

# Taiwan National Action Plan on Business & Human Rights

Implementation of the United Nations Guiding Principles  
on Business & Human Rights (UNGPs)

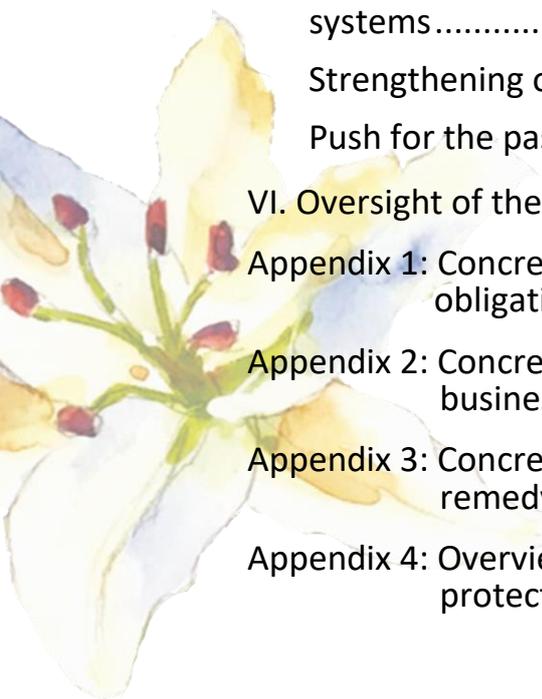




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## I. Preface

Taiwanese firms occupy a key position in global supply chains. They recognize that monitoring human rights safeguards and working to ensure their implementation is to their own sustained benefit. Specifically, it is conducive to the following:

- Maintaining and expanding a large customer base;
- Attracting and keeping outstanding employees;
- Protecting and improving corporate reputation and brand value;
- Establishing and maintaining sustainable and positive relationships with employees and outside stakeholders;
- Maintaining and obtaining more supply chain business opportunities in key international industries;
- Attracting more investors that care about the environment, society, and corporate governance;
- Reducing risks associated with business conflicts;
- Reducing the risk of lawsuits arising from human rights abuses; and
- Strengthening Taiwan's overall brand image and improving the nation's foreign trade competitiveness.

Company employees and the people of Taiwan further understand that showing concern for human rights can bring a company the following benefits:

- Working conditions are effectively improved;
- Employees can be sure they are working in a safe and healthy environment;
- Equitable, diverse, and inclusive job opportunities;
- Improvement and protection of employment welfare;
- Labor rights can be freely put forward and expressed; and
- Showing concern is conducive to the establishment and maintenance of good relations among employees, companies, and the external

environment and society.

While recognizing the aforementioned interests, Taiwan's companies, employees, members of the public, and NGOs also hope the government will have comprehensive, clear, and consistent policies regarding the protection of business and human rights, and will ensure that the aforementioned interests and expectations will be fully protected and satisfied in the course of policymaking. The Taiwan government, in order to respond to the concrete needs of companies, employees, members of the public, and NGOs, are aware that acting in line with internationally recognized principles and standards on business and human rights is conducive to the achievement of goals. Accordingly, our government intends to carry out the following tasks:

- Fulfill the duty to implement human rights safeguards at places of business within the scope of its legal jurisdiction;
- Support, encourage, and incentivize companies to fulfill their responsibility to respect human rights in their domestic and overseas business operations;
- Provide more effective relief to the victims of human rights abuses committed by companies within the area subject to Taiwan's legal jurisdiction;
- Help companies to recognize and resolve human rights risks and impacts, and spur companies to operate effectively and successfully;
- Ensure that Taiwan's government and agencies at all levels maintain policy consistency with respect to business and human rights;
- Spur the international community to abide by important international standards for business and human rights. This might be done, for example, by urging other governments to fully discharge their duty to protect human rights and provide relief within the area subject to their legal jurisdiction.

Valuing and pursuing freedom, democracy, rule of law, and human rights are universal values to which Taiwan and most of the international community have a shared commitment. The government, companies, and people of Taiwan have a common understanding that developing business and respecting human rights should proceed in tandem.



In 2020, several dozen Taiwanese companies voluntarily established a Disease Control Mask National Production Team to ensure a sufficient supply of disease control masks at both home and abroad in order to fight COVID-19 and help protect the health of all mankind. This is how Taiwanese companies fulfill their social responsibilities, and it represents the best possible state of human rights in the workplace. Taiwan stands prepared, taking this as the foundation, to take the United Nations Guiding Principles on Business and Human Rights (UNGPs) as the roadmap for its efforts to establish a National Action Plan on Business and Human Rights. This will enable us to provide better substantive protections for human rights in the workplace.

The purpose of the National Action Plan is to provide a platform that highlights the best practices in all sectors and businesses, creates more opportunities for cooperation, and better responds to complex challenges in the field of business and human rights. The National Action Plan will take care to avoid increasing the administrative burdens of businesses and organizations, and to ensure that the actions it mandates will help to create a fair international competition environment.

### **Structure of the National Action Plan**

The National Action Plan, reflecting the structure of the UNGPs, in Part 2 introduces the scope of application of UNGPs as well as their primary content and spirit. Parts 3 to 5 focus on the three main pillars of the UNGPs, measures taken to date, and a vision for the future. And finally, Part 6 describes the procedures for oversight of the Taiwan National Action Plan.

## **II. Overview of the UNGPs**

The purpose of the UNGPs is to clarify the obligations and responsibilities of the state and businesses regarding business-related human rights risks. The content integrates existing international human rights standards and practices. The UNGPs are recommendations by nature, and are not legally binding.

Before the United Nations issued the UNGPs, the international community had already begun paying attention to human rights abuses connected with investments by multinational corporations in developing countries. The Organisation for Economic Co-operation and Development (OECD) first issued its OECD Guidelines for Multinational Enterprises in 1976, and

the latest revised version was issued in 2011. These Guidelines seek to ensure that multinational corporations engage in responsible business conduct, and to prevent them from taking advantage of lax legislation to flout all norms of proper conduct.

### **Scope of applicability of the UNGPs**

The UNGPs apply to all states and to all business enterprises, both transnational and others, regardless of their size, sector, and location. The UNGPs emphasize that states and business enterprises should pay particular attention to the rights and needs of, as well as the challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized.

### **The three pillars of the UNGPs**

The UNGPs consist of 31 principles, based on three pillars:

Pillar 1: "State Duty to Protect Human Rights." This involves existing obligations of states to respect and protect human rights and fundamental freedoms (principles 1-10).

Pillar 2: "Corporate Responsibility to Respect Human Rights." This relates to corporate responsibility to respect human rights and comply with all applicable laws (principles 11-24).

Pillar 3: "Access to Remedy." This pillar emphasizes that states and enterprises should provide effective remedy mechanisms (principles 25-31).

## **III. The state duty to protect human rights**

### **A. UNGPs on the state duty to protect human rights**

The UNGPs provide that states must protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises. Measures that states may take to achieve this goal include the following:

- (1) Signing and ratifying international and regional legal human rights instruments, e.g. the "International Covenant on Civil and Political Rights," the "International Covenant on Economic, Social and Cultural Rights," the "Convention on the Elimination of All Forms of

Discrimination against Women," the "Convention on the Rights of the Child," the "Convention on the Rights of Persons with Disabilities," and the "Convention against Corruption";

- (2) Promoting protection of international human rights standards, e.g. expressing commitment to the "ILO Declaration on Fundamental Principles and Rights at Work";
- (3) Taking additional measures to ensure the protection of particularly vulnerable groups.

## B. Actions taken

### ■ Promotion of consistency in human rights policies

To signal the importance of human rights policies, the Taiwan government on 24 October 2000 established the Presidential Human Rights Advisory Committee, which on 30 April 2004 was expanded and renamed the Presidential Office Human Rights Consultative Committee. This Committee is chaired by the Vice President, and puts especially high priority on the issues of "incorporating human rights protections into the Constitution" and "amending legislation to address human rights concerns."

Taiwan's Legislative Yuan passed the "Organic Act of the Control Yuan National Human Rights Commission" in 2019. Then the National Human Rights Commission was formally established on 1 August 2020 to serve as the government's single human rights authority. The Commission monitors whether the legislative, executive, and judicial branches operate in compliance with international human rights requirements, and whether any government policies or actions infringe upon human rights. It is also authorized to provide suggestions to the executive, legislative, and judicial branches for their reference. The aforementioned Presidential Office Human Rights Consultative Committee has been dissolved because it completed its assigned mission.

To ensure consistency in the human rights policies of different government agencies, the Executive Yuan has established a Human Rights Protection and Promotion Committee to research different countries' human rights safeguard systems, as well as international rules, and to promote and implement Taiwan's policies for the protection of fundamental human rights. The Committee membership is composed of officials from government agencies involved in related fields, including the Ministry of



Justice, Ministry of Economic Affairs, Ministry of the Interior, Ministry of Foreign Affairs, Ministry of National Defense, Ministry of Economic Affairs, Ministry of Finance, Ministry of Education, Ministry of Labor, Ministry of Health and Welfare, Environmental Protection Administration, and Council of Indigenous Peoples.

### ■ Voluntary commitment to implementation of international covenants

The Taiwan government has committed to fully implement human rights both at home and abroad. The "International Convention on the Elimination of All Forms of Racial Discrimination" entered into force in our country on 9 January 1971, and although Taiwan is not a member of the United Nations, it has nevertheless signed and ratified important United Nations human rights covenants in recent years, including the "International Covenant on Civil and Political Rights," the "International Covenant on Economic, Social and Cultural Rights," the "Convention on the Elimination of All Forms of Discrimination against Women," the "Convention on the Rights of the Child," the "Convention on the Rights of Persons with Disabilities," and the "Convention against Corruption." In addition, the Taiwan government has gone through the legislative process to incorporate these covenants and conventions into domestic law, and has periodically prepared national reports and submitted them for review by international experts.

