legal guardianship over minors with Taiwan residency in the event of: the death of family sponsors, becoming victims of domestic violence, divorce, or deportation due to repealed residency permits. For the spouses whose residential visa have expired and were sent back to Mainland, they are allowed to continue their residency if the repatriation may cause serious and non-repairable damage to their children who have Taiwanese residency.
3. The principle of protecting Mainland spouses’ rights and equalizing their rights with those of foreign spouses
- Cross-strait marriages have gradually normalized as cross-strait exchanges grow closer and relationship between the two sides improved. In response to further realize the spirit of human rights protections under the International Covenant on Civil and Political Rights and the

International Covenant on Economic, Social and Cultural Rights, the Mainland Affairs Council (MAC) drafted amendments to Article 17 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area in reference to the system for foreign spouses in Taiwan. The amendment adjusted and loosened restrictions on the period required for Mainland spouses to obtain a ROC identity card to four to eight years, in hope that it can fulfill the policy principle of protecting and equalizing the Mainland spouses' rights. The Executive Yuan submitted the draft amendment to the Legislative Yuan for deliberation on November 14, 2012.

4. Annex 2 is the statistic of international marriages.

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| 經社文<br>第 10 條 | 31. | Compared to Taiwan's economic development, eight weeks of maternity leave seem rather short. Is the Government intending to increase the length of maternity leave? Also, how much is the allowance to the parent while the mother or father is on child care leave without pay? | 相較於台灣經濟發展，8 周的產假似乎過短。政府是否打算延長產假？另外，當父或母親請休無薪育嬰假時，政府提供多少津貼給這位父/母？ |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、有關產假天數是否延長部分，有鑑於國內企業規模不一，考量勞雇權益衡平，仍需審議評估。
- 二、依就業保險法第 11 條規定，被保險人之保險年資合計滿 1 年以上，子女滿 3 歲前，依性別工作平等法之規定，辦理育嬰留職停薪者，得申請育嬰留職停薪津貼。依同法第 19 條之 2 規定，前開津貼係以被保險人育嬰留職停薪之當月起前 6 個月平均月投保薪資 60% 計算，於被保險人育嬰留職停薪期間，按月發給津貼，每一子女合計最長發給 6 個月。若父母同為被保險人者，應分別請領，不得同時為之，爰每一子女父母合計最長得請領 12 個月之育嬰留停薪津貼。
- 三、另依中華民國憲法第 156 條規定：「國家為奠定民族生存發展之基礎，應保護母性，並實施婦女、兒童福利政策」現行公務人員娩假期及陪產假相關規定於公務人員請假規則第 3 條，公務人員於分娩後，給娩假 42 日（相當於 8 週又 2 天）、配偶給陪產假 3 日。惟少子化已成為我國國安問題，且相較於鄰近國家如日本及新加坡給予娩假平均約為 10 至 12 週，我國核給公務人員娩假日數偏低。為鼓勵公務人員生育，未來將會同考試院研議提高公務人員娩假日數。

四、自 2009 年 8 月 1 日開辦公教人員保險育嬰留職停薪津貼，不分男女皆享有請領之權利，以補貼其因育嬰留職停薪期間之所得損失；相關措施說明如下：

(一) 請領資格：

公教人員保險被保險人加保年資滿 1 年以上，養育 3 足歲以下子女，辦理育嬰留職停薪並選擇繼續加保者，不論男女，都可以請領育嬰留職停薪津貼。

(二) 發給標準：

1. 以被保險人育嬰留職停薪當月的前 6 個月平均保險俸(薪)給 60% 計算，自留職停薪之日起，按月發給；最長發給 6 個月，未滿 1 個月之畸零日數，按實際留職停薪日數計算。
2. 被保險人如有雙胞胎、多胞胎子女，或者育嬰留職停薪期間所生下另名子女等情形，可以錯開各子女之請領期間，請領津貼。
3. 假如父母都是本保險的被保險人，在不同時間分別辦理同一子女之育嬰留職停薪並選擇繼續加保時，亦得分別請領。

(三) 辦理情形：

本項津貼自 2009 年 8 月 1 日開辦，累計至 2012 年 12 月 31 日止，請領人數計 15,320 人，其中男性 1,266 人，女性 14,054 人，已核發金額為 12 億 2 仟 9 佰餘萬元。

### 英文回應(Times New Roman, 12 號字, 單行間距)

1. As for the question of whether the number of days of maternity leave will be extended, as the business scales of domestic enterprises vary and balance between the rights and interests of workers and employers has to be taken into consideration, it requires further review and assessment.
2. As stipulated in Article 11 of the Employment insurance Act, when insured persons with over one year of insurance coverage and children under three years of age request for parental leave according to the Act of Gender Equality in Employment may apply for parental leave allowance. According to Article 19-2 of the same act, the said allowance will be 60% of the average insured wages of the insured person in

the six months before the month the parental leave begins and paid on a monthly basis during the parental leave. The allowance will be paid for each child for up to six months. If both parents are insured, they are required to apply separately, not together. Thus, for each child, the parents may receive the parental leave allowance for the maximum of twelve months

3. According to Constitution of the Republic of China (Taiwan) Article 156 , the State, in order to consolidate the foundation of national existence and development, shall protect motherhood and carry out the policy of promoting the welfare of women and children. Regulations on Civil Servants' Applications for Leave article 3 requires that civil servants have 42-day(equal to 8 weeks and 2 days) maternity leave after childbirth and their spouse have 3-day accompanying maternity leave. However, the low birth rate has become a national security issue. The maternity leave we give our civil servants is comparatively shorter than our neighboring countries such as Japan and Singapore (10-12 weeks on average).In order to increase the fertility rate of our civil servants, we will research and discuss the possibility of increasing the length of civil servants' maternity leave with the Examination Yuan in the future.
4. Under the Public Servant and Teacher Insurance Program, effective 1 August 2009 males and females are equally eligible to receive unpaid nursing leave allowances to compensate for lost wages during unpaid leave to care for an infant. Related measures are detailed as follow:
  - (1) Eligibility:  
A person covered under the Public Servant and Teacher Insurance Program for not less than one year, who is caring for a child/children under three years of age, and who arranges for unpaid leave and opts to continue participating in the scheme, may apply to receive an infant care unpaid leave subsidy, regardless of sex.
  - (2) Payment standards:
    - A. Payments are made monthly, effective from the date of commencement of unpaid leave, at a rate of 60% of the average monthly insurance payment (wage) for the six months prior to the month during which unpaid leave is taken; payments shall be made up to a maximum of six months, and the number of days taken less than one month prorated by the actual number of days of unpaid leave.
    - B. An insured individual with twins, children from a multiple birth, or who has an additional child during the period of unpaid newborn care leave may stagger payment periods for different children to receive allowances.

C. When both parents are insured under the scheme, take unpaid leave to care for the same child at different times and opt to continue to participate in the program, each parent may receive allowances.

(3) Current status:

Since its introduction on 1 August 2009, as of 31 December 2012 a total of 15,320 persons have received this allowance, including 1,266 males and 14,054 females, respectively, totaling NT\$1,229,000,000 in approved payments.

|               |     |                                                                                                    |                      |
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| 經社文<br>第 10 條 | 32. | What has been the accommodation rate of the child care facilities from infants up to the age of 5? | 從嬰兒到五歲的兒童托育設施容納率是多少？ |
|---------------|-----|----------------------------------------------------------------------------------------------------|----------------------|

**中文回應(標楷體，12 號字，單行間距)**

截至 101 年 12 月 31 日止，0-2 歲兒童數 41 萬 9,670 人，機構式托嬰中心可收托數 9,000 人，容納率 2.14%；居家式托育服務可收托數 4 萬 6,232 人，容納率 11.02%，我國幼兒園招收 2 歲至入國民小學前學童，其容納率為 84.74%。

**英文回應(Times New Roman，12 號字，單行間距)**

As of December 31, 2012, the number of children aged 0 to 2 years old is 419,670. Institutional daycare centers can accept 9,000 of them, with an accommodation rate of 2.14%, while the home childcare services can accept 46,232 of them, with an accommodation rate of 11.02%, Kindergartens in Taiwan accommodate children between aged 2 to first grade in primary school. The accommodation rate is 84.74%.

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| 經社文<br>第 11 條 | 33. | In the Report, para. 207, it is stated that measures are being taken to secure sufficient food supply: (i) How does the Government influence the decisions of the competent local authorities in this matter?<br><br>(ii) What programmes are in place regarding disaster risk | 國家報告第 207 段提及，政府已採取措施以確保有充足的糧食供應：(i) 政府如何影響地方主管機關之糧食決策？(ii) 台灣是極容易受強烈天候影響的國家，目前有哪些計畫/方案來處理災害風險管理與災後重建？ |
|---------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|

|  |  |                                                                                              |  |
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|  |  | management and disaster recovery in Taiwan, a country often beset by intense weather events? |  |
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### 中文回應(標楷體・12 號字・單行間距)

一、

- (一) 隨著全球氣候變遷跡象日益顯著，臺灣地區水環境變化越快且難以預測，導致洪澇災害頻率、規模與損失之廣度、深度均有加大的趨勢。為此，經濟部水利署規劃及推動「水災災害防救策進計畫(100~104 年)」，以「厚植防救災力量」、「整合救災資訊」及「周詳防災規劃」為施政主軸。並針對都會區與非都會區淹水、工業與民生缺水及海嘯複合性災害等面向，研擬因應策略，加強減災整備、災害預警應變及災後復建等防汛應變作為，有效降低災害風險、減輕災害損失及促使快速恢復民眾正常生活機能。
- (二) 目前辦理中央管河川、海岸、區域排水等災後重建計畫共有：一. 重要河川環境營造計畫、二. 海岸環境營造計畫、三、區域排水整治及環境營造計畫，以資改善河川、區域排水環境、海岸景觀，營造自然健康的水岸環境、提供民眾親水、休閒空間，及減輕水患威脅、強化防災減災之功效。

二、又為維護國家糧食安全，穩定糧食供應，依據糧食管理法規定政府每年須向農民收購稻穀，並依據加入世界貿易組織之承諾，進口 94,068 公噸等量糙米，納入公糧，儲存於全國 300 餘家倉庫，以確保國內稻米安全存量不低於三個月消費量。

三、

- (一) 另針對內政部主管之颱風、地震等天然災害，內政部業訂定災害防救業務計畫，由中央及地方政府各依權責推動施行。當災害發生時，各級政府立即成立災害應變中心，共同執行應變工作，包括災害搶救及後續災民安置、災後重建等工作。
- (二) 為加強抗災能力，內政部消防署推動一系列的災害防救深耕計畫，強化民眾自我防災，離災能力。

## 英文回應(Times New Roman , 12 號字 , 單行間距)

1.
  - (1) As the effect of global climate grows more significantly, the changes of water environment has become more rapidly and unpredictable causing the frequency, scale and damage of the disasters to increase. Under this circumstance, the Water Recourse Agency of Ministry of Economic Affairs has planned and promoted “Disaster Mitigation Promoting Projects (2011~2015) targeting at rooting the mitigation strength, integrating relief information and comprehensive prevention planning to strengthen the mitigation preparation, the warning system, and the rebuilding. These improvements can diminish the risks and damages of the disaster and recover people’s living functions effectively.
  - (2) At present, post-disaster recovery schemes for centrally managed river, coast and regional water drainage and etc are: (i) Major rivers environmental constructions scheme. (ii) Coastal environmental constructions scheme. (iii) Regional water drainage regulation and environmental construction scheme to improve river and regional drainage conditions, coastal landscapes and to provide a natural riverside environment for public recreations while reducing damages incurred from water disasters, strengthened disaster prevention efficiency.
2. To meet the national food security need for stable food, according to the Food Administration Act, the Government should purchase rice from local farmers and imports 94,068 tons of brown rice each year, as an obligation of being a WTO member, to replenish the public stock. Those public stocks are stored in more than 300 warehouses around the country to ensured to reach the security level which is set at an amount enough for three-month consumption.
3.
  - (1) As for natural disasters, such as typhoon and earthquake, responsible by Ministry of the Interior, we have enacted relative disaster prevention and protection business plans which are executed by central and local governments respectively. When a disaster occurs, governments of all level will immediately set up emergency operation centers and work together to carry out the necessary response

work, including disaster rescue, victim shelters arranging, post-disaster recovery and so on.

(2) In order to strengthen the abilities against disasters, National Fire Agency of Ministry of the Interior have implemented a series of disaster prevention and protection for cultivation to enhance civilians' abilities to prevent and evacuate from disasters.

|               |     |                                                                                                                                                                                                             |                                                             |
|---------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 經社文<br>第 11 條 | 34. | Is the Government planning to adopt a national housing survey and housing policy, addressing in particular the situation of marginalized and disadvantaged groups of society ( cf. Report, paras. 215-218)? | 政府是否打算通過全國住屋調查與住屋政策，來特別處理社會邊緣與弱勢族群所處之狀況(參照國家報告第 215-218 段)? |
|---------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|

### 中文回應(標楷體，12 號字，單行間距)

- 一、我國係以多元方式提供國民居住協助，對於中低收入之無自有住宅家庭，政府主要以提供合宜住宅及購屋貸款利息補貼方式來協助；對於收入較低之無自有住宅家庭，政府則以提供租金補貼及只租不售的社會住宅來協助。此外，我國每十年辦理人口及住宅普查、住宅狀況抽樣調查，並且訂定 4 年期的整體住宅政策實施方案，以落實居住正義。
- 二、為健全住宅市場，提升居住品質，使全體國民居住於適宜之住宅且享有尊嚴之居住環境，特制定住宅法。
- 三、為照顧弱勢者居住需求，提供優質社會住宅，我國刻正推動臺北市及新北市之 5 處社會住宅，預計興建約 1,661 戶。此外，為瞭解國民對社會住宅之需求狀況，我國業於 100 年 12 月辦理「社會住宅需求調查」，政府刻正參考上開調查結果研擬社會住宅中長期實施方案，以充分滿足弱勢者居住需求。
- 四、為減輕國民之居住負擔，協助一定所得及財產以下家庭或國民居住於適居之住宅，我國自 96 年度起推動「整合住宅補貼資源實施方案」，因政府資源有限，該方案除訂定計畫辦理戶數及基本申請條件外，並對申請人家庭之年所得、家庭成員人數、申請人年齡、家庭成員具備弱勢資格狀況、是否曾接受政府輔助購置住宅等條件評點，決定補貼之先後順序，其中對於弱勢家庭（單親家庭、受家庭暴力侵害者及其子女等）予以評點權重加分，使得以優先獲得補貼，解決其居住問題。

## 英文回應(Times New Roman , 12 號字 , 單行間距)

1.
  - (1) The government provides various ways to help citizens in housing issue. For the medium to low income families, governments provide the suitable price houses and subsidies the interest of the home loan. For the low income families, government subsidizes the rents or provides the units that are for rent only.
  - (2) The government conducts the housing condition survey every decade, and establishes the 4 years term implementation plan for the housing policy.
2. The Housing Act which was just established in 2011, was designed to robust the housing market, improve the quality of living, and thus allow all citizens to enjoy suitable housing and a dignified living environment.
3. In order to satisfy the demand of the disadvantaged groups and provide high quality social housing, the government plans to build social houses in 5 districts within Taipei City and New Taipei City, which are the two most crowded cities in Taiwan. It is expected to build 1,661 households. Besides, in order to understand the demand of the housing, the government also conducted the social housing demand survey in December 2011. The results will be used to implement the medium and long-term project for the disadvantaged groups.
4. In order to reduce the burden of nationals living, over the years, the government consistently provides assistance for the families or individual person if he or she is qualified as Low Income. The “Integrating Housing Relevant Funds Program” has been promoted since 2007. However, due to the limited resource the government has, there are series of assessment for the applicants. The funding priority will be decided based on the following criterions:
  - (1) The annual income of the applicant’s family;
  - (2) Number of the applicant’s family members;
  - (3) Age of the applicant;
  - (4) Verify the applicant’s family member(s)’ qualification for Disadvantaged People;
  - (5) Verify if the applicant had receive the government’s funds for purchasing the house before.

5. Furthermore, the disadvantaged families (single-parent family, victim of domestic violence assault and their children ...etc.) not only will receive more points during the assessment, they will also gain higher priority and assistance to solve their housing problems.

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| 經社文<br>第 11 條 | 35. | Please provide information on the situation of the homeless.<br>What steps is the Government taking in that respect? | 請提供無家可歸者/遊民的現況資訊。政府目前採取了那些做法？ |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、最新統計，目前政府列冊有案的街友計有 3,374 人(男 3,012，女 362)。政府提供的照顧措施計有協助返家、關懷服務、年節活動、轉介福利服務、轉介就業服務或職業訓練、協助醫療以及收容等。
- 二、各縣市政府對於轄內之遊民皆會列冊管理並提供相關服務，未及列冊之遊民主要係渠棲宿地點不固定、無法得知身分或無意願接受服務等。另為鼓勵地方政府辦理遊民輔導業務，本部編列相關預算補助地方政府及民間團體辦理遊民輔導服務，提供遊民基本生活維護，諸如供應熱食、沐浴、禦寒、理髮、乾淨衣物、睡袋、衛生保健等措施，並補助年節應景活動、低溫時期加強關懷計畫等。

### 英文回應(Times New Roman，12 號字，單行間距)

1.
  - (1) According the nearest government statistics ,there are about 3,374 homeless people (3,012 of male, 362 of female) who have been registered for service in Taiwan.
  - (2) The government provides supports and assistances to help these persons to return home, caring service, providing shelters, and festival activities. The social work system also refers some homeless people to go for a job through the labor administration system.
2.
  - (1) Both the county and city governments provide various services for those homeless people who have registered in the system. Some of them did not get registered may caused by no fixed places to stay; unknown identification; or have no intention to register.

- (2) In order to encourage the local governments to provide counseling services, the Ministry of Interior grants the funds for them to provide the services and organize the events listed below:
- A. Providing the minimum substance for basic life support: supplying of hot food, showers, keeping warm, barbering, clean clothing, sleeping bags, health care ...etc,
  - B. Subsiding funds to organize events like New Year Festival, seminars for related topics, increase visiting frequency and caring program during cold seasons.

|               |     |                                                                                                                                                                                                                          |                                                                          |
|---------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| 經社文<br>第 11 條 | 36. | Please provide further details, particularly as regards forced evictions (Report, para. 217). Does the State Party provide alternative housing for those forcibly evicted, in line with CESCR General Comments 4 and 7)? | 請提供更詳細的資料，特別是與迫遷（國家報告第 217 段）有關的資訊。締約國是否依據經社文委員會第 4、7 號一般性意見，提供被迫遷者其他住處？ |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、政府於決定徵收計畫之前，應舉行公聽會，確實瞭解地主意見及踐行溝通程序。故「土地徵收條例」規定徵收前必須就徵收計畫之社會因素、經濟因素、文化及生態因素及永續發展因素等個別情形，評估其興辦事業之公益性。
- 二、至有關因徵收或開闢公共設施用地致有迫遷之情形時，其補償與安置計畫由徵收或開闢公共設施用地之主管機關依安置計畫得給予土地改良物之補償、租金補貼或提供安置住宅等方式予以妥善處理。
- 三、我國辦理都市更新係為提供人民享受其本人及家屬所需之適當生活程度，滿足其不斷改善生活環境之需求，符合經社文第 11 條規定。依都市更新條例規定程序辦理重建者，原土地所有權人按更新前權利價值比例，扣除實施費用後，分回更新後房地，並非強制徵收民間土地及強迫遷移原住戶。
- 四、都市更新實施期間，因需拆除或遷移建築物，致原住戶無法繼續居住，而須另覓場所居住者，由實施者提供安置期間住宅租金補貼，供原住戶自行搬遷至適當地點安置所需，不致影響其居住生活。
- 五、莫拉克颱風災後，為有效率的協助災民重建家園，首創公私協力造屋的重建方式—永久屋政策，即政府與非政府組織以協力造屋

方式推動辦理，由政府勘選、提供安全的土地並完成土地變更行政作業與公共設施興建，交由非政府組織協助興建房屋，目的在於提供受災戶安全的永久屋。依據莫拉克颱風災後重建特別條例第 20 條規定，上開永久屋安置係建立在經與原住居者諮詢取得共識之前提下，始協助災民由原居住地遷移至安全的居住環境，並非迫遷。在此方式下，截至 101 年 12 月，總共完成 39 處、3441 間永久屋。