In addition, to signal its determination to bring domestic human rights standards in line with the international human rights standards set out in the "Vienna Declaration and Programme of Action" of 1993, the Taiwan government in November 2019 established an Advisory Committee for the Formulation of a National Human Rights Action Plan, which draws its members from a wide range of entities and individuals involved in human rights affairs, including government agencies, private groups, scholars and experts, representatives of women, persons with disabilities, minorities, underprivileged groups, business firms, and labor unions. The committee members discuss and provide opinions regarding a wide range of important issues pertaining to the Action Plan, including the framework, public participation, and the drafting of the plan.

### ■ Promotion of international exchange and cooperation

The Taiwan government attaches great importance to issues related to



business and human rights, and is working to establish closer international cooperation in this field. For example, Taiwan and the European Union held consecutive annual Taiwan-EU Human Rights Consultations from 2018 to 2020 to exchange views on human rights matters. The EU has encouraged Taiwan to prepare a National Action Plan on Business and Human Rights, and supports Taiwan's efforts on this front.

Also, Taiwan's Ministry of Foreign Affairs established the "MOFA Human Rights Task Force" on 4 March 2019. The Task Force's responsibilities include promoting international cooperation and exchange, handling external communications and outreach activities, paying attention to women's issues and working them into the Task Force agenda, and conducting human rights diplomacy.

In addition, Taiwan has inserted "CSR clauses," "investment/environment/labor clauses," and "general exceptions" into previously signed trade and investment agreements, so our government has taken concrete actions to safeguard human rights.

#### ■ Business-related human rights safeguards in Taiwanese legislation

The Taiwan government acts via applicable legislation to ensure the fulfillment of obligations borne by the state pursuant to the Constitution or human rights treaties, including the obligation to prevent human rights abuses by companies and other actors.

The Constitution and its Additional Articles expressly safeguard the people's fundamental rights, and the constitutional complaint system ensures that laws and regulations that run counter to the Constitution or to the spirit of human rights safeguards will cease to have force or will be amended within a prescribed time period.

The Taiwan government has already incorporated the "International Covenant on Civil and Political Rights," the "International Covenant on Economic, Social and Cultural Rights," the "Convention on the Elimination of All Forms of Discrimination against Women," the "Convention on the Rights of the Child," the "Convention on the Rights of Persons with Disabilities," the "Convention against Corruption," and other such UN covenants and conventions into domestic legislation, so they can be directly applied as Taiwan law.

Most provisions in Taiwanese law pertaining to fundamental individual

rights are adopted principally with the purpose of preventing human rights abuses by the central and local governments. However, the Taiwan government also uses other legislation -- e.g. provisions in labor legislation that ensure human rights by governing workplace rights and prohibiting discrimination -- to ensure that human rights will be respected and supported by non-governmental third parties (including businesses).

The Taiwan government will continue to closely monitor and study domestic human rights incidents that have occurred in recent years, and the results of this effort will serve as reference for future legislative amendments.

### ■ Promoting human rights through government procurement operations

Governments can promote human rights through their procurement processes by, for example, providing human rights guidelines to bidders, including human rights requirements in contracts, and promoting corporate respect for human rights. Taiwan has implemented regulations that include such measures, including the "Government Procurement Act," "Resource Recycling Act," "Statute for Industrial Innovation," "Greenhouse Gas Reduction and Management Act," and "Indigenous Peoples Employment Rights Protection Act." All these acts prohibit discrimination, encourage green purchasing, and promote environmental protection.

In addition, the Public Construction Commission's Procurement Evaluation Committee scoring tables for bidders include CSR indicators, such as "whether all employees have received pay increases," "the quality of basic compensation received by procurement officers," and "the quality of work/life balance measures."

### C. Actions planned

#### ■ Continue committing to implement important United Nations human rights covenants, incorporating them into domestic law, and preparing national reports for review

A plan of the Ministry of the Interior (MOI) to implement the "International Convention on the Elimination of All Forms of Racial Discrimination" was approved by the Executive Yuan on 8 May 2020. The MOI, acting in accordance with the timeline set out in the plan, will move forward one step at a time in implementing the Convention. The Ministry's work will



include the preparation of a national report and the conduct of an international review.

In addition to incorporating five core UN human rights conventions in domestic law, as mentioned above, the Taiwan government has also adopted a national report system based on the UN model, and has pledged to do likewise with another three core human rights conventions, namely, the "International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families," the "International Convention for Protection of All Persons from Enforced Disappearance," and the "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment."

Besides continuing to assess the feasibility of incorporating the core UN human rights conventions into domestic law, our government will also continue to study ways to promote the implementation of labor and environmental conventions as they pertain to human rights.

#### ■ Continue promoting international human rights dialogue and cooperation

Taiwan will continue to carry out human rights consultations and dialogue with the European Union. In the area of digital human rights, as talks with the European Union regarding a GDPR adequacy decision for Taiwan move forward, we will move methodically toward the establishment of an agency tasked with responsibility for promoting the protection of personal information.

In the future, Taiwan will continue seeking to strengthen international human rights dialogue and cooperation with more countries.

#### ■ Continue pushing for passage of laws to protect working conditions and labor rights

To safeguard the right of laborers to share in the fruits of their labor, and to expand the social safety net, the Taiwan government has pledged to draft and enact a "minimum wage act" and an "occupational accident insurance and protection act." At the same time, in drafting amendments to labor legislation we will consider the particular characteristics of different industrial sectors and study the feasibility of strengthening women's rights measures. We have a special chapter on employment rights in the "Act for Protecting the Interests of the Physically and Mentally Disabled," are

promoting occupational rehabilitation, and have adopted a system of a fixed number of total employees. These measures are designed to uphold the rights and interests of persons with physical and mental disabilities. Also, in order to improve the working conditions of foreign fishing crews, the Taiwan government will provide more living and leisure facilities.

The Taiwan government each year holds workshops on workplace equality and sexual harassment to prevent employers from discriminating against employees or job seekers on account of age.

Also, we intend to pursue a number of strategies aimed at boosting women's economic empowerment. These include promotion of women's entrepreneurship (and employment), creation of gender-equal workplaces, promotion of flexible working hours and locations, encouragement of re-entry into the job market, and prevention of early withdrawal from the workforce.

#### ■ **Actively incorporate human rights clauses into economic and trade agreements**

In the future, during the process of discussing and signing bilateral or multilateral economic and trade agreements, Taiwan's government agencies in charge of economic and trade negotiations will also continue seeking to include human rights clauses to be observed by all signatories.

#### ■ **Administrative measures for outbound investment**

The Taiwan government will continue, on the basis of UNGPs, to initiate discussions regarding the issue of administrative measures for outbound investment as applied to business and human rights, and will also set up an inter-ministerial coordination mechanism at the central government level to study actions taken by other nations, and to discuss the necessity and feasibility of enacting legislation that has binding force overseas in specified fields such as anti-discrimination, labor rights, and environmental preservation in a company's overseas investment activities.

The aforementioned discussions must also address measures to strengthen regulations, supervisory mechanisms, and other such concrete actions involving Taiwan's screening of FDI into foreign nations. This must be done in order to ensure that companies' overseas investment activities do not violate international human rights regulations and standards.



## IV. The corporate responsibility to respect human rights

### A. UNGPs on the corporate responsibility to respect human rights

The UNGPs expressly state that businesses bear a corporate responsibility to respect human rights. Business activities may have either a positive or a negative impact on human rights, and the risk of a negative impact is highest when the state fails to fulfill its duty to protect human rights. For this reason, businesses should establish human rights due diligence procedures to prevent or mitigate negative effects upon human rights. At the same time, businesses' policymaking procedures should also give due consideration to the positive effects generated through the implementation of human rights safeguards.

### B. Actions taken

#### ■ State encouragement of respect by business for international human rights standards

The Taiwan government encourages businesses to engage in responsible business behavior, and has adopted internationally recognized corporate social responsibility standards, such as the UNGPs, the UN Global Compact, ILO Conventions and the OECD Guidelines for Multinational Enterprises.

#### ■ State encouragement of respect by businesses for human rights

The Taiwan government expects businesses to respect human rights in all their business activities, therefore the idea that businesses should fulfill their social responsibilities has been incorporated by the government into the "Company Act." As a result, all businesses in Taiwan now have a clear legal basis to guide the fulfillment of their social responsibilities. In addition, companies must not allow their business activities to cause or contribute to human rights abuses, and they must take steps to prevent human rights abuses, in order to reduce the negative effect of business activities on human rights.

The Taiwan government also provides resources and support, including the following: it uses the "Statute for Industrial Innovation" and other legislation to encourage and reward sustainable development; it expressly provides in the "Company Act" that companies must encourage enterprises to share profits with employees; it has added a new provision

to the "Act for Development of Small and Medium Enterprises" to provide that, when the Composite Leading Indicators are above certain levels, if a small or medium enterprise raises the average salary paid to junior employees, it can receive tax breaks; and it has launched a Green Finance Action Plan that identifies green energy technology and other key industries as top-priority recipients of financial institution support so that they can spur the achievement of energy conservation and carbon reduction targets and environmental protection goals. For many years, the government has carried out assistance plans that have provided business diagnosis and consultation services, helped businesses to improve, and provided suggestions for future development.

### ■ Respect for employee interests and the views of stakeholders

The workplace is especially important to the human rights of a company's employees. Examples include an employee's right to take part in collective bargaining, to form or join in a union, or the protection of labor rights. Accordingly, the Taiwan government actively provides guidance to laborers, focusing on such matters as formation of unions, creation of an environment that is conducive to a smoothly operating union, support for women's employment, and assistance with the elimination of employment barriers.

At the same time, the Taiwan government encourages businesses to engage in dialogue with stakeholders, unions, and the general public regarding issues involving corporate social responsibility, in order to discover problems and take constructive steps to find mutually acceptable solutions. Investors and consumers are important stakeholders, and as such are able to question how a business is run and express support and encouragement. News organizations, as members of the Fourth Estate, exercise independent oversight and can spur the public to pay closer attention to corporate social responsibility issues.

Thanks in part to the joint advocacy of the Taiwan government and various other interested parties, more and more businesses -- in order to fulfill their social responsibilities and honor their human rights commitments -- have taken it upon themselves to establish human rights due diligence procedures, identify and assess related human rights issues, and set up an internal complaint mechanism that functions smoothly and ensures confidentiality.