### 英文回應(Times New Roman , 12 號字 , 單行間距)

1. Before submitting expropriation plan, the applicant(s) should hold a public hearing to hear the opinions of affected landowners and interested parties. And In accordance with the “Land Expropriation Act”, the applicant(s) should evaluate the public interest purpose ; necessity of such undertaking ; carry out overall evaluation ; and analysis of the sustainable development factors from social, economic, cultural, ecological areas, and so on.
2. When the tenants were forced to resettle due to expropriation or public facilities construction, the compensation for the resettlements will be paid by the project implementers based on the value of the facilities, crops on that land.
3. Handling of urban renewal is to provide people with adequate standard of living for themselves and their families, and to satisfy the demand of constantly improving the environment. In line with the provisions of Article 11 of UNCESCR .In accordance with the Urban Renewal Act , the new proportion after the reconstruction will be based on original proportion before; the renewed land will be given to the owner after the implementation fees are paid. It was not done by forcing relocation of the original households.
4. During the implantation of the urban renewal, if the tenants can't stay in the original place and have to find a place somewhere else due to the removal or demolition of the building, the rents and transportations fees for the temporal resettlement will be subsidized by the implementers. By doing this way, the tenants can process the relocation themselves without the their lives being disturbed.
5. After the disaster of Typhoon Morakot, in order to help victims rebuilding their home efficiently, government made a policy of Relocation to Permanent Housing, which was cooperated by a multi-sector group made up of the government, non-profit organizations, and associated volunteer groups. While the government offered, rezoned the new lands; constructed infrastructure and basic public facilities, NPOs were

- responsible for the construction of permanent housing.
6. In accordance to "Special Act for the rehabilitation for Typhoon Morakot Disaster" article 20, after gaining the prior agreement for the resettlement and consolations and with the residents, the local governments could start relocating the residents. The program was not done by force but co-operation between the residents and the government. 39 sites which consisted of 3,441 permanent houses were completed by end of December, 2012.

|               |     |                                                                                                                                                                                                                                                                                                  |                                                                                |
|---------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| 經社文<br>第 12 條 | 37. | What measures is the Government taking to address the high pregnancy and abortion rate amongst female adolescents, and how is teenagers' sexual health education effectively guaranteed? Are there training courses on sexual health issues for health care personnel? (Report, paras. 237-239). | 政府採取哪些措施，來解決青少女高懷孕與墮胎率問題？如何有效確保青少年接受性教育？是否提供醫療人員性健康議題方面之訓練課程？(國家報告第 237-239 段) |
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### 中文回應(標楷體，12 號字，單行間距)

一、學校依規定應辦理健康促進及建立健康生活行為等活動，包括性教育。並應實施性別平等教育暨性教育課程或活動，培養學生建立健康安全之性態度與性行為，學習避免非預期懷孕之知能。且各級主管教育行政機關及學校於相關教育活動或研習應納入學生懷孕事件預防，處理及加強專業知能等相關議題之宣導訓練，並提醒學校預防及處理學生懷孕事件，應秉持多元、包容之精神，積極維護學生基本人權，保障學生受教權。處理過程中應嚴守專業倫理，尊重隱私，採取必要之保密措施；同時應統整社會資源與經費，以維護懷孕或育有子女學生之權益，提供最大協助。為有效推展學校性教育，教育部與衛生署從 2004 年開始推展「健康促進學校」學校衛生工作新模式，將「性教育」納入健康促進學校推動的健康議題之一，採取「全人發展」的性教育理念，以增進學生「性健康促進」為目標，教育部並於 2011 年委託專業團隊編輯我國學校性教育指引，作為學校性教育補充教材，期能增進學校據以落實學校性教育，也建置性教育教學資源網，定期將教學資源訊息提供實際授課健康教育教師教學參考，以培養學生性教育生活技能，讓國高中學生學習尊重個人身體自主權、加強兩性情感教育，面對婚前性行為之抉擇及可能遭遇之法律責任等，以培養正確性教育知能與行為。為督導學校落實性教育及健康教育課程，我國訂定國民中學藝能及活動課程教學訪視實施計畫，並辦理學校行政人員、國高中健康教育教師專業知能研習，且持續辦理大專校院學生性教育宣導隊，至高中以下學校進行宣導。

- 二、輔導地方政府並結合民間團體辦理性教育、兩性關係諮詢及未婚懷孕處遇 宣導活動、研討會，引導兒童少年建立正確性知識，另提供多元的服務如下：
- (一) 透過「性福e學園（「秘密花園」）-青少年網站」，供青少年性健康資訊。
  - (二) 「青少年性健康促進服務推展計畫」，以青少年熟習的 MSN 為對話及諮詢平台，結合在地社區學校，進而轉介有需要的青少年進入個別心理諮商或醫療院所接受服務。
  - (三) 整合中央與地方教育、衛生與社政等機關，建置單一窗口，對兒童少年及其重要他人之問題及需求，透過諮詢、聯繫、資源轉介，供未成年未婚懷孕少女適時及包裹式協助，建立未成年未婚懷孕少女處遇服務資源網絡。
  - (四) 辦理「青少年親善醫師／門診（Teens' 幸福9號）計畫」，結合醫療院所提供的青少年各種避孕方法及諮詢，協助其與家長溝通共同解決不預期懷孕等問題，並培訓 149 名生育保健諮詢人員（2012）。
  - (五) 補助民間團體於開辦「全國未成年未婚懷孕諮詢專線」及「未成年未婚懷孕求助網站」，提供遭遇困境未成年未婚懷孕少女求助之近便性、即時性諮詢管道，整合資源轉介地方政府予以安置及收出養等相關協助及服務。
- 三、補助相關單位辦理未成年懷孕少女個案人力及青少年支持系統方案，並補助專業民間團體辦理「兩性關係諮詢及未成年未婚懷孕處遇服務」，包括訪視輔導、電話諮詢、心理輔導及治療、個案追蹤訪視輔導、獨立生活方案、方案評估督導及研討會等項目，以建構完善的未成年未婚懷孕支持系統。並輔導地方政府設置婦嬰安置教養機構，安置無法獲得原生家庭協助之未成年懷孕少女，並積極輔導少年安置教養機構協助安置，落實未成年未婚懷孕處遇服務，目前婦嬰安置教養機構有 4 所。
- 四、補助中華民國護理師護士公會全國聯合會及台灣社區醫院協會辦理「基層護理人員繼續教育建構網絡計畫」，其中性別議題課程共計辦理 59 場次，強化護理人員提供具有性別觀點護理照護之能力。

### **英文回應(Times New Roman , 12 號字 , 單行間距)**

1. Schools shall host activities to promote health and help develop health lifestyles, including sexual health education, and provide courses and activities on gender equity education and sexual health education to help students form accurate knowledge on sex and attitude toward safe sex and birth control. Also, teenage pregnancy prevention, management, and treatment shall be integrated in relevant activities or events held by educational administrations and schools at all levels. Schools should take an active role in preventing and coping with student pregnancy and protecting students' basic human rights and rights to education from three aspects: education, guidance, and assistance. When coping with incidents of teenage pregnancy, schools shall stick to professional ethics, respect privacy, and take necessary measures to help out, keep confidentiality and ensure the rights of pregnant students or students with children. To promote sexual health education in

schools, the Ministry of Education (MOE) and the Department of Health (DOH) launched a new work mode “health promotion school”, integrating sexual health education into one of the goals of the schools, based on the idea of whole person development. The MOE commissioned specialized groups to prepare the nation’s sexual health education guidelines as the supplementary material for sexual health education in hopes of embrace partners into school education and reinforce sexual health education. In addition, a learning resource network was established to provide health education teachers with access to teaching resources in order to help students cultivate correct concepts, respect for the autonomy of others, cope with personal relationship, deciding on premarital sexuality, and possible legal consequences. To supervise sexual health and wellness education in schools, an inspection visit plan was organized to supervise arts education, activity courses, sexual health education and health and wellness education. Training programs were planned for school administrative personnel and teachers of health and wellness education, and promotion teams comprising college students were formed to visit 28 senior high schools and schools at lower levels to promote sexual health education.

2. To assist and guide local governments and private organizations to hold activities and seminars for advocacy of sex education, gender relations consultancy, and treatment of unmarried pregnant women, so that children and adolescents can be guided to establish correct sex knowledge, and various services are as follows:
  - (1) The "sex e-Learning (" The Secret Garden ") - Youth Portal" provides adolescent sexual health information.
  - (2) "Adolescent sexual health service promotion plan," utilized the familiar MSN as a platform to converse and consult with young people. The plan also integrated with local community school to transfer the needed young people to individual psychological counseling or medical institutes to receive treatments.
  - (3) By integrating the education, health and social affairs agencies of the central and local governments, we have set up the one-stop service to address the needs and problems of children, adolescents and their significant others. Through consultation, contact, and resource referrals, we form a service resource network to provide the unmarried pregnant girls with an assistance package in a timely manner.
  - (4) "The adolescent-friendly physician / outpatient (Teens' happiness Number 9) Plan" was implemented, which joined medical institution to provide various contraceptive methods and consulting services to the young people. Thereby assisting the teenagers to communicate with their parents and jointly solve problems such as unexpected pregnancy, and 149 reproductive health consultants were trained in 2012.
  - (5) Subsidized by government, private organizations set up the national advice hotline and the help website to the unwed pregnant adolescents. In addition to offering them handy and instant consultancy and help, the hotlines and websites also help integrate resources and refer those cases to local governments for placement, adoption, assistance and services.
3. We have subsidized the relevant units to handle the cases of unwed pregnant girls and the youth support system programs, and professional non-governmental organizations were subsidized for offering gender relations consultancy and treatment services to the unwed pregnant girls. Local governments are guided and assisted to set up the placement and correctional institutions for unmarried mothers and their

infants and to offer the unwed pregnant girls the necessary treatment services, so that they can settle down if they cannot receive assistance from their own native families. Four maternal and infant correctional institutions have so far been set up.

4. The National Union of Nurses' Association, R.O.C. and Taiwan Community Hospital Association were subsidized to conduct continue education which provided includes 59 sessions of sexual health related issues in order to strengthen the competency of nursing care.

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| 經社文<br>第 12 條 | 38. | Please provide information on mental health problems generally, beyond prevention and control of occupational accidents (Report,paras.252-253), explaining the ratio of in-patients and out-patients, and availability of ambulatory care, and on affordability of such care ( cf. CESCR General Comment 14). | 請提供職業災害的預防與控制之外、有關心理健康問題的綜合性資訊（國家報告第 252-253 段），解釋門診病人與住院病人的比值，以及門診服務的可取得性與此種服務的可負擔性（請參照經社文委員會第 14 號一般性意見）。 |
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### 中文回應(標楷體，12 號字，單行間距)

台灣 2011 年慢性精神病之資訊、門診病人與住院病人資料詳如附件，其門診病人數與住院病人數之比值為

$$\frac{\text{門診病人}}{\text{住院病人}} = 3.74$$

若以申報件數為基準，則

$$\frac{\text{門診申報件數}}{\text{住院申報件數}} = 8.82$$

而急性精神疾病部分，因須從全民健康保險資料庫進行資料篩選，而全民健康保險資料庫為保護個人資料經過嚴格加密，因此急性精神疾病部分無法於短時間內提出資訊供參。另精神衛生法並無違反人權歧視條文，以法律平等意涵之原則修訂。目前我國全國各縣市均設有精神科門診及住院服務。全國共有 381 家醫療機構可提供精神醫療之門診服務，129 家機構可提供精神醫療住院服務。

### 英文回應(Times New Roman，12 號字，單行間距)

The annex 3 showed the information on chronic psychiatric disorder in Taiwan during 2011, and the ratio of in-patients and out-patients according to the actual number of patients is

$$\frac{\text{outpatient}}{\text{inpatient}} = 3.74$$

If the ratio is calculated by cases, then the ratio becomes

$$\frac{\text{outpatient}}{\text{inpatient}} = 8.82$$

For the acute psychiatric disorder, we have to filter the data from national health insurance database which has been strictly encrypted to protect personal information. Therefore, gathering of the information on acute psychiatric disorder is currently experiencing difficulties. Besides, Mental Health Act does not violate the provisions of human rights discrimination, amending by the implications of the legal equality. At the present time, there are psychiatric section in-patient and outpatient services in each municipal city, each county/city in Taiwan. There are 381 medical institutions can provide outpatient services and 129 institutions can provide hospitalizations.

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| 經社文<br>第 12 條 | 39. | Please provide further information on the availability and accessibility of health care for persons with disabilities, and what steps is the State Party taking to improve the health care situation of these individuals ( report, para. 233)? | 請提供身心障礙者使用健康服務之可取得性與可近性之資料，並說明締約國採取了那些做法來改善身心障礙者之健康服務使用情況(國家報告第 233 段)。 |
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### 中文回應(標楷體，12 號字，單行間距)

依據我國身心障礙者權益保障法第 24 條第 2 項規定所發布之身心障礙者特別門診管理辦法，全國 22 縣市衛生局業已指定 79 家醫院，為身心障礙者提供牙科醫療及早期療育之特別門診服務，且政府辦理復康巴士服務，協助行動不便身心障礙者就醫交通接送，取得公平無障礙的就醫權益。而我國推動長照計畫之具體成效，服務量占老年失能人口比率，已提高到 101 年達 27%，增加 12 倍。另為了普及式長照服務對象，作為長照體系發展普及式網絡的基礎，已完成長照十年計畫 101 年至 104 年中程計畫，將依民眾之需求，逐步擴大長照服務對象，以較弱勢者優先納入，為減少長期照護的城鄉差距，積極推動山地離島偏遠地區在地化長照服務體系發展，培

訓在地專業人力，設置在地且社區化長照服務據點。至 101 年已建置 13 個據點，預計 103 年底將增至 40 個據點。

### 英文回應(Times New Roman，12 號字，單行間距)

Hospital of Outpatient management approach, based on Article 24, section 2, of the People with Disabilities Rights Protection Act, our country's 22 local Health Bureaus have designated 79 hospitals to provide dental care and early childhood intervention outpatient services, particularly for people with disabilities. In order to make sure the people with disabilities have their fair accessibility for hospitality, by operating Rehabilitation Bus services, the government provides medical transportations for the people of disabilities to the hospital. Long term care project in Taiwan has achieved the concrete outcomes. The rate of coverage rate among the disable elderly population has been increased for twelve times to 27% in 2012. To provide the long term care service to more people and develop the foundation of service network for the long term care system, the middle term project from 2012 to 2015 of the Ten-year Plan for Long-term Care has been finished. The long term care service will open to more people based on the needs, and the minority will be considered as the priority. To eliminate the gap of long term care service between rural and urban areas, Department of Health is actively promoting the development of local long term care system in the remote areas, training the local professionals, and building the local community long term care service bases. Until 2012,13 long term care service bases have been built and it is estimated that there will be 40 bases in the end of 2014.

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| 經社文<br>第 12 條 | 40. | According to information received, only a reduced rate of water is available for the agricultural sector. Please explain the fallow land policy begun as early as the 1973 Agricultural Development Act, and what steps is the Government taking to secure sufficient access to water? | 根據審查委員會收到的資訊，農業用水的比例有所下降。請說明 1973 年農業發展條例實施後之休耕土地政策，以及政府採取了那些做法來確保(農業)有充分用水?<br>* 括號內文字為譯者所加 |
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### 中文回應(標楷體，12 號字，單行間距)

一、

(一) 我國為確保農業永續發展，因應農業國際化及自由化，特於 1973 年制定農業發展條例。為進一步促進農地合理利用，調整農業產業結構，穩定農業產銷，增進農民所得及福利，於 1983~1995 年實施「稻米生產及稻田轉作及後續計畫」鼓勵稻田轉作其他作物或休耕種植綠肥。之後為因應加入世界貿易組織(WTO)，於 1997~2008 年推動「水旱田利用調整及其後續計畫」，

2008 年開始推動「稻田多元化利用方案草案」，利用相關計畫之推動，提供休耕、翻耕、種植綠肥之直接給付及輪作之獎勵，其目的除了減少稻米之生產量之外，並有維護稻田地力、保持農業生態及鼓勵不致形成產銷失衡之農產品生產。

(二) 在確保農業用水方面，我國乃長期透過加強灌溉用水有效利用、健全灌溉水質污染防治與強化農田水利多元功能等面向努力，重要措施包括：

1. 賦續投資農田水利渠道系統與蓄水設施，新設取供水設施並就既有設施予以檢討改善，以穩定水量之供應。
2. 增設及強化農業用水專用調蓄設施，蓄存豐水期水量、回歸水及夜間灌溉餘水等水資源。
3. 合糧食生產政策，擴大推廣旱作糧食作物並應用農業節水技術，提升農地用水效率與作物品質。
4. 研發現代化灌溉管理系統，建構現代化自動測報傳訊及配水灌溉系統。
5. 建立灌溉水質污染調查及改善作業機制，提高不良水質監控改善執行績效，並研析生活污水處理再利用之可行性，以增加可灌溉水量。
6. 於豐水期，獎勵農民利用水田及休耕農地推動蓄水調洪及補注地下水之措施，以提升環境生態層面之貢獻。

二、另查推動休耕係屬階段性農糧產業調整措施，包含下列階段：

- (一) 稻米生產及稻田轉作計畫(民國 73 年至 86 年)：民國 73 年公糧庫存量達 100 萬公噸，為解決資金積壓、倉容不足及庫存糧食處理的困難，輔導稻田轉作休耕種植綠肥，以調降稻米產量。
- (二) 「水旱田利用調整計畫」及後續計畫(民國 86 年至 99 年)：為因應加入世界貿易組織 (WTO) 開放稻米進口及削減農業境內支持(AMS)的規範，自 86 年起實施「水旱田利用調整計畫」及其後續計畫，對於水稻、雜糧及甘蔗等政府保價收購作物加強調整其產業結構，並逐年調降補貼，輔導農民辦理符合 WTO 規範之綠色措施，以維護農業多功能性並適度維護農民所得。在政府、農民及業者配合調整下，業達維持國內稻米供需平衡、穩定市場糧價及削減農業境內支持之政策目標。
- (三) 鑑於國際糧食價格高漲，為穩定國內糧食供應，自 100 年起辦理「稻田多元化利用計畫」，獎勵契作飼料玉米及牧草、青割玉米等產銷無虞作物，以活化農地利用，充裕國內糧食供應；及實施「小地主大佃農」政策，調整農村人力與提升農業經營結構，推動連續休耕農地租賃措施，鼓勵農民出租及專業農民承租連續休耕之農地，獎勵種植糧食、飼料、飼料或有機等具進口替代性之產銷無虞作物，以活化休耕農地利用，提高整體農業生產效益與競爭力。

三、又我國農業灌溉用水量自 1979 年呈現高峰後已逐漸下降，不再成長，主要原因包括政府加強輔導農民採現代化省水噴灌滴灌設施、

農地休耕及推廣旱作減少用水需求等。惟農業用水量雖然減少，但農業用水仍依我國水利法及水權制度而獲得優先保障。

四、水權之核給（包括農業用水），主管機關應依水利法及其施行細則、水權登記審查作業要點等相關規定辦理。其中農業（灌溉）用水事業所需水量，係依各種作物類別之種植面積、灌溉率、用水時間以及輸水損失率計算之，以符合水利法第 17 條規定之事業所需。此外，主管機關審核水權之引用水量時，並應依水權登記審查作業要點之規定，參酌引水地點之各月水文狀況、其附近已核准水權水量、環保基流量及事業所需用水量覈實核給。

## 英文回應(Times New Roman, 12 號字，單行間距)

1.
  - (1) The Agricultural Development Statue of 1973 was formulated to ensure sustainability of agricultural development in Taiwan under liberalization of global trading in agricultural products. In order to protect farmers' income and welfare under the pressure of international market competition, from 1983 to 1995, the Ministry of Agriculture subsidized farmers to grow other produces or fallowing their land periodically. Such government subsidies not only reduced surplus production of rice, but also generated other benefits such as improved fertility of agricultural land and ecological services provided by fallow farm lands.
  - (2) Taiwan has long adopted several strategies to ensure agricultural water supply, such as improving irrigation water use efficiency, controlling and surveying of irrigation water pollution, and developing multi-purpose irrigation infrastructures. The main measures have included:
    - A. Continuing investment in irrigation infrastructures such as storage facilities and irrigation canals, in order to stabilize water supply quantity.
    - B. Constructing additional storage facilities with dedicated purpose of storing surplus agricultural water for later use, such as storage of raining season's surplus water for use during dry season, or of night time's surplus water for use during the day.
    - C. Promoting the production of diverse produces other than paddy rice and agricultural water conservation, in order to increase agricultural use efficiency and the quality of produces.