## ■ Greater information transparency

Since 2014, the Taiwan government has used legislation to require listed companies matching a certain description to prepare a CSR report each year, and as of 2020 our government -- making reference to the non-financial disclosure rules and practices of financial markets around the world -- has included environmental, climate change, social, and corporate governance matters in its disclosure requirements in order to ensure that the key performance indicators in non-financial disclosures are more closely linked to the way a company is managed.

At the same time, the Taiwan government has also provided businesses with the tools and guidance needed to implement their CSR policies, and has continually conducted outreach activities to encourage businesses to: voluntarily prepare annual CSR reports; disclose their human rights policies, human rights assessment methods, and supplier risks; and establish internal grievance channels.

Statistics show that Taiwan has seen steady growth in the numbers of businesses that voluntarily prepare a CSR report, establish a CSR committee, adopt CSR policies, use third-party certification to improve the quality of disclosures, and include supplier risks in their disclosures.

In response to the Taiwan government's call for companies matching a certain description to prepare a CSR report each year, many private groups and organizations have also begun to assess the quality of CSR reports. For example: (a) A well-known magazine that has adopted the IFRS reporting standards carries out annual assessments of the quality of company CSR reports and presents awards to recognize the best ones. (b) There is a private think tank that collaborates with academia to issue the Taiwan Corporate Sustainability Awards each year, encourage the public to accept volunteer training and participate in the evaluation of enterprise sustainability reports and ESG comprehensive performance, spur enterprises to improve information transparency. Also, in response to the Sustainable Development Goals (SDGs), our government has set up a number of corporate excellence awards to recognize strong performance in such areas as transparency and business ethics, gender equality, and talent development. The purpose is to get companies to strengthen disclosure of non-financial information and implement human rights policies.

## C. Actions planned

### ■ Continue promoting dialogue and communication between businesses and stakeholders

The Taiwan government will continue to promote dialogue and communication between businesses, government agencies, and civic groups to set up an effective platform for conducting sustained and regular dialogue and communication among themselves. The government will use these opportunities to inform businesses of the potential human rights risks they may face. To raise awareness of human rights issues, the government will conduct outreach activities. For example, it will prepare multilingual publicity materials to familiarize businesses, interest groups, and NGOs in Taiwan with the UNGPs and the OECD Guidelines for Multinational Enterprises. Also, the government intends to operate via its diplomatic representations overseas to conduct outreach activities targeted toward offshore Taiwanese firms and interest groups.

### ■ Continue encouraging businesses to adopt and implement human rights policies

While continuing to conduct outreach programs related to principles on business and human rights, and incentivizing the implementation of such principles, the Taiwan government will also continue to promote the sharing of knowledge in the field of business and human rights. At the same time, the government will also encourage chambers of commerce and industrial organizations to act on their own to adopt human rights policies, procedures, and assessment standards or guidelines, and to provide these to their member organizations.

Also, our government will encourage companies to establish internal remedy systems so that disputes can be resolved through in-house complaint mechanisms. This would reduce the volume of litigation filed with the courts.

### ■ Advocate for disclosure of non-financial information

In addition to studying the feasibility of expanding the range of businesses subject to a compulsory requirement to prepare CSR reports, the Taiwan government will also advocate for disclosure by businesses of non-financial information (related issues will include important environmental, social, and governance (ESG) topics -- such as the use of



consumer information, the use of energy, waste handling, labor conditions, environmental protection, forced evictions, indigenous land rights, gender equality, and consumer protection measures -- all of which are matters of concern to stakeholders). The goal of such a policy would be to ensure that businesses understand that the disclosure of non-financial information can make up for the shortcomings of financial information, thus enabling businesses to effectively identify and manage risks. This would facilitate the formulation of better business policies, and contribute to the achievement of forward-looking objectives, thus enabling the adoption of sustainable business practices.

## V. Access to remedy

### A. UNGPs on access to remedy

Principle 25 of the UNGPs states that, in order to protect against business-related human rights abuse, states must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy, including effective and appropriate judicial and non-judicial grievance mechanisms.

In order to ensure their effectiveness, non-judicial grievance mechanisms, both state-based and non-state-based, should be:

- (1) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (2) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (3) Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (4) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed, and respectful terms;
- (5) Transparent: keeping parties to a grievance informed about its progress,

and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;

- (6) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;
- (7) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;

## B. Actions taken

### ■ Judicial remedy

#### Taiwan's court system

Taiwan has three types of courts, as set out here below, to adjudicate civil, criminal, and administrative litigation:

- Courts of general jurisdiction (district courts; Taiwan High Court; Taiwan Supreme Court) are responsible for hearing ordinary civil and criminal litigation;
- Administrative courts (the administrative litigation division of district courts; high administrative courts; the Supreme Administrative Court) are responsible for hearing administrative litigation;
- Specialized courts (Intellectual Property Court; juvenile and family courts; special labor courts) are responsible for resolving disputes in certain specified fields.

In addition, to address human rights oversights that may arise in court judgments, the Judicial Yuan, acting in accordance with its system of "Judicial Review by the Justices of the Constitutional Court," may nullify legislative provisions that it finds to be in violation of the spirit of the Constitution, which requires that legislation must protect basic human rights. In such cases, the Judicial Yuan serves as the remedy of last resort.

At the same time, in order to ensure that courts function efficiently and make a bona fide effort to avoid a large backlog of unresolved cases, the Taiwan government convened a "Presidential Office National Congress on Judicial Reform." Experts from many different fields were invited to the

National Congress to formulate appropriate procedural rules that would ensure a sustainable judicial system and more effective adjudication processes.



### Civil remedy and litigation aid

The "Code of Civil Procedure" and the "Labor Incident Act" both provide for a "litigation aid" system. Under this system, except in cases where there is manifestly no prospect for a party to prevail in the action, or where a party lacks the financial means to pay the litigation expenses, the court may grant the litigant temporary relief from any requirement to pay court costs. Taiwan's "Legal Aid Act" provides that when a party lacks the financial means to pay litigation expenses and attorney fees, the court shall provide aid through an institutional channel to safeguard the basic human right of the people to engage in litigation and benefit from the right of equality.

### Collective remedy and citizen lawsuits

Businesses generally have much greater financial resources than individuals do, which means that when business behavior infringes upon the rights of an individual consumer, it is often difficult for the latter to receive real relief. Accordingly, the Taiwan government has included provisions in the "Code of Civil Procedure" and the "Consumer Protection Act" that allow for the victims of public safety hazards, consumer disputes, and product defects to initiate class action suits. For persons whose rights have been infringed, this approach makes it more affordable for them to seek relief via the judicial system.

In addition, the "Basic Environment Act," "Environmental Impact Assessment Act," "Air Pollution Control Act," "Waste Disposal Act," "Soil and Groundwater Pollution Remediation Act," "Water Pollution Control Act," and "Toxic and Concerned Chemical Substances Control Act" all include provisions that allow for citizen suits. When a public or private entity violates the law and the competent authority is negligent in enforcement, victims or public interest groups may notify the competent authority in writing, and if the competent authority continues to ignore the violation, the victims or public interest groups may file a lawsuit with an administrative court.

## Extraterritorial jurisdiction

With respect to any human rights abuses that occur overseas, Taiwan already has laws and regulations which provide that such abuses are subject to the jurisdiction of Taiwan's judicial authorities no matter where the abuses have taken place. For example, if a responsible person or an employee of a company engages overseas in human trafficking, drug dealing, or piracy (as referred to in Article 5 of Taiwan's "Criminal Code"), or offers a bribe to a public servant from Taiwan or a foreign nation in connection with cross-border trade, investment, or other business activities (as referred to in Article 11 of the "Anti-Corruption Act"), the offense will be subject to the jurisdiction of Taiwan's judicial authorities regardless whether the offense is punishable or not under the law of the land where the crime is committed.

In addition, the "Regulations Governing the Handling of Companies' Overseas Investments" provide that when the Taiwan government reviews an investment application, if it discovers that a company has violated the provisions of an international treaty in the course of its overseas investment activities, the application will be rejected. Also, the Taiwan government imposes corporate social responsibility requirements when it grants approval for a company to invest overseas, and at the same time will require the company to abide by the legal requirements of the host jurisdiction.

### ■ Non-judicial remedy

The Taiwan government encourages members of the public to make use of alternative dispute resolution (ADR) schemes (e.g. grievance, conciliation, mediation, and arbitration procedures that are provided to the public by courts, government agencies, and private groups) to achieve the earliest possible resolution of disputes involving many different matters, including medical treatment, labor-management issues, gender equality, and consumer protection.

### Pre-mediation proceedings

In the field of labor-related disputes, for example, in order to provide alternative dispute resolution schemes, the "Act for Settlement of Labor-Management Disputes" establishes mediation, arbitration, and administrative decision mechanisms. Also, the "Code of Civil Procedure"



and the "Labor Incident Act" both provide for a compulsory conciliation system so that cases will, in principle, have to first go through conciliation proceedings, and then proceed to judicial proceedings only after conciliation fails to yield a resolution.

### **Bringing alternative dispute resolution (ADR) resources into play**

The Taiwan government has also launched a Search Platform for Alternative Dispute Resolution Mechanisms to provide stronger links between public and private ADR mechanisms. The Search Platform sets out information on various ADR mechanisms, categorizing its listings on the basis of type of institution, type of dispute, name of organization, location of organization, etc. Anyone can use the ADR Search Platform to quickly find an ADR body to handle a dispute resolution process.

### **Grievance system for employment discrimination**

The labor competent authorities in local governments throughout Taiwan have already established employment discrimination grievance channels to deal with instances of employment discrimination involving gender, age, and disability. Accordingly, employees or job seekers who discover law-breaking behavior on the part of an employer can file a grievance via any of the aforementioned channels.