- D. Modernizing irrigation management through research and development of automatic flow monitoring and regulating equipment for field applications.
  - E. Establishing mechanisms for irrigation water pollution monitoring and control, as well as assessing the feasibility of treating and reusing municipal wastewater, in order to increase quantity of available agricultural water supply.
  - F. Encouraging farmers to adopt practices that could increase the capacities of paddy fields or fallow farmland in flood regulation and groundwater recharge, in order to increase the environmental services of the agricultural production systems.
2. Promoting paddy fallow is the sequential policy that reform the production structure of rice :
- (1) In 1984 to 1997 : In order to solve rice storage problem , Taiwan started the Rice Product and Paddy Rotation Plan in 1984 to 1997.
  - (2) In 1997 to 2010 : The Paddy Land Utilization Adjustment Program and sequential plans were launched in 1977 following Taiwan's accession to WTO. The purpose was to reform the production structure of rice, upland crops and sugarcane which are crops purchased at guaranteed prices by the government. Measures of crop rotation and fallow have been advocated to improve soil fertility and to avoid overproduce. The land is well maintained being ready for producing so that temperate food supply can be assured in case of need.
  - (3) In 2011 to 2012 : Paddy Land Utilization Adjustment in order to secure adequate food supply and maintain proper food prices, the Agency started paddy land utilization Adjustment and the Small Landlord and Large Tenant Policy in 2009. This project encourages land owners to rent their fallow lands to "large tenants" for the production of rice, forage corn, forage, silage corn or crops of organic farming. The major advantage of the policy is to expand the farm scale and improve the management efficiency.
3. The agricultural water consumption in Taiwan gradually decreased since 1979 due to the development of modern sprinkler/drip irrigation facilities, the promotion of agricultural land set-aside policy, dry farming policy and the water conservation policy. The priority of agricultural water still dominates according to the Water Conservancy Law and Water Rights even in the reduction of agricultural water consumption annually.
4. Under water rights assessment (including agricultural water consumptions), authorities should comply with the Water Act and enforcement rules. In compliance to Clause 17 of the Act, water allowance for agricultural (irrigation) purposes should be assessed based on plantation

areas, irrigation rate, water usage time, rate of conveyance loss and etc. In addition, the assessment should also adhere to water rights regulations: (i) Evaluations of hydrologic conditions of the irrigation regions. (ii) Water usage from surrounding approved consumptions (iii) Environmental base flow. (iv) Water consumptions required by economical activities.

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| 經社文<br>第 12 條 | 41. | Please explain further the effects of monitoring of pollution amelioration on agricultural land (Report, para. 211). | 請進一步解釋監測農業用地污染控制的成效（國家報告<br>第 211 段） |
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### **中文回應(標楷體，12 號字，單行間距)**

- 一、農地土壤及農作物重金屬等污染監測分別由環保機關及農業機關依分工權責辦理。為積極維護農產品安全品質，確保國民健康，農委會每年成立「農作物污染監測管制及損害查處」計畫，針對高污染風險農地所種植食用作物，抽樣監測重金屬含量，俾防範未符合食品衛生標準之農產品流入市面，並藉以發掘遭受重金屬污染之農地，農委會每年約監測 460 筆高污染風險農地之上食用作物。
- 二、田間食用作物經驗出重金屬含量超出食品衛生標準（限量標準）者，均由直轄市或縣（市）政府及鄉鎮市區公所依「農作物重金屬污染監測管制作業程序（SOP）」，立即管制採收及剷除銷燬，補償農民損失，防範受污染農作物流入市面，並通知環保署追蹤檢測農地土壤及水質狀況，追查污染源，俾防止農地持續遭受污染，並由縣市政府輔導農民自次期作起休耕，以降低農產品受重金屬污染之風險。
- 三、依農委會統計資料顯示，全國農地耕地面積約 80 萬公頃，環保機關於 71 年起以網格法調查全國農地污染情形，於 90 年調查結果有 319 公頃具高污染潛勢，並於 91 年進行查證，計有 1,183 筆約 277 公頃污染農地（已完成改善整治 1,108 筆 261 公頃）。
- 四、環保署於 99 年起依據農委會農業試驗所歷史土壤調查資料及農業灌溉方式，建立「綜合指標評價系統」以灌溉水利小組為評估單元，針對全國 17 個農田水利會灌區 3,419 個水利灌溉小組 58 萬公頃農地作污染潛勢評估，評估結果：優良等級約 41 萬公頃、安全等級約 7.3 萬公頃、警戒等級約 4.9 萬公頃、污染等級約 0.7 萬公頃、危害等級約 0.8 萬公頃。
- 五、截至 101 年 12 月 31 日，全國污染農地共計有 2,498 筆約 516 公頃，已完成整治改善 1774 筆約 407 公頃，以面積比例整治改善率為 79%，餘刻正進行整治改善中。未來本署將持續加強協助地方政府辦理污染農地預防及調查工作，並儘速完成污染改善工作，期使恢復農地農用之目標，並保障民眾食用的安全。

## 英文回應(Times New Roman , 12 號字 , 單行間距)

1. The heavy metal pollution of cultivation soils and crops are supervised by Environmental Protection Administration (EPA) and Council of Agriculture (COA), State House. In order to maintain the safety and quality of agricultural produces, as well as protecting people's health, COA implements the project of survey and arbitrate the dispute about contamination on crops every year. Furthermore, for avoiding the distribution of agricultural products which were not qualified to the standard of food's safety, and finding heavy metal polluted cultivation, COA monitors crops from the potential heavy metal polluted land. The numbers of random inspection of the food crops are about 460 every year.
2. When the food crops have heavy metal contamination, which are not qualified for food's safety standard, the cities and counties of governing will destroy the polluted crops and compensate farmers for their loss, and avoid the distribution of polluted crops based on standard operating procedure (SOP). At the same time, COA will also inform EPA to follow and monitor the contamination as well as the quality of water for avoiding the increasingly pollution. Moreover, the cities and counties of governing will help farmers leave the land fallow for decreasing the risk of heavy metal pollution.
3. Based on the data provided by the Council of Agriculture, there is a total of 800,000 hectares of farmland nationwide. A systematic grid-sampling method was used for farmland investigation nationwide by the environmental protection agencies since 1982. The 2001 investigation results indicated that a total of 319 hectares showing high pollution potential. In 2002, it was confirmed that a total of 277 hectares (1,183 parcels) of farmland was contaminated, 261 hectares (1,108 parcels) of which have been remediated.
4. Environmental Protection Administration (EPA) has established a "comprehensive indicator evaluation system" based on the historical soil data and irrigation methods provided by Taiwan Agricultural Research Institute, Council of Agriculture. EPA has evaluated the pollution potential for 17 Irrigation Areas (including 3419 work stations, approximately 580,000 hectares) nationwide. The evaluation results were in 5 categories, including 410,000 hectares in category "Good", 73,000 hectares in category "Moderate", 49,000 hectares in category "Alert", 7,000 hectares in category "Contaminated", and 8,000 hectares in category "Hazardous".
5. EPA investigated 12 "Contaminated" and "Hazardous" work stations (approximately 1,381 hectares) in 2010. The results showed that a total of 778 parcels (approximately 122 hectares) were contaminated and currently the remediation is in progress. As of December 31, 2012, a total of 2,498 parcels (approximately 516 hectares) of farmlands were contaminated. A total of 1,774 parcels (approximately 407 hectares) had been remediated, which showed a site closure rate of about 79%.

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| 經社文<br>第 12 條 | 42. | Please explain the ruling of an administrative court on the cancellation of an environmental impact assessment of the | 請解釋行政法院撤銷中科三期環評審查之裁定。為何未<br>中止承攬單位之施工?(國家報告第 212 段), 鑑於農業灌 |
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|  | stage III Project of the Central Taiwan Science Park. Why were the construction operations of the contractors not stopped ?( Report, para. 212), considering the health risks of contaminated agricultural irrigation water, as evidenced in the high dioxin level in the blood of Houli District residents, as compared with the rest of the country. | 溉用水遭污染(造成)之健康風險,如后里地區居民較全國其他地區民眾血液中有較高濃度的戴奧辛所顯示。<br>* 括號內文字為譯者所加 |
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### 中文回應(標楷體，12 號字，單行間距)

一、99 年 1 月 21 日中科三期七星基地環評審查結論遭最高行政法院判決（99 年度判字第 30 號）撤銷後，環評審查結論與開發許可分屬二個行政處分，環評審查結論失其效力，開發許可並非隨之立即失其效力：

(一) 中科三期七星農場案國科會已依法走完環境影響評估法規定的環評審查程序，因此園區內 2 家廠商已是依法申請、取得相關許可設置的合法廠商。事後因行政訴訟被撤銷環評審查結論後，須依行政程序法規定之行政救濟途徑處理，而非由環境影響評估法處理。

(二) 本案應由許可核定機關（國科會、中科管理局、營建署等單位）依行政程序法規定，於 2 年內依職權衡量對廠商信賴利益保護與欲維護之社會公益後，為全部或一部之撤銷、另定失其效力之日期，或不撤銷。依據目前開發單位已完成之健康風險評估尚未審查完竣之結果顯示，本案健康影響風險或社會公益之影響在可接受之範圍內，故國科會衡酌本案涉及國家經濟發展、廠商信賴保護及促進就業等多方公益層面，及考量本案當事人為環保署、本會及中科管理局，法院裁定效力依法應不及於第三人（廠商），爰依據行政程序法第 117 條但書規定，不撤銷相關許可，當事人之公共工程配合法院裁定停工，而園區廠商不停工、不停產。

(三) 中科三期開發許可無效，應停止開發乙案，續於 100 年 100 年 2 月 24 日經臺北高等行政法院判決國科會及環保署勝訴（99 年訴字 1179 號），故國科會於 95 年所核發之開發許可，並非當然自始無效之行政處分，此法院判例亦闡明基於法律安定性之要求及保護行政處分相對人信賴利益，自不宜認定為無效之行政處分。相關行政機關之處理措施於法有據，並未逾越法院判決意旨。

(四) 為了對國民健康把關，本案原審查結論已要求「開發單位於營運前應提健康風險評估，…如評估結果對居民健康有長期不利

影響，開發單位應承諾無條件撤銷本開發案」，實質上已確保居民健康不致被本開發案影響。依據中部科學工業園區管理局前已委託台灣大學職業醫學與工業衛生研究院詹長權及吳焜裕博士之團隊，進行中科七星農場健康風險評估，其致癌風險為 $2.13 \times 10^{-7}$ ，依美國環保署標準，屬於可接受之風險。環保署已經請開發單位補充資料，如果後續的審查結果顯示該研究團隊所作的風險評估有誤，且確認對國民健康有長期不利影響，環保署將請國科會依行政程序法撤銷中科管理局的開發許可。

- 二、中科三期之放流水從未排放至農業灌溉渠道，且各項污染物濃度均符合我國環保法規標準；中科三期係於 2007 年開始營運，后里地區居民血液中戴奧辛累積濃度較高，已為當時既存之現象，況戴奧辛非中科三期排放之特徵物質，故所提農業灌溉用水污染或血液中戴奧辛累積之現象，與中科三期無關。
- 三、有關「后里地區居民較全國其他地區民眾血液中有較高濃度的戴奧辛」部分，環保署為加強全國各地區戴奧辛污染排放管制，有效降低戴奧辛排放量及降低民眾承受風險，相關作為說明如下：
- (一)為加強戴奧辛排放管制，已發布有「廢棄物焚化爐戴奧辛管制 及排放標準」、「中小型廢棄物焚化爐戴奧辛管制及排放標準」、「煉鋼業電弧爐戴奧辛管制及排放標準」、「鋼鐵業燒結工場戴奧辛管制及排放標準」、「鋼鐵業集塵灰高溫冶煉設施戴奧辛管制及排放標準」及「固定污染源戴奧辛排放標準」等 6 項戴奧辛管制法規，已將全國所有固定污染源戴奧辛之排放納入管制。
- (二)另環保署為持續管制及掌握環境空氣之戴奧辛排放情形，自 91 年底執行國內戴奧辛排量調查與環境監測，經由各級環保機關持續執行各項管制措施，我國戴奧辛排放量呈逐年下降之趨勢，排放入大氣之戴奧辛總量由 91 年的 327 克大幅降至 100 年的 55.7 克，削減率 83%；依據環保署近年環境空氣戴奧辛監測結果，99~101 年監測濃度為 0.029~0.051 皮克/立方公尺，另曾於 99 年執行后里鄉公所附近之環境空氣戴奧辛監測，其平均濃度為 0.043 皮克/立方公尺，皆較 91~92 年監測平均濃度 0.089 皮克/立方公尺明顯降低，歷年所有監測值皆遠低於全世界僅有日本訂定之「環境戴奧辛空氣品質基準值」0.6 皮克/立方公尺，對民眾之健康危害風險大幅降低，有效保障民眾健康。
- 四、行政訴訟原本就是在解決人民與行政機關間的爭議，在權力分立的原則下，行政法院扮演的是法的監督角色，審查行政處分的合法性。最高行政法院 100 年度判字第 2263 號判決及臺北高等行政法院 99 年度訴字第 1179 號判決，係就當地居民以 95 年環評審查已經行政法院判決予以撤銷確定，基於此項環評所作成之國科會 95 年開發許可應屬無效為由，起訴請求確認 95 年開發許可無效；及依環評法第 23 條第 8 項、第 9 項公民訴訟條款，以其等已提出公民告知書，請求確認環保署應於 60 日內命中科局應停止開發行為等，所為判斷。判決係以環境影響評估法第 14 條第 1 項有關開發許可無效規定，既未包括完成環境影響評估審查後作成開發許可，嗣後該環境影響評估審查遭撤銷之情形，則本件原開發許可之效力即無該規定之適用，不以之為無效而應依有關「分

階段行政程序」及「接續行政處分」之行政法法理認定，回歸行政程序法之適用，國科會得自行依相關規定將之廢棄；復且，本件訴訟繫屬中，環保署重為環評審查作成 99 年環評審查，國科會並據以作成 99 年開發許可及廢止 95 年開發許可，則 95 年開發許可已遭廢止，自 99 年 9 月 6 日起即失其效力而不存在，不具確認行政處分無效訴訟之要件等節駁回確認 95 年開發許可無效部分之訴訟。另以環評法第 23 條第 8 項規定主管機關關於收受公民告知書後，如認開發單位確有違反環評法或相關命令情事，即應於 60 日內依法執行等事項，為法律明定之內容，不待確認；必主管機關認開發單位確有違反環評法或相關命令之情事，依法命開發單位為一定之行為或不行為，或依法處分後，始在其與開發單位間創設公法上權利義務關係，在此之前，並無公法上法律關係產生；開發單位是否有違反環評法或相關命令情事，則屬事實問題，並非法律關係。而事實尚有未明，且環保署是否負有法律所定之公法上義務，亦非法律關係本身，尚非得循行政訴訟請求確認之對象，因而予以駁回。行政法院上開判決旨在原告起訴之聲明範圍內，詳述本件確認訴訟難以成立之理由，尚無法於超逾原告訴之聲明及反乎原告所選擇之訴訟類型，妄為判斷。故是否尚有其他事由應中止承攬單位之施工，即非法院判決所得置喙。

### 英文回應(Times New Roman, 12 號字, 單行間距)

1. On January 21, 2010, the Supreme Administrative Court withdrew the of Chising Site, the Stage- III Project of the Central Taiwan Science Park (CTSP) (the Judgment of the precedent No.30, 2010).The conclusions of the review of the Environmental Impact Assessment (EIA) and development permit belonging to two administrative sanctions, the conclusions of the review of the EIA lose validity, development permit is not followed immediately shall become null and void:
  - (1) According to the EIA Act, National Science Council (NSC) has been lawfully completed the EIA review process In the case of the environmental impact statement of CTSP Phase- III (Houli Site-Chising Farm) Development Plan. Therefore, the two manufacturers in the park is legally with applied lawfully and obtained the relevant permission settings. After the revocation of the administrative proceedings to the conclusions of the review of the EIA, it shall be handled by the administrative channels for relief in the Administrative Procedure Act prescribes, rather than by the EIA Act.
  - (2) This case shall be measured the protection of reliance interest to the manufacturers and the public welfare maintaining for the whole or any part of the revocation, and the other setting to the date of losing the effectiveness, or not to revoke in accordance with the Administrative Procedure Act by the license approving agency (NSC, CTSP Administration and Planning Agency Ministry of the

Interior, etc.) in less than 2 years. According to the results which review has not been ended based on the health risk assessment which has been completed by development units, it shows that the affect of health risk or public welfare is in the acceptable range in this case. NSC considered the parties involved in this case are Environmental Protection Administration (EPA Taiwan), NSC and CTSP Administration, therefore, the effect of the ruling should not involve the third party (tenant) based on the public welfare aspects of national economic development, legitimate expectation to tenant and employment promotion according to the proviso of article 117 of Administrative Procedure Act. The approved licenses are exempted from the withdrawing. Although the litigant's public construction was suspended due to the ruling, the tenant shall continue its construction and production.

- (3) After that, however, on February 24, 2011, the Taipei High Administration Court judged the NSC and EPA Taiwan win the lawsuit (Judgment of the litigation No.1179, 2010) which is an accusation, claimed by environmental groups and a part of local residents, that Stage-III Project of CTSP development activity permission of NSC should be invalid and CTSP should suspended its development. Therefore the development permission issued by NSC was not an invalid administrative disciplinary action. This court judgment explained the importance of laws to protect the right of tenant's trust. Under this judgment, administrative branches of government did not obey the judge of the court.
- (4) For the checks of national health, the original conclusions of the review in this case has been asked to 「development units should Put forward the health risk assessment before the operation. ... if the results of the assessment have long-term adverse effects on the health of residents, the development units should commit to unconditional revocation of the development of this case」. In essence, it has been to ensure the health of the residents will not be affected by the development of this case. According to the health risk assessment in Chising Farm part which measured by the team of Dr. Chang-Chuan Chan and Dr. Kun-yu Wu in the Institute of Occupational Medicine and Industrial Hygiene, National Taiwan University which has been commissioned by CTSP Administration, the cancer risk is  $2.13 \times 10^{-7}$ . And according to the U.S. Environmental Protection Agency standards, it is acceptable risk. EPA Taiwan has asked the development units to replenish information, and if follow-up review revealed the health risk assessment error made by the research team and confirm the long-term adverse impact on the national health, EPA Taiwan will require NSC to revoke the development permit of CTSP Administration in accordance with the Administrative Procedure Act.

2. The effluent of the stage-III Project of CTSP was never discharged to agricultural irrigation ditch, and the concentration of water pollutants was complied with the effluent standards. The phenomenon of high dioxins accumulated level in the blood of Houli District residents has existed for many years before the stage-III Project of CTSP was operated since 2007; Besides, the dioxins are not the characteristic substances from this Science Park. Consequently, neither the case of contaminated agricultural irrigation water nor the phenomenon of high dioxins accumulated level in the blood of Houli District residents has relationship with the stage-III Project of CTSP.
3. About “the high dioxin level in the blood of Houli District residents, as compared with the rest of the country”, in order to strengthen the control of dioxin emissions and reduce risk, the main two implementations of the EPA Taiwan are as followed:
  - (1) To strengthen the control of the dioxin emissions, 6 regulations were promulgated to include all the stationary dioxins emission sources, which were “Waste Incinerator Air Pollutant Emissions Standards”, “Small and Medium-Sized Waste Incinerator Dioxin Control and Emission Standards”, “Steelmaking Industry Electric Arc Furnace Dioxin Control and Emission Standards”, “Steel Industry Sintering Plant Dioxin Control and Emission Standards”, “Electric Arc Furnace Flue Dust Treatment Dioxin Control and Emission Standards”, and “Dioxin Emission Standards for Stationary Pollution Sources”.
  - (2) EPA Taiwan implemented the investigation of domestic dioxin emissions and environmental monitoring since 2002. With the control strategies executed by environmental protection authorities at all levels, the total emission of dioxins has reduced from 327g in 2002 to 55.7g in 2011. The reduction rate is 83%. Taiwan yearly average of ambient dioxin concentration in 2010 to 2012 is about 0.029~0.051 pg I-TEQ/m<sup>3</sup> and 0.043 pg I-TEQ/m<sup>3</sup> nearby Houli District Office in 2010 which are significantly lower than the average concentration of 0.089 pg I-TEQ/m<sup>3</sup> in 2002 and 2003. The world’s only ambient dioxin air quality standard is set by Japan, which is 0.089 pg I-TEQ/m<sup>3</sup>. The ambient dioxin concentration in Taiwan is much lower than the standard set by Japan.
4. Administrative litigation is designed to resolve the dispute between the people and the executive agencies. In the principle of the separation of powers, the administrative court plays the supervisory role over the law, reviewing of the legality of the administrative actions. The judgment of the Supreme Administrative Court 2011 Pan-Zi No. 2263 and the judgment of the Taipei High Administrative Court 2010 Su-Zi No. 1179 were adjudicated in accordance with the petition to confirm the 2006 development permission, which was approved by the National Science Council based on the environmental evaluation that were revoked by administrative court, was invalid, and the civil notice issued to the Environmental Protection Administration to order the Central Taiwan Science Park to stop development activities in accordance with the Article 23, Paragraph 8 and 9 of the Environmental Impact Assessment Act. The content of the judgment is as follows: “The effect of the original development permission, which does not include the situation that the permission was granted after the environmental impact