## **C. Actions planned**

### **■ Continue promoting judicial reform, establish better remedy systems**

As part of an ongoing judicial reform effort that first got underway in 1999, the Taiwan government in 2016 convened a "Presidential Office National Congress on Judicial Reform." After more than 40 subcommittee discussions, the president convened a summary meeting where she instructed government agencies to implement a total of 303 resolutions. Judicial reform measures pertaining to business and human rights include the following:

On 5 December 2018 the president promulgated the "Labor Incident Act," which entered into force on 1 January 2020. By setting up special labor courts to hear labor-related litigation, and by establishing the principle of providing labor with convenient access to the courts, this Act appropriately adjusts the principle of party presentation, effectively promotes timely

adjudication procedures, and institutes a new regime for prompt securing of rights in order to achieve substantive fairness and provide effective remedy.

On 15 January 2020, the president promulgated the "Commercial Case Adjudication Act" and the "Intellectual Property and Commercial Court Organization Act," which will enter into force from 1 July 2021. Under the new Acts, special intellectual property and commercial courts at the level of a high court will hear commercial litigation as the court of first instance, and a judgment rendered by such a court can only be appealed once, to the Supreme Court. The idea is to ensure that disputes of this nature can be resolved quickly, appropriately, and professionally. This would improve Taiwan's business environment and boost economic development.

In the future, government agencies will continue engaging in dialogue with society and soliciting a broad range of opinions to use as reference in developing a reform program that is closely in line with conditions in Taiwan. This program will be actively promoted to facilitate further reform of business-related human rights remedy systems.

#### ■ Strengthening of extraterritorial jurisdiction

Cross-border litigation occasionally arises due to: (a) human rights violations or environmental destruction caused in Taiwan by foreign multinational corporations engaged in business activities in Taiwan; or (b) human rights violations or environmental destruction caused overseas by Taiwanese corporations (or by multinational corporations controlled by a Taiwanese corporation) engaged in business activities overseas. With respect to such litigation, our government needs to conduct research on how to provide victims with effective remedy channels. The scope of such research should include, without limitation, the following:

1. Study how to enact rules governing Taiwan's jurisdiction over cross-border litigation, including litigation filed in Taiwan by foreign nationals not domiciled in Taiwan (but note that, in doing so, we must act in line with the principles of substantive fairness, jurisprudence, and procedural economy).
2. Study the legality and feasibility of using measures other than fines to deal with the corporate criminal liability of Taiwanese and multinational corporations.



3. Multinational corporations often use overseas duty-free countries to establish subsidiaries, so we need to study whether the parent companies of multinational corporations are required to bear joint and several liability for indemnification of aggrieved parties when subsidiaries infringe upon the rights of other parties.
4. Cross-border actions for damages are sometimes filed in connection with environmental destruction caused overseas by multinational corporations, so we need to study whether there is a need to amend related laws and regulations (e.g. environmental protection legislation) to provide for an extended period of prescription.

#### ■ Push for the passage of whistleblower protection mechanisms

Besides continuing to improve remedy systems and encouraging businesses to establish internal grievance mechanisms, the Taiwan government, in order to get people to make increased use of remedies and grievance channels, will also: (a) push for the passage of whistleblower protection legislation; (b) provide encouragement and protections to those who have the courage to reveal human rights abuses; and (c) strengthen protections for whistleblowers' privacy, personal safety, and right to work.

### VI. Oversight of the National Action Plan

Adoption of the National Action Plan signals Taiwan's intention to begin implementing the UNGPs. Taiwan was one of the first countries in Asia to adopt a UNGP national action plan. We realized that, as the international community works to promote business-related human rights, we will see a continual emergence of new ways of thinking and new best practices. Taiwan will continue to closely monitor new developments and refer to them in future policymaking work. Representatives of government, businesses, and private groups will continue to communicate and study related matters, and jointly oversee implementation of the National Action Plan to facilitate further development and updating of the Plan.

We will continue to report on the state of the implementation and updating of the National Action Plan, and pledge to release a new version of the National Action Plan by the end of 2024.

And finally, we are sincerely grateful for the tremendous support for the National Action Plan that has been received from businesses, trade

associations, private groups, academic institutions, and government agencies, and we look forward to your continued assistance and cooperation.





## Appendix 1: Concrete actions taken by Taiwan to fulfill the state obligation to protect

### ■ Taiwan's commitment to human rights and international participation

Regarding the ratification and the entry into force of important UN conventions, the Taiwan government has taken following actions:

The "Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights" came into force on 10 December 2009. Regular reports are submitted in which the Taiwan government reviews its implementation of both covenants.

The "Act to Implement the Convention on the Rights of Persons with Disabilities" came into force on 3 December 2014. This convention protects the rights and interests of persons with physical and mental disabilities, and ensures their opportunity for equal social, political, economic, and cultural participation.

The "Implementation Act of the Convention on the Rights of the Child" came into force on 20 November 2014. This convention uses international child rights protection norms as the benchmark to build an environment that protects all aspects of children's physical and mental health.

The "Enforcement Act of Convention on the Elimination of All Forms of Discrimination against Women" came into force on 1 January 2012. This convention promotes fairer gender standards in Taiwan with the aim of achieving gender equality.

A plan of the Ministry of the Interior (MOI) for implementation of the "International Convention on the Elimination of All Forms of Racial Discrimination" was approved by the Executive Yuan on 8 May 2020. The MOI, acting in accordance with the timeline set out in the plan, will implement the Convention one step at a time. This undertaking will include the preparation of a national report and the conduct of an international review.

The "Act to Implement the United Nations Convention against Corruption," which entered into force on 9 December 2016, was enacted in

response to international trends and challenges in the fight against corruption. Our government issues periodic reports on the state of Taiwan's implementation of the UN Convention against Corruption.

To promote human rights, on 4 March 2019 Taiwan's Ministry of Foreign Affairs (MOFA) established the "MOFA Human Rights Task Force," which works to promote international human rights, support cooperation and exchange, publicize information, focus attention on women's rights, and implement human rights diplomacy.

### ■ Government procurement

Governments can promote human rights through their procurement processes by, for example, providing human rights guidelines to bidders, including human rights requirements in contracts, and promoting corporate respect for human rights. Taiwan has implemented regulations with such measures, including the following;

Article 101, paragraph 1, subparagraph 14 of the "Government Procurement Act" provides that where the supplier discriminates on the basis of gender, aboriginal status, physical or mental disability, or status as the member of a disadvantaged group, where the details of the discrimination are particularly serious, it will be published in the Government Procurement Gazette and the supplier shall not be allowed to bid on a government contract (or be a sub-contractor) for one year.

Article 26-1 of the "Government Procurement Act" stipulates that an entity may prescribe technical specifications in accordance with Article 26 to promote the conservation of natural resources and protection of environment, and adopt related measures to save energy, save resources, and reduce greenhouse gas emissions. Increases in project expenditures or technical service fees, if any, shall be incorporated into the project budget for approval when preparing the technical specifications or measures.

Article 96 of the "Government Procurement Act" stipulates that an entity may provide in tender documentation that preference shall be given to a product with the government-recognized Green Mark.

Article 22 of the "Resource Recycling Act" stipulates that all Taiwan government agencies, public schools, public enterprises and organizations, and military authorities shall preferentially procure government-recognized environmentally preferable products, and that



the central competent authority and all industry-specific authorities shall perform promotion activities for environmentally preferable products.

Article 27, paragraph 1 of the "Statute for Industrial Innovation" stipulates that central government authorities shall encourage government agencies/organizations and enterprises to purchase green products and services.

Article 25 of the "Greenhouse Gas Reduction and Management Act" stipulates that all levels of government, public education institutions, and government-run enterprises shall promote energy saving and use energy-efficient products or services to reduce GHG emissions.

Article 98 of the "Government Procurement Act" stipulates that for a winning tenderer which employs more than 100 persons locally, aborigines or persons with physical or mental disabilities shall account for a minimum of two percent of the total number of employees during the term of contract performance; otherwise, the foregoing tenderer shall pay a fee in lieu of performance and shall not hire foreign workers to make up the shortage in question.

Article 12 of the "Indigenous Peoples Employment Rights Protection Act" stipulates as follows:

"I. Companies winning bids according to the Government Procurement Act with more than one hundred staff shall hire indigenous people during the term of contract performance, with the total number of indigenous people accounting for no less than one percent (1%) of the total number of working staff thereof.

II. The indigenous people hired according to the provision in the previous section shall receive pre-job training before commencement of their work; training fees shall be subsidized by the government; the conditions, duration and amount of subsidies shall be determined by the competent authority for labor issues in the central government.

III. In the event that the winning bidder fails to hire enough indigenous people based on the requirement set out in paragraph I above, it shall make a cash payment to the employment fund of the Aboriginal Comprehensive Development Fund."

Article 70 of the "Government Procurement Act" stipulates that an entity conducting a procurement procedure for construction work shall stipulate

the responsibility of the supplier for quality control, environmental protection, as well as workplace safety and hygiene, and shall also establish inspection procedures and standards for the major items of the construction work.

Article 70-1 of the "Government Procurement Act" stipulates that in conducting the planning or design of a construction project, an entity shall analyze the potential construction hazards with an eye to the scale and characteristics of the construction project, prepare the drawings and specifications related to safety and health in accordance with the "Occupational Safety and Health Act" and its secondary regulations, and quantify related safety and health expenditures. Such information, and the requirements of the supplier to arrange or take necessary preventive equipment or measures, shall be included in the governmental tender documentation at the bidding stage. Where an occupational accident occurs at the construction site due to lack (or poor quality) of safety and health equipment or facilities as required by regulations or contract, the supplier shall not only be punished pursuant to the "Occupational Safety and Health Act" and its secondary regulations, but shall also be dealt with according to the "Government Procurement Act" and the contractual provisions.

In addition, the Public Construction Commission's Procurement Evaluation Committee scoring tables for bidders shall include CSR indicators, such as "whether all employees have received pay increases," "the quality of basic compensation received by procurement officers," and "the quality of work/life balance measures."

#### ■ Promotion of corporate social responsibility

Article 1, paragraph 2 of the "Company Act," which in its amended form came into force in November 2018, provides as follows: "When conducting its business, every company shall comply with the laws and regulations as well as business ethics and may take actions which will promote public interests in order to fulfill its social responsibilities." Therefore, a company's objectives shall encompass not only making a profit, but also fulfilling its social responsibility.