assessment is done but revoked later, in this case does not apply to Article 14, Paragraph 1 of Environmental Impact Assessment Act, and this case shall apply to Administration Procedure Act in accordance with the jurisprudence of “multi-stage administrative procedure” and “continuing administrative disposition”, the National Science Council may abolish the permission actively in accordance with relevant regulations; when this case is still pending, the Environmental Protection Administration has complete 2010 environmental assessment review, which was adopted by the National Science Council to grant 2010 development permission while abolishing 2006 development permission; in other words, the 2006 development permission was invalid on September 6, 2012. The litigant for confirming the 2006 development permission to be invalid was revoked, and the reason is that the case does not possess the element of administrative disposition invalidation litigant. Article 23, Paragraph 8 of the Environmental Impact Assessment Act, stipulates that the competent authority shall follow the laws and act accordingly within 60 days after receiving civil notice and deeming the development unit indeed violates Environmental Impact Assessment Act or other regulations; rights and obligations between the competent authority and the development unit are not founded until the competent authority commanding the development unit to take certain actions or disposing in accordance with laws, and before that, legal relations between the competent authority and the development unit may not be created; whether or not the development unit violates Environmental Impact Assessment Act or other regulations belongs to questions of fact rather than legal relation. However, the fact is not yet revealed, and whether or not the Environmental Protection Administration contains the obligation of the public law is neither the legal relation nor the party to be confirmed with in the administrative procedure. This case, thus, is revoked accordingly.” The judgment from administrative court clarifies the reasons that this case may not be established within the scope of the proclamation from the plaintiff, and the administrative court may not receive the case by exceeding and proclamation from the plaintiff and the type of litigant chosen by the plaintiff. Therefore, courts may not decide whether or not there are other causes that shall prevent the development unit from continuing construction.

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| 經社文<br>第 12 條 | 43. | What measures is the Government taking to raise the rate of water pipeline connections in the eight counties and cities mentioned in the Report, para. 214? | 政府採取了那些措施，以提高國家報告第 214 段指出之八縣市自來水管接管率？ |
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### 中文回應(標楷體，12 號字，單行間距)

臺灣自來水股份有限公司所轄供水區之自來水普及率達 91%，相較於先進國家瑞典、奧地利、挪威、芬蘭、南韓的 88%、89%、90%、90%、93%毫不遜色。未達全國自來水平均接管普及率之縣市的供水區域中，其中因部分地區有離自來水系統不遠，但因居民無力負擔配水管費用而未納入；有因處偏遠離供水系統甚遠，而因高達上千億元的投資成本太高而無法納入供水系統。經濟部已修訂自來水法

第 61 條補助低收入戶居民之配水管費用，並於 101 年至 104 年編列經費補助予臺灣自來水股份有限公司以降低投資成本，可提高自來水管接管率約 0.25%。

### 英文回應(Times New Roman，12 號字，單行間距)

The water pipeline connection rate 91 % of the water supply zone administered by Taiwan Water Corporation is higher than advanced countries such as Sweden, Austria, Norway, Finland, South Korea. In the water supply zone, two reasons like people who lived some residences nearby the water supply system do not spent expense of distribution pipes and too high Investment cost above one hundred billion New Taiwan dollars budgeted by Taiwan Water Corporation cause parts of these eight counties to bring out the water supply system and reduced the water pipeline connection rate under the national average. Thus, in order to subsidize for people like low-income households who do not spent expense of distribution pipes, the Water Supply Act code 61 was revised by Ministry of Economic Affairs. Year 2012 to 2015, Ministry of Economic Affairs also subsidized to Taiwan Water Corporation and reduced its Investment cost. This will take to raise the rate of water pipeline connections about 0.25%.

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| 經社文<br>第 13 條 | 44. | Please provide comparative information regarding teachers' wages, benefits and working conditions, in the public/private education system, including the urban/rural, in all levels of education (cf. CESCR General Comment 13). | 請提供各級教育中，公/私立教育體系、以及城/鄉之教師之薪資、福利以及工作條件之比較(請參照經社文委員會第 13 號一般性意見)。 |
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### 中文回應(標楷體，12 號字，單行間距)

公私立學校教師之權利義務依教師法訂有一致性規定，公立學校教師之薪資係依全國軍公教員工待遇支給要點支給。私立學校教師因與私立學校間屬私法契約，相關薪資、福利及工作條件係以契約定之。

一、公立學校教師之待遇內涵如下：

- (一) 本(年功)薪依據全國軍公教員工待遇支給要點所定「公務人員俸額表」規定教育人員之標準支給。
- (二) 加給分為學術研究費及地域加給：
  1. 依「公立大專院校教育人員學術研究費表」及「公立中小學校及法務部少年矯正學校教育人員學術研究費表」支給學術研究費。
  2. 依「各機關學校公教員工地域加給表」支給地域加給。

二、私立學校教職員工所支持遇項目及實支數額，係由各校視學校財務狀況，本於權責自行訂定核給標準。

### 英文回應(Times New Roman, 12 號字, 單行間距)

Teachers in either public or private schools are subject to equal rights and obligations under the Teachers' Act. The remuneration for teachers in public schools are calculated and paid in accordance with Regulations Governing the Payment of Remuneration to Military, Public and Teaching Personnel while the salary, benefits, and working conditions of teachers in private schools are prescribed in the employment agreement between the teacher and the school.

1. The salary of teachers in public schools:

(1) The salary is calculated and paid in accordance with Table of Salary Grades and Remuneration Standards, which is established under Regulations Governing the Payment of Remuneration to Military, Public and Teaching Personnel.

(2) There are two types of additional pays: academic research pay and regional additional pay

A. Academic research pay is subject to "Table of Academic Research Pay Standards for Teaching Personnel in Public Colleges and Universities" and "Table of Academic Research Pay Standards for Teaching Personnel in Public Junior High and Elementary Schools and in Ministry of Justice Juvenile Correction Schools".

B. Regional additional pay is subject to "Table for Additional Regional Pay Standards for Faculty and Staff in Public Schools".

2. Private schools' payment standards are established by the schools themselves, based on their financial status.

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| 經社文<br>第 15 條 | 45. | Please indicate the difficulties encountered, if any, in ensuring harmony among the diverse cultures in the country, including immigrant cultures. | 請指出在確保各種文化--包括移民之文化--在國內和諧並存，遭遇哪些困難。 |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、臺灣為多元文化社會，住居有原住民族、閩南、客家、蒙藏及新移民等族群。考量我國政經社會現實環境與族群人口比例結構，為落實憲法增修條文有關國家肯定多元文化之意旨，並落實資源分配之公平正義，積極照顧其他族群之需求，以呼應國際人權思潮對原住民族與少數族群集體權之倡議，實踐族群共榮的憲政精神。
- 二、其中，閩南及客家文化已融入臺灣社會當中，原住民族文化則在立法及教育之下，逐漸深耕發展。檢視近年原住民族教育事務之推展，從教育政策、教育制度、施政計畫乃至配套規劃等均有法律保障與規範，最具體的就是原住民族基本法第7條明定「應依原住民族意願……保障原住民族教育之權利。」即指依原住民族文化特性對原住民學生所實施的民族文化教育。另，原住民族教育法則明定，原住民族教育指的是「一般教育」與「民族教育」，一般教育是依原住民學生個人教育需求進行的一般性質教育，具體規範各學校課程與教材應納入原住民各族歷史文化與價值觀（第20條），提供學前教育與國民教育階段的原住民學生學習其族語、歷史與文化的機會（第21條），同時，課程教材之研發應尊重原住民意見，並邀請具原住民身分之代表參與規劃設計（第23條）。此外，另於2010年提出我國原住民族教育白皮書，並致力推動「發展原住民族教育五年中程個案計畫」，其中規劃原住民族學校體系，以落實民族文化教育，即為其重點工作之一。爰就我國整體社會發展而言，原住民族文化之傳承亦應作為學校教育的目標之一，已凝聚為各界共識。
- 三、未來推動的方向，包括進行以民族知識為主的課程革新，民族教育應以各民族知識體系為其內涵，除在現代知識課程上加入族語文化介紹之外，更應負有民族文化知識傳承的作用，一方面接續斷裂的傳統，另一方面轉化傳統知識，讓學生有能力面對現代生存處境。此外，針對原住民族偏遠地區師資建立培訓聘用制度，解決偏遠地區師資不足之問題，亦將秉持尊重民族自主與意願的前提，持續檢視現有師資培育與遴選模式，研議適合原住民族與少數族群知識傳授的師資制度，以利確保各族群文化與知識的傳承，並回應原住民族與少數族群之教育需求。
- 四、在蒙藏族群方面，在臺藏族人數極少，因語言、文化隔閡，缺乏人際支援網絡，對自身問題的解決能力與可運用的資源明顯不足，政府基於尊重與扶持弱勢族群的立場，結合專業社工辦理「在臺藏胞及居留藏人關懷專案」，針對在臺藏族特殊背景、個別化需求及相異困境，採個案服務精神推動關懷工作，提供教育、就業、醫療、生活等全方位輔導，提升在臺藏族整體生活適應，早日