The government may incorporate legally binding non-financial reporting requirements to ensure that companies conduct human rights due diligence. Article 10, subsection 4, item E of the "Regulations Governing



Information to be Published in Annual Reports of Public Companies" provides that corporate governance reports shall address CSR elements, such as environmental protection, community participation, social contribution, social services & welfare, consumer rights, human rights, and health & safety.

The Taiwan Stock Exchange (TWSE) has issued the "Taiwan Stock Exchange Corporation Rules Governing the Preparation and Filing of Corporate Social Responsibility Reports by TWSE Listed Companies," and the Taipei Exchange (TPEX) has issued the "Taipei Exchange Rules Governing the Preparation and Filing of Corporate Social Responsibility Reports by TPEX Listed Companies." If a listed company is in any of the following circumstances, it shall prepare and file a corporate social responsibility report in Chinese according to these Rules: (a) the company is in the food industry, chemical industry, or financial industry; (b) no less than 50 percent of the company's total operating revenue is derived from food and beverages; or (c) the company's capital stock is not less than NT\$5 billion. A listed company to which the above descriptions apply shall prepare a corporate social responsibility report for the preceding year, making reference to the Global Reporting Initiative (GRI) Standards and the Sector Disclosure documents issued by the GRI.

The MOEA's Small and Medium Enterprise Administration has issued the "Principles for Registration of Social Innovation Organizations." This document calls upon social innovation enterprises to disclose their organizational goals and social missions, and to state how they coincide with the UN's Sustainable Development Goals and/or Taiwan's efforts regarding social issues.

To strengthen corporate governance, the TWSE and the TPEX have issued several codes of best practice, including the following:

"Corporate Social Responsibility Best Practice Principles for TWSE/GTSM Listed Companies": Listed companies are expected to implement CSR measures to manage their economic and environmental risks and impacts.

"Ethical Corporate Management Best Practice Principles for TWSE/GTSM Listed Companies ": Listed corporations are required to establish a corporate culture built upon good management and integrity. Corporations shall also consider the background of their suppliers. Corporations are expected to act with high integrity.

"Corporate Governance Best Practice Principles for TWSE/TPEX Listed Companies": Listed companies are expected to establish good corporate governance systems and respect the rights and interests of all stakeholders.

#### ■ Promotion of international consensus and cooperation

Taiwan and the European Union have held consecutive annual Taiwan-EU Human Rights Consultations from 2018 to 2020 to exchange views on human rights matters. The two sides have confirmed that they share the same fundamental values of democracy, and respect for human rights and the rule of law, and are seeking closer cooperation where their interests and values converge. Moreover, the EU has encouraged Taiwan to prepare national action plans for enhancing "corporate social responsibility" as well as "business and human rights."

Taiwan has an export-driven economy. The country thus views the lowering of trade barriers and the strengthening of the multilateral trading system as important issues. Moreover, Taiwan believes that trade contributes to sustainable development. In this overall context, international trade should be promoted in a friendly and constructive manner. This includes promoting the incorporation of environmental, social responsibility, and human rights standards into free trade agreements, as well as designing impact assessment and monitoring mechanisms.

In line with this, Taiwan has included CSR, environmental, and worker rights clauses, as well as "general exceptions," in many of its trade and investment agreements, such as the following:

A CSR clause is included as Article 12 of the bilateral investment agreement (BIA) between the Taipei Economic and Cultural Center in India and the India-Taipei Association.

Inclusion of "investment/environment/labor" clauses: Host states shall not attract investment by relaxing health, safety, or environmental protections, or by lowering labor standards. At present, Taiwan has several free trade agreements (FTAs) with such clauses, including Article 10.15 of the Taiwan-Guatemala FTA, Article 10.11 of the Taiwan-Nicaragua FTA, Article 10.16 of the Taiwan-El Salvador-Honduras FTA, Article 24 of the Taiwan-Japan BIA, and Article 12.16 of the Taiwan-New Zealand FTA.

"General exception" clauses: These clauses focus on the following twin



themes: 1) investment agreement specifications shall not be interpreted as prohibiting host states from adopting necessary measures based on public interests, such as protecting human health, and 2) such measures should not cause arbitrary or unreasonable discrimination against investors. Such "general exception" clauses are included in Article 16 of the Taiwan-St. Vincent BIA, Article 16 of the Taiwan-Philippines BIA, and Article 31 of the Taiwan-India BIA.

#### ■ Other legislative action and measures

In order to better protect the rights and interests of temp workers, Articles 2, 9, 22-1, 17-1, 63, 63-1 and 78 of the "Labor Standards Act" were amended or newly added in May and June of 2019. These articles came into force on May 17, 2019 and June 21, 2019. The amendments expressly define temp workers work on non-fixed term contracts. The amendments also (a) prohibit client firms from reclassifying regular employees as temp workers; (b) provide that client firms and temp agencies shall be jointly and severally liable for the compensation that an employer is required to pay, and that if the temp agency is fined by the competent authority for failure to pay wages due to a temp worker, the temp worker may demand payment from the temp agency; and (c) strengthen protections for the labor rights of temp workers.

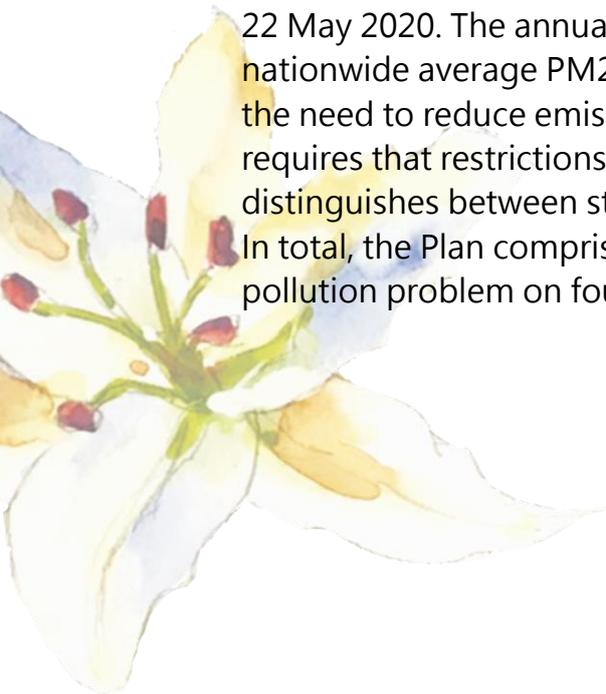
The "Occupational Safety and Health Act" is enacted to protect workers' safety and health and to prevent occupational accidents. Article 21, paragraph 3 of the "Factory Management Act" stipulates that: "The factory shall exercise due care in manufacturing, processing and using dangerous objects. When significant environmental pollution or workplace accident seriously affects nearby factories or public safety, the municipal, county, or city authorities may order the factory to suspend operations and take corrective action. After the cause for suspension of operations has been addressed, the factory may apply to the municipal, county, or city authorities to resume operations."

Article 8 of the "Public Welfare Lottery Issue Act" provides as follows: "Disabled persons who are capable of working, indigenous persons, and single-parent families with low income shall be given first priority for lottery retailer licenses. Retailers which have more than five employees shall hire at least one disabled person who is capable of working, one indigenous person, or one head of a single-parent family with low income."

Article 25 of the "Tobacco and Alcohol Administration Act" stipulates that the nicotine and tar levels of tobacco products must not exceed the maximum limit set by the "Tobacco Hazards Prevention Act" in order to protect the right to health. Article 27 provides that the operations of tobacco and alcohol manufacturers must meet good hygiene standards and relevant factory standards to prevent infringement of the right to health.

To promote gender equality in the workplace, Chapter II of the "Act of Gender Equality in Employment" expressly prohibits employers from discriminating on the basis of gender or sexual orientation, and Chapter III of the same Act states that employers are obliged to prevent sexual harassment, and requires employers of a certain size to establish measures for preventing and correcting sexual harassment, complaint procedures, and disciplinary measures, and to openly display these measures in the workplace.

The Environmental Protection Administration, acting in accordance with Article 7 of the "Air Pollution Protection Act," proposed an "Air Pollution Control Plan (2020–2023)," and it was approved by the Executive Yuan on 22 May 2020. The annual air quality target set out in the Plan calls for a nationwide average PM<sub>2.5</sub> concentration of 15µg/m<sup>3</sup>. It also focuses on the need to reduce emissions of ozone and volatile organic compounds, requires that restrictions be applied with greater breadth and rigor, and distinguishes between stationary, mobile, and fugitive sources of pollution. In total, the Plan comprises 27 specific measures that address the air pollution problem on four different fronts.



## Appendix 2: Concrete actions taken by Taiwan to ensure respect by businesses for human rights



- **Governments can provide information and support to enterprises. The Taiwan government has implemented several regulations and measures to provide enterprises with guidance and support, including the following:**

Chapter 4 of the "Greenhouse Gas Reduction and Management Act" sets out educational, outreach, and reward mechanisms related to greenhouse gas reduction. Government agencies at all levels are required to promote industry awareness of the need for mitigation of the impact of global climate change and the reduction of greenhouse gas emissions. In addition to promoting carbon footprint monitoring systems, the Executive Yuan's Environmental Protection Agency issued the "Regulations Governing Incentives for Low-Carbon Products" in July 2017 on the authority of Article 27, paragraph 2 of the "Greenhouse Gas Reduction and Management Act." These new Regulations provide companies with more incentives to affix their products with carbon footprint marks and carbon footprint reduction marks.

Article 26 of the "Statute for Industrial Innovation" provides as follows:

To encourage the sustainable development of industries, the central authorities in charge of relevant enterprises may provide enterprises with grants or guidance to promote the following matters: (a) Assisting enterprises in adapting to international regulations for environmental protection and health and safety. (b) Promoting the development and application of technology relating to greenhouse gas reduction and pollution prevention. (c) Encouraging enterprises to improve the efficiency of their energy and resource consumption and to adopt relevant technologies that may recycle/renew energy/resources and save energy and water. (d) Production of non-toxic, less-polluting products and other products that reduce the burden on the environment.

In order to spur companies to follow CSR principles, Article 28 of the "Statute for Industrial Innovation" provides that "to encourage enterprises to fulfill their social responsibility, the central authorities in charge of relevant enterprises shall assist enterprises to actively disclose the relevant environmental information regarding their production processes, products,

services, and other aspects of sustainable development, and the enterprises with outstanding performance may be eligible to receive commendations or awards."

On November 6, 2017, the Executive Yuan approved the "Green Finance Action Plan" proposed by the Financial Supervisory Commission. This Plan encourages banks to adopt the Equator Principles (EPs) for international benchmarking. The EPs provide a risk management framework for assessing and managing the environmental and social risks of projects.

Article 235-1, paragraph 1 of the "Company Act" provides as follows: "A fixed amount or ratio of profit of the current year distributable as employees' compensation shall be definitely specified in the Articles of Incorporation." The purpose of this provision is to encourage companies to share profits with employees.

Article 36-2, paragraph 3 of the "Act for Development of Small and Medium Enterprises" provides as follow: "During the period when the Composite Leading Indicators are above certain levels, if a small and medium enterprise raises the average salary paid to the domestic junior employees, it can deduct up to 130% of the incremental annual gross salary payments, excluding statutory basic wage adjustment, to the junior employees from its current year profit-seeking enterprise."

■ **In order to strengthen enterprises' CSR implementation and enhance human rights awareness, the Taiwanese government and civil society have implemented a number of support measures, including the following:**

The MOEA's Department of Investment Services (DOIS) organizes CSR seminars each year to increase corporate understanding of the UNGPs and the OECD Guidelines for Multinational Enterprises.

The Taiwan Institute for Sustainable Energy, along with representatives from the public and private sectors, academia, and NGOs, jointly established the "Alliance for Sustainable Development Goals" in August 2018. The Alliance organizes the "Global Corporate Sustainability Forum" every year to familiarize participants with the UN Sustainable Development Goals, CSR performance, and successful business models in these areas.

The Taiwan Institute for Sustainable Energy has launched the Taiwan Sustainability Value Index (TWSVI). The TWSVI uses economic,



environmental, social, disclosure, and sustainability evaluations to select company stocks that have both financial and long-term sustainability value.

The Taiwan Institute for Sustainable Energy cooperates with the government to develop renewable energy, strengthen the promotion of green finance and sustainable finance, and help enterprises to comply with the "Principles for Responsible Banking" and the recommendations of the "Task Force on Climate-related Financial Disclosures."

The Taiwan Institute for Sustainable Energy has established the "Taiwan Academy of Corporate Sustainability (TACS)," which works with universities, enterprises, NGOs, and government agencies to organize international seminars, workshops, forums, and other types of activities to promote the SDGs and sustainable development.

In addition, in order to promote the development of a sustainable investment environment, TWSE subsidiary Taiwan Index Plus Corporation and FTSE Russell jointly released the "FTSE4Good TIP Taiwan ESG Index," the first ESG index that fully integrates environmental, social, corporate governance, and financial indicators in Taiwan.

The Taipei Exchange and the Taiwan Index Plus Corporation have joined forces with the Taiwan Business Council for Sustainable Development to collaborate in developing the TIP Taiwan TPEX CSR Index, which selects component stocks on the basis of whether the issuing companies satisfy certain CSR performance criteria. The Index thus encourages companies to take their CSR obligations seriously and to fulfill them. We also hope to see companies issue ETFs, ETNs, index warrants, index funds, and other index products that would provide investors new channels via which to take part in socially responsible investing.

Industry associations and companies also voluntarily propose or follow many relevant international standards, including the following:

In order to ensure CSR implementation in the financial industry, the Bankers Association of the ROC in 2014 adopted credit guidelines with reference to the spirit of the "Equator Principles," addressing such matters as environmental protection, ethical business practices, and social responsibility.

The Secure Online Shopping Association put forward a "Good

E-Commerce Code of Conduct." The code's purpose is to establish a self-regulated, orderly, fair, efficient, clear, and safe e-commerce environment that will ensure consumer rights and interests and build consumer confidence in e-commerce. The effort is also designed to promote the sound development of e-commerce, and seeks to optimize the welfare of both e-commerce operators and consumers.

Taiwan's Asustek Computer, Acer Corporation, Hon Hai Technology, HTC, and TSMC are all members of the Responsible Business Alliance and follow the "Responsible Business Alliance Code of Conduct" to strengthen the management of supply chains.

Asustek, Acer, HTC, and TSMC are also members of the Responsible Minerals Initiative, which helps firms manage issues related to conflict minerals. This includes assistance in due diligence efforts.





## Appendix 3: Concrete actions taken by Taiwan to provide effective remedy systems

### ■ Civil Remedy and litigation aid

Taiwan has an independent civil remedy system. When someone's civil rights are violated, they can file a lawsuit in accordance with the "Code of Civil Procedure" and enjoy equal access to the courts and the use of judges to resolve disputes. The "Code of Civil Procedure" and the "Labor Incident Act" both provide for a "litigation aid" system. Except in cases where there is manifestly no prospect for a party to prevail in the action, where a party lacks the financial means to pay the litigation expenses, the court shall, by ruling on a motion, grant litigation aid.

To protect basic human rights such as people's rights to litigation and equality, Taiwan has also implemented the "Legal Aid Act," which provides institutional assistance to people who cannot afford litigation expenses and attorney fees.

### ■ Collective remedy and citizen lawsuits

Regarding the collective remedy system, to handle cases involving public safety hazards, consumer affairs issues, product defects, and other such matters, Articles 44-1 to 44-3 of the "Code of Civil Procedure" and Articles 50 and 54 of the "Consumer Protection Act" provide for a class action system to help relieve victims of associated legal expenses.

Elements of many pieces of legislation facilitate citizen-initiated environmental litigation. These include Article 34, paragraph 1 of the "Basic Environment Act," Article 23, paragraph 8 of the "Environmental Impact Assessment Act," Article 93, paragraph 1 of the "Air Pollution Control Act," Article 72, paragraph 1 of the "Waste Disposal Act," Article 54, paragraph 1 of the "Soil and Groundwater Pollution Remediation Act," Article 72, paragraph 1 of the "Water Pollution Control Act," and Article 73, paragraph 1 of the "Toxic Chemical Substances Control Act." For citizen lawsuits, when a public or private entity violates the law and the competent authority is negligent in enforcement, victims or public interest groups may notify the competent authority in writing concerning the details of the negligent enforcement. When a competent authority fails to carry out enforcement in accordance with the law within sixty days after receipt of the written notification, the victims or public interest groups may

name the competent authority at issue as a defendant and file a lawsuit directly with an administrative court based on the negligent behavior of the competent authority in the execution of its duties in order to seek a ruling ordering the competent authority to implement its duties.

#### ■ Extraterritorial jurisdiction

Article 5 of Taiwan's "Criminal Code" provides that if a company engages overseas in human trafficking, drug dealing, or piracy, the offense will be subject to the relevant provisions of Taiwan's Criminal Code, and Taiwan's judicial system has the power to prosecute and punish the offender.

Article 11 of the "Anti-Corruption Act" provides that a public servant who offers (in connection with cross-border trade, investment, or other business activities) to bribe a public servant from Taiwan, the Chinese mainland, Hong Kong, or Macao shall bear criminal liability, and the offender will be dealt with according to the provisions of the "Anti-Corruption Act" regardless whether the offense is punishable or not under the law of the land where the crime is committed.

Article 6 of the "Regulations Governing the Handling of Companies' Overseas Investments" provides that the competent authority may withdraw approval of a company's overseas investment if the investment: (a) has affected national security; (b) has had an adverse impact on the nation's economic development; (c) has violated obligations imposed by an international treaty or agreement; (d) has infringed intellectual property rights; (e) has, by violating the Labor Standards Act, caused a major labor-management dispute that remains unresolved; or (f) has tarnished the nation's image.

#### ■ Labor disputes

Regarding labor disputes, in order to provide alternative dispute settlement mechanisms, the "Act for Settlement of Labor-Management Disputes" provides for mediation and arbitration. In addition, the "Labor Incident Act," which took effect on a January 2020, provides for special labor issue courts that can address labor incidents quickly, professionally, and effectively. All parties enjoy equal status before the court, which that will serve to fairly protects the rights and interests of both employees and employers, and also promotes harmonious labor relations.



## ■ Continue promoting judicial reform, establish better remedy systems

As part of an ongoing judicial reform effort that first got underway in 1999, the Taiwan government in 2016 convened a "Presidential Office National Congress on Judicial Reform." After more than 40 subcommittee discussions, the president convened a summary meeting where she instructed government agencies to implement a total of 303 resolutions. Judicial reform measures pertaining to business and human rights include the following:

On 5 December 2018 the president promulgated the "Labor Incident Act," which entered into force on 1 January 2020. By setting up special labor courts to hear labor-related litigation, and by establishing the principle of providing labor with convenient access to the courts, this Act appropriately adjusts the principle of party presentation, effectively promotes timely adjudication procedures, and institutes a new regime for prompt securing of rights in order to achieve substantive fairness and provide effective remedy.

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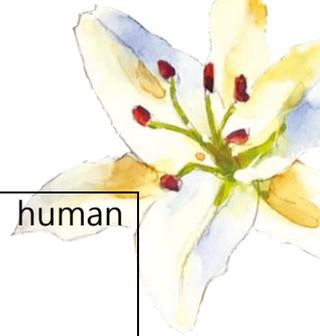
In the future, government agencies will continue engaging in dialogue with society and soliciting a broad range of opinions to use as reference in developing a reform program that is closely in line with conditions in Taiwan. This program will be actively promoted to facilitate further reform of business-related human rights remedy systems.

## Appendix 4: Overview of the implementation of the state duty to protect and the access to remedy

The following gives a schematic overview of the implementation of the state duty to protect and the access to remedy principle by principles.

<b>The state duty to protect</b>	
A. Foundational principles	<p><b><u>UNGP1</u></b></p> <p>States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.</p> <p><b><u>Actions taken</u></b></p> <ul style="list-style-type: none"> <li>· The Taiwan government acts via applicable legislation to ensure the fulfillment of obligations borne by the state pursuant to the Constitution or human rights treaties, including the obligation to prevent human rights abuses by companies and other actors.</li> <li>· The Taiwan government also uses other legislation -- e.g. provisions in labor legislation that ensure human rights by governing workplace rights and prohibiting discrimination -- to ensure that human rights will be respected and supported by non-governmental third parties (including businesses).</li> </ul>
	<p><b><u>UNGP2</u></b></p> <p>States should set out clearly the expectation that all business enterprises domiciled in their</p>





territory and/or jurisdiction respect human rights throughout their operations.

**Actions taken**

- The Constitution and its Additional Articles expressly safeguard the people's fundamental rights, and the constitutional complaint system ensures that laws and regulations that run counter to the Constitution or to the spirit of human rights safeguards will cease to have force or will be amended within a prescribed time period.
- The Taiwan government has already incorporated the "International Covenant on Civil and Political Rights," the "International Covenant on Economic, Social and Cultural Rights," the "Convention on the Elimination of All Forms of Discrimination against Women," the "Convention on the Rights of the Child," the "Convention on the Rights of Persons with Disabilities," the "Convention against Corruption," and other such UN covenants and conventions into domestic legislation, so they can be directly applied as Taiwan law.

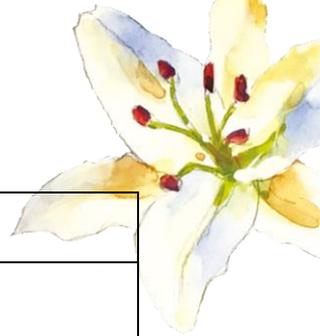
**Actions planned**

- The Taiwan government has pledged to draft and enact a "minimum wage act" and an "occupational accident insurance and protection act." At the same time, in drafting amendments to labor legislation we will consider the particular characteristics of different industrial sectors and study the feasibility of strengthening women's rights measures. We have a special chapter on employment rights in the "Act for Protecting the Interests of the Physically and Mentally



Disabled," are promoting occupational rehabilitation, and have adopted a system of a fixed number of total employees. These measures are designed to uphold the rights and interests of persons with physical and mental disabilities.

- Hold workshops each year on workplace equality and sexual harassment to prevent employers from discriminating against employees or job seekers on account of age.
- We intend to pursue a number of strategies aimed at boosting women's economic empowerment. These include promotion of women's entrepreneurship (and employment), creation of gender-equal workplaces, promotion of flexible working hours and locations, encouragement of re-entry into the job market, and prevention of early withdrawal from the workforce.
- Continue, on the basis of UNGPs, to initiate discussions regarding the issue of administrative measures for outbound investment as applied to business and human rights, and will also set up an inter-ministerial task force at the central government level to study actions taken by other nations, and to discuss the necessity and feasibility of enacting legislation that has binding force overseas in specified fields such as anti-discrimination, labor rights, and environmental preservation in a company's overseas investment activities. The aforementioned discussions will focus on monitoring and study of domestic human rights incidents that have occurred in recent years, and the results of this effort will serve as reference for future legislative



		amendments.
B. Operational principles	General State regulatory and policy functions	<p><b><u>UNGP3</u></b></p> <p>In meeting their duty to protect, States should:</p> <ol style="list-style-type: none"><li>(1) Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps;</li><li>(2) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights;</li><li>(3) Provide effective guidance to business enterprises on how to respect human rights throughout their operations;</li><li>(4) Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.</li></ol> <p><b><u>Actions taken</u></b></p> <ul style="list-style-type: none"><li>• The Taiwan government encourages businesses to engage in responsible business behavior, and has adopted internationally recognized corporate social responsibility standards, such as the UNGPs, the UN Global Compact, ILO Conventions and the OECD Guidelines for Multinational Enterprises.</li><li>• The idea that businesses should fulfill their social responsibilities has been incorporated by our government into the "Company Act." As a result, all businesses in Taiwan now have a clear legal basis to guide the fulfillment of</li></ul>



		<p>their social responsibilities.</p> <ul style="list-style-type: none"><li>• Our government uses the "Statute for Industrial Innovation," the "Company Act," the "Act for Development of Small and Medium Enterprises," and the "Green Finance Action Plan" to provide resources and support needed by businesses to fulfill their obligations in the area of business and human rights.</li><li>• Since 2014, our government has used legislation to require listed companies matching a certain description to prepare a CSR report each year, and as of 2020 our government -- making reference to the non-financial disclosure rules and practices of financial markets around the world -- has included environmental, climate change, social, and corporate governance matters in its disclosure requirements.</li><li>• Our government has also provided businesses with the tools and guidance needed to implement their CSR policies, and has continually conducted outreach activities to encourage businesses to: voluntarily prepare annual CSR reports; disclose their human rights policies, human rights assessment methods, and supplier risks; and establish internal grievance channels.</li></ul> <p><b><u>Actions planned</u></b></p> <ul style="list-style-type: none"><li>• Our government will continue to promote dialogue and communication between businesses, government agencies, and civic groups to set up an effective platform for conducting sustained and regular dialogue and communication among themselves. The</li></ul>
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		<p>government will use these opportunities to inform businesses of the potential human rights risks they may face. To raise awareness of human rights issues, the government will conduct outreach activities.</p> <ul style="list-style-type: none"><li>· In addition to studying the feasibility of expanding the range of businesses subject to a compulsory requirement to prepare CSR reports, the Taiwan government will also advocate for disclosure by businesses of non-financial information (related issues will include important environmental, social, and governance (ESG) topics -- such as the use of consumer information, the use of energy, waste handling, labor conditions, environmental protection, forced evictions, indigenous land rights, gender equality, and consumer protection measures -- all of which are matters of concern to stakeholders).</li></ul>
	The State-business nexus	<p><b><u>UNGP4</u></b></p> <p>States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.</p> <p><b><u>Actions taken</u></b></p> <ul style="list-style-type: none"><li>· Provisions in Taiwanese law pertaining to fundamental individual rights are adopted with the purpose of preventing human rights abuses by the central and local</li></ul>



		<p>governments.</p> <ul style="list-style-type: none"><li>• At the same time, the Taiwan government encourages businesses to engage in dialogue with stakeholders, unions, and the general public regarding issues involving corporate social responsibility, in order to discover problems and take constructive steps to find mutually acceptable solutions. Investors and consumers are important stakeholders, and as such are able to question how a business is run and express support and encouragement. News organizations, as members of the Fourth Estate, exercise independent oversight and can spur the public to pay closer attention to corporate social responsibility issues.</li></ul> <p><b><u>UNGP5</u></b></p> <p>States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights.</p> <p><b><u>Actions taken</u></b></p> <p>The Public Construction Commission's Procurement Evaluation Committee scoring tables for bidders include CSR indicators, such as "whether all employees have received pay increases," "the quality of basic compensation received by procurement officers," and "the quality of work/life balance measures."</p> <p><b><u>UNGP6</u></b></p> <p>States should promote respect for human rights by business enterprises with which they conduct commercial transactions.</p>
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	<p>Supporting business respect for human rights in conflict-affected areas</p>	<p><b><u>UNGP7</u></b></p> <p>Because the risk of gross human rights abuses is heightened in conflict-affected areas, States should help ensure that business enterprises operating in those contexts are not involved with such abuses, including by:</p> <ol style="list-style-type: none"><li>(1) Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships;</li><li>(2) Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence;</li><li>(3) Denying access to public support and services for a business enterprise that is involved with gross human rights abuses</li></ol>



		<p>and refuses to cooperate in addressing the situation;</p> <p>(4) Ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses.</p> <p><b><u>Actions taken</u></b></p> <ul style="list-style-type: none"><li>• Taiwan's Asustek Computer, Acer Corporation, Hon Hai Technology, HTC, and TSMC are all members of the Responsible Business Alliance and follow the "Responsible Business Alliance Code of Conduct" to strengthen the management of supply chains.</li><li>• Asustek, Acer, HTC, and TSMC are also members of the Responsible Minerals Initiative, which helps firms manage issues related to conflict minerals. This includes assistance in due diligence efforts.</li></ul> <p><b><u>Actions planned</u></b></p> <p>The Taiwan government will continue, on the basis of UNGPs, to initiate discussions regarding the issue of administrative measures for outbound investment as applied to business and human rights, and will also set up an inter-ministerial coordination mechanism at the central government level to study actions taken by other nations, and to discuss the necessity and feasibility of enacting legislation that has binding force overseas in specified fields such as anti-discrimination, labor rights, and environmental preservation in a company's overseas investment activities. The aforementioned discussions must also address measures to strengthen regulations,</p>
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		<p>supervisory mechanisms, and other such concrete actions involving Taiwan's screening of FDI into foreign nations. This must be done in order to ensure that companies' overseas investment activities do not violate international human rights regulations and standards.</p>
	Ensuring policy coherence	<p><b><u>UNGP8</u></b></p> <p>States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.</p> <p><b><u>Actions taken</u></b></p> <ul style="list-style-type: none"><li>• Taiwan's Legislative Yuan passed the "Organic Act of the Control Yuan National Human Rights Commission" in 2019. Then the National Human Rights Commission was formally established on 1 Aug 2020 to serve as the government's single human rights authority. The Commission monitors whether the legislative, executive, and judicial branches operate in compliance with international human rights requirements, and whether any government policies or actions infringe upon human rights.</li><li>• To ensure consistency in the human rights policies of different government agencies, the Executive Yuan has established a Human Rights Protection and Promotion Committee to research different countries' human rights safeguard systems, as well as international rules, and to promote and implement Taiwan's policies for the protection of</li></ul>



fundamental human rights. The Committee membership is composed of officials from government agencies involved in related fields, including the Ministry of Justice, Ministry of Economic Affairs, Ministry of the Interior, Ministry of Foreign Affairs, Ministry of National Defense, Ministry of Economic Affairs, Ministry of Finance, Ministry of Education, Ministry of Labor, Ministry of Health and Welfare, Environmental Protection Administration, and Council of Indigenous Peoples.

- While continuing to conduct outreach programs related to principles on business and human rights, and incentivizing the implementation of such principles, our government will also continue to promote the sharing of knowledge in the field of business and human rights. At the same time, the government will also encourage chambers of commerce and industrial organizations to act on their own to adopt human rights policies, procedures, and assessment standards or guidelines, and to provide these to their member organizations.

#### **UNGP9**

States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.

#### **Actions taken**

- The Taiwan government attaches great importance to issues related to business and



		<p>human rights, and is working to establish closer international cooperation in this field. For example, Taiwan and the European Union held consecutive annual Taiwan-EU Human Rights Consultations from 2018 to 2020 to exchange views on human rights matters. The EU has encouraged Taiwan to prepare a National Action Plan on Business and Human Rights, and supports Taiwan's efforts on this front.</p> <ul style="list-style-type: none"><li>• Also, Taiwan's Ministry of Foreign Affairs established the "MOFA Human Rights Task Force" on 4 March 2019. The Task Force's responsibilities include promoting international cooperation and exchange, handling external communications and outreach activities, paying attention to women's issues and working them into the Task Force agenda, and conducting human rights diplomacy.</li><li>• Taiwan has inserted "CSR clauses," "investment/environment/labor clauses," and "general exceptions" into previously signed trade and investment agreements, so our government has taken concrete actions to safeguard human rights.</li></ul> <p><b><u>Actions planned</u></b></p> <ul style="list-style-type: none"><li>• Taiwan will continue to carry out human rights consultations and dialogue with the European Union. In the area of digital human rights, as talks with the European Union regarding a GDPR adequacy decision for Taiwan move forward, we will move methodically toward the establishment of an agency tasked with responsibility for promoting the protection of personal information. In the future, Taiwan will</li></ul>
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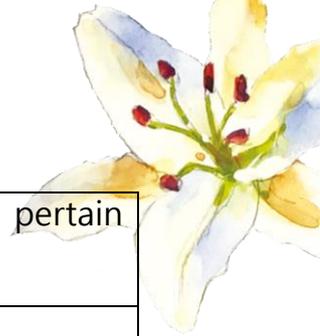
		<p>continue seeking to strengthen international human rights dialogue and cooperation with more countries.</p> <ul style="list-style-type: none"><li>· In the future, during the process of discussing and signing bilateral or multilateral economic and trade agreements, Taiwan's government agencies in charge of economic and trade negotiations will also continue seeking to include human rights clauses to be observed by all signatories.</li></ul> <p><b><u>UNGP10</u></b></p> <p>States, when acting as members of multilateral institutions that deal with business-related issues, should:</p> <ul style="list-style-type: none"><li>· Seek to ensure that those institutions neither restrain the ability of their member States to meet their duty to protect nor hinder business enterprises from respecting human rights;</li><li>· Encourage those institutions, within their respective mandates and capacities, to promote business respect for human rights and, where requested, to help States meet their duty to protect against human rights abuse by business enterprises, including through technical assistance, capacity-building and awareness-raising;</li><li>· Draw on these Guiding Principles to promote shared understanding and advance international cooperation in the management of business and human rights challenges.</li></ul> <p><b><u>Actions taken</u></b></p> <ul style="list-style-type: none"><li>· The Taiwan government has committed to fully implement human rights both at home</li></ul>
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		<p>and abroad. The "International Convention on the Elimination of All Forms of Racial Discrimination" entered into force in our country on 9 January 1971, and although Taiwan is not a member of the United Nations, it has nevertheless signed and ratified important United Nations human rights covenants in recent years, including the "International Covenant on Civil and Political Rights," the "International Covenant on Economic, Social and Cultural Rights," the "Convention on the Elimination of All Forms of Discrimination against Women," the "Convention on the Rights of the Child," the "Convention on the Rights of Persons with Disabilities," and the "Convention against Corruption." In addition, the Taiwan government has gone through the legislative process to incorporate these covenants and conventions into domestic law, and has periodically prepared national reports and submitted them for review by international experts.</p> <ul style="list-style-type: none"><li>· To signal its determination to bring domestic human rights standards in line with the international human rights standards set out in the "Vienna Declaration and Programme of Action" of 1993, the Taiwan government in November 2019 established an Advisory Committee for the Formulation of a National Human Rights Action Plan, which draws its members from a wide range of entities and individuals involved in human rights affairs, including government agencies, private groups, scholars and experts, representatives of women, persons with disabilities, minorities, underprivileged groups, business firms, and labor unions. The</li></ul>
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		<p>committee members discuss and provide opinions regarding a wide range of important issues pertaining to the Action Plan, including the framework, public participation, and the drafting of the plan.</p> <p><b><u>Actions planned</u></b></p> <ul style="list-style-type: none"><li>• A plan of the Ministry of the Interior (MOI) to implement the "International Convention on the Elimination of All Forms of Racial Discrimination" was approved by the Executive Yuan on 8 May 2020. The MOI, acting in accordance with the timeline set out in the plan, will move forward one step at a time in implementing the Convention. The Ministry's work will include the preparation of a national report and the conduct of an international review.</li><li>• In addition to incorporating five core UN humans rights conventions in domestic law, as mentioned above, the Taiwan government has also adopted a national report system based on the UN model, and has pledged to do likewise with another three core human rights conventions, namely, the "International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families," the "International Convention for Protection of All Persons from Enforced Disappearance," and the "Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment."</li><li>• Besides continuing to assess the feasibility of incorporating the core UN humans rights conventions into domestic law, our government will also continue to study ways to promote the implementation of labor and</li></ul>
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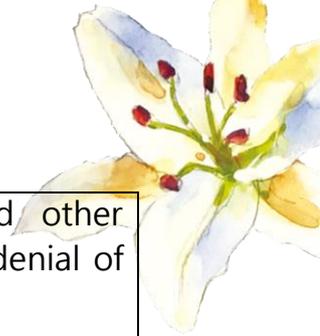
		environmental conventions as they pertain to human rights.
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**Access to remedy**

A. Foundational principle	<p><b><u>UNGP25</u></b></p> <p>As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.</p> <p><b><u>Actions taken</u></b></p> <ul style="list-style-type: none"><li>· Taiwan has three types of courts -- courts of general jurisdiction; administrative courts; and specialized courts (e.g. Intellectual Property Court; juvenile and family courts; special labor courts) -- to adjudicate civil, criminal, and administrative litigation.</li><li>· With respect to any human rights abuses that occur overseas, Taiwan already has laws and regulations which provide that such abuses are subject to the jurisdiction of Taiwan's judicial authorities no matter where the abuses have taken place. For example, if a responsible person or an employee of a company engages overseas in human trafficking, drug dealing, or piracy (as referred to in Article 5 of Taiwan's "Criminal Code"), or offers a bribe to a public servant from Taiwan or a foreign nation in connection with cross-border trade, investment, or other business activities (as referred to in Article 11 of the "Anti-Corruption Act"), the offense will be subject to the jurisdiction of Taiwan's judicial</li></ul>
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	<p>authorities regardless whether the offense is punishable or not under the law of the land where the crime is committed.</p> <ul style="list-style-type: none"> <li>· The "Regulations Governing the Handling of Companies' Overseas Investments" provide that when the Taiwan government reviews an investment application, if it discovers that a company has violated the provisions of an international treaty in the course of its overseas investment activities, the application will be rejected. Also, the Taiwan government imposes corporate social responsibility requirements when it grants approval for a company to invest overseas, and at the same time will require the company to abide by the legal requirements of the host jurisdiction.</li> </ul> <p><b><u>Actions planned</u></b></p> <p>Cross-border litigation occasionally arises due to: (a) human rights violations or environmental destruction caused in Taiwan by foreign multinational corporations engaged in business activities in Taiwan; or (b) human rights violations or environmental destruction caused overseas by Taiwanese corporations (or by multinational corporations controlled by a Taiwanese corporation) engaged in business activities overseas. With respect to such litigation, our government intends to conduct research on how to provide victims with effective remedy channels.</p>	
<p>B. Operational principles</p>	<p>State-based judicial mechanisms</p>	<p><b><u>UNGP26</u></b></p> <p>States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering</p>



		<p>ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.</p> <p><b><u>Actions taken</u></b></p> <ul style="list-style-type: none"><li>· To address human rights oversights that may arise in court judgments, the Judicial Yuan, acting in accordance with its system of "Judicial Review by the Justices of the Constitutional Court," may nullify legislative provisions that it finds to be in violation of the spirit of the Constitution.</li><li>· The "Code of Civil Procedure," and the "Labor Incident Act" that was passed on the authority of the aforesaid Code, both provide for a both provide for a "litigation aid" system. "Litigation aid" provides institutional assistance to people who cannot afford litigation expenses and attorney fees.</li><li>· Our "Code of Civil Procedure" and "Consumer Protection Act" allow for the victims of public safety hazards, consumer disputes, and product defects to initiate class action suits, while our "Basic Environment Act," "Environmental Impact Assessment Act," "Air Pollution Control Act," "Waste Disposal Act," "Soil and Groundwater Pollution Remediation Act," "Water Pollution Control Act," and "Toxic and Concerned Chemical Substances Control Act" all include provisions that allow for citizen suits.</li></ul> <p><b><u>Actions planned</u></b></p> <ul style="list-style-type: none"><li>· As part of an ongoing judicial reform effort that first got underway in 1999, the Taiwan government in 2016 convened a "Presidential Office National Congress on</li></ul>
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		<p>Judicial Reform." After more than 40 subcommittee discussions, the president convened a summary meeting where she instructed government agencies to implement a total of 303 resolutions. Judicial reform measures pertaining to business and human rights include the following:</p> <ul style="list-style-type: none"><li>• On 5 December 2018 the president promulgated the "Labor Incident Act," which entered into force on 1 January 2020. By setting up special labor courts to hear labor-related litigation, and by establishing the principle of providing labor with convenient access to the courts, this Act appropriately adjusts the principle of party presentation, effectively promotes timely adjudication procedures, and institutes a new regime for prompt securing of rights in order to achieve substantive fairness and provide effective remedy.</li><li>• On 15 January 2020, the president promulgated the "Commercial Case Adjudication Act" and the "Intellectual Property and