融入本土社會，成效顯著。

- 五、另外，有關新移民與臺灣在地文化的融合，亦是當前臺灣的重要課題。目前，外籍與大陸配偶因年齡、認知及文化等種種差異，婚後易面臨生活適應、人際關係、子女教養、家庭成員互動、婆媳相處、家庭地位低落等問題；選擇離婚者，亦面臨居留、法律訴訟及子女監護權等狀況。為促進社會各界重視移民人權以及尊重多元文化價值，並且為提供外籍與大陸配偶所面臨之相關生活適應、子女教養、法律等問題，政府於 2003 年訂定「外籍與大陸配偶照顧輔導措施」，依生活適應輔導、醫療優生保健、保障就業權益、提昇教育文化、協助子女教養、人身安全保護、健全法令制度及落實觀念宣導等 8 大重點工作，並由中央各部會及地方政府機關積極推動辦理。2000 年起委託婚姻移民團體於全國各縣（市）共同辦理法令說明會、成長講座、電腦學習課程、親子活動等，協助大陸配偶適應臺灣生活；另自 2003 年起依「外籍配偶與大陸配偶照顧輔導措施分工表」重點工作「生活適應輔導」，辦理大陸配偶在臺生活輔導活動，蒐集大陸配偶反應意見，隨時檢討相關法規；自 2011 年起，每年舉辦國際移民日多元文化博覽會系列活動，邀請大陸配偶、外籍配偶及相關團體參加。
- 六、在文化藝術方面為協助新移民融入臺灣社會文化，參與社教活動，辦理「臺灣新故鄉當新住民遇上博物館」、「移民節暨國際移民日系列活動」，免費邀請新移民家庭參訪博物館，藉由藝術參與，增進外籍配偶與家庭對臺灣文化的認識。另外，在博物館亦辦理培訓東南亞新住民進行母國手工藝教材研發，發展教育課程，以深化新移民文化參與之層面，並將課程推廣至學校教學活動，達到多元文化交流。
- 七、臺灣正在各方面積極彌平族群差異及歧視，並以多元文化共榮共存為發展目標，未來各政府機關將本於權責積極扮演推動角色，在政策研擬及各種活動、補助上，全面性考量各族群之穩定發展。

### 英文回應(Times New Roman, 12 號字, 單行間距)

1. The Taiwanese society is multi-cultural and multi-ethnic with groups like the native peoples, the Minnan, the Hakka, Mongolian and Tibetan people, and immigrants. Considering the real socio-economic circumstances and composition of population, and made efforts to safeguard the value of multi-culture mentioned in the amendments to the ROC Constitution, to ensure the fairness and justice of the distribution of resources, and to protect the rights of other groups, in response to the world's human rights appeal for minority groups.
2. Minnan and Hakka culture have become part of the mainstream in Taiwan, while indigenous culture has seen strong development thanks to legal and educational support. A retrospect of native people's education over the past years shows that, policies, systems, plans, and supportive measures have been provided with legal protection. One of the most solid examples is what is prescribed in Article 7 of the Indigenous Peoples Basic Law: ". . . shall protect indigenous peoples' rights to education. . . in accordance with the will of indigenous

peoples.” The article clearly indicates that native people should receive native culture education in accordance with the characteristics of the native culture they belong to. Also, the Education Act for Indigenous Peoples prescribes that native education refers to general education and ethnic education. The former should be administered in accordance with the needs of the native people and the courses and materials cover topics related to the histories, cultures, and values of the native groups (Article 20). Native students at preschool and obligatory education ages should be provided with chances to learn their mother tongues, histories, and cultures (Article 21). The design of curriculum should respect the ideas of native people and native representatives should participate in the design and development of curriculum (Article 23). In 2010, revealed White Paper on the Educational Policy for Indigenous Peoples and launched a mid-term project for native education where the establishment of an ethnic schooling system for native peoples was listed as one of the key tasks for reinforcing native education. Hence, it has become a consensus that preserving the tradition and culture of indigenous peoples is one of the goals of school education.

3. In the future, the curriculum for native education will become more ethnic-knowledge-oriented. In addition to the integration of language and culture into native education, ethnic knowledge will be a focus of attention to help reconnect tradition and transform traditional knowledge to meet today’s needs. And to set up training and employment programs for the supply of teachers in remote native tribes to solve the shortage of teachers in faraway tribal areas. In the future, the Ministry will continue reviewing the training and employment methods from the perspective of the native people’s autonomy and will in order to preserve the cultures and knowledge of each tribe and to meet their education needs.
4. In Mongolian and Tibetan groups, there are very few Tibetans in Taiwan. They are inability to solve their own problems and are also inaccessible to the available resources owing to language and cultural barriers, and lack of social network. Based on respect and support for the disadvantaged Tibetans, the government in combination with social workers has launched a program “Care for Tibetans in Taiwan” providing assistance and guidance to Tibetans, ranging from medical care, employment, education, livelihood support etc. Moreover, it also enhances adaptability of Tibetans in Taiwan to the environment, and integrates them into the local community at the earliest. The program has brought about remarkable results.
5. Moreover, integrating the cultures of new immigrants is seen as an important issue in Taiwan. Currently due to age, identity, cultural and other differences, foreign and mainland Chinese spouses tend to have life-adaption, inter-personal relation, parenting and domestic interaction problems; those who choose divorce could also face situations of legitimate residence, lawsuit as well as child custody. In order to promote importance of immigrants’ human rights and respect for multicultural values to all sectors of society, and in order to help foreign and mainland Chinese spouses deal with the aforementioned issues, the government formulated the “*Measures to Care for and Assist Foreign and Mainland Spouses*” in 2003, with the efforts from both central and local governments to provide the spouses with life-adaption, and medical treatment, employment rights, culture/education, parenting, personal safety, laws, and various services.
6. Since 2000, entrusted groups of marriage immigrants to jointly hold seminars on laws and regulations, lectures on life developments, computer courses, and family activities in counties and cities throughout Taiwan, so as to help Mainland spouses adapt to living in Taiwan.

Furthermore, according to the focal task of "life orientation counseling" under the "Task Allocation Table for Measures on Counseling and Guidance for Foreign and Mainland Spouses", the government has since 2003 arranged counseling activities for Mainland spouses' living in Taiwan, from which Mainland spouses' thoughts were collected and used as reference to regularly review related laws and regulations. Since 2011, annually held a series of *multi-culture expositions* on International Immigrants Day, to which Mainland spouses, foreign spouses, and related groups were invited.

7. Helping new immigrants adjust to life in Taiwan and participate in social life, especially in the realm of culture and the arts, we host a variety of free events associated with Immigrants Day and International Migrants Day for new immigrants and their families. These include a program to introduce them to Taiwan's museums, at which artistic activities will help to further their understanding of Taiwan's culture. We are also working with museums to train Southeast Asian immigrants to research and produce curriculum on the traditional handicrafts of their home countries. Based on these, classes can be designed, which can increase immigrants' participation in the cultural life of the nation while also promoting cross-cultural exchanges.
8. Taiwan is in the midst of an effort to overcome ethnic divides and eradicate discrimination. In the future, government agencies will put a great deal of effort into promoting a multicultural society in their respective sphere of influence by keeping in mind the stable development of all the nation's ethnic groups when drawing up policies, designing subsidies, and planning events.

|               |     |                                                                                                                                                                              |                                                       |
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| 經社文<br>第 15 條 | 46. | It has been estimated that nine of Taiwan's 42 indigenous languages are endangered. What steps has the Government taken to preserve or encourage the use of these languages? | 據估計台灣 42 種原住民語言中，有 9 種瀕臨滅絕。政府已經採取了那些做法來保存、或者鼓勵使用這些語言？ |
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### 中文回應(標楷體，12 號字，單行間距)

- 一、制定搶救原住民族瀕危語言實施計畫：邀集各瀕危語言別的耆老、族語老師、部落代表及社團負責人等，說明本計畫之「啟發族人搶救意識」、「健全搶救組織」及「搶救耆老智慧」三大計畫目標，並請 9 語別研提符合部落需求的語言搶救計畫，將透過專案補助方式讓部落自己執行計畫內容，以建立「自己的族語自己救，小孩的族語自己教」的部落意識，並激發部落族人投入搶救自己族語的熱忱。
- 二、具體措施：「搶救原住民族瀕危語言實施計畫」工作項目包含：
  - (一) 成立「搶救語言保存與發展推動小組」由推動小組以族人的角度研擬復振族語的策略。
  - (二) 「部落基礎資料調查與建置」調查與建置各語別部落基本人口資料，並針對族人對族語使用狀況與態度進行基礎資料建置，以掌握並了解各年齡族人之語言能力及對語言的態度。

- (三) 「耆老口述紀錄」設定訪談主題，如個人成長生命史、氏族制度、部落歷史(遷移史)、神話故事、傳統祭典、歌謡、部落重大事件或其他與族群文化相關之議題。
- (四) 「推動師徒制族語學習」採 1 對 1 的族語傳授方式進行族語學習，即透過日常生活中之互動、交談作為族語傳授方式。
- (五) 「族語學習家庭」在家庭場域中落實親子共學，提升家庭(或家族)成員使用或學習族語之意願。
- (六) 「族語認證考試加強班」鼓勵族人報考「原住民族語言能力認證考試」，選擇適當之地點開辦「族語認證考試加強班」。
- (七) 「獎勵家族、鄰里或部落會議說族語」提高族語使用機會於公共場域，家族、鄰里或部落召開會議若使用族語進行討論。

### **英文回應(Times New Roman , 12 號字 , 單行間距)**

1. Launch a program on saving the endangered indigenous language: invite elders, language teachers, representatives from the village and the person in charge the association, the purpose of the program is to inspire the indigenous people to have crisis consciousness, help the association and help the elders to pass the wisdom. Through this program, villages among 9 of the 14 tribes need to propose a project which can fit in their villages, and apply for the found in order to implement the project. In the end, build up the village consciousness that we can save our own languages and the children can also save their languages, also can inspire the villagers' passion.
2. The details of the program describe as following:
  - (1) Establish the endangered language preserve and development group, from indigenous' point of view, draft a series of strategy to save the languages.
  - (2) Establish the database of the village and make the survey of demographic statistics in order to understand the status of the usage of the language under different age and its attitude on purpose of establish the database.
  - (3) Oral history from the elders, history could be someone's life story, villages' history which includes the history of immigration, fairy tales, traditional ceremony, songs, major incident in the village or cultures related issues.
  - (4) Establish the one by one teaching system, which means one teacher and one student, through the casual interaction or speaking, student can learn the language.
  - (5) Use the language at home, through speaking the language at home, increase the willing of use the language.
  - (6) Open courses for the certification examination, encourage people to take the exam, and open the course in adequate place.
  - (7) Giving reward to the family or village who use native language during the meeting in public.

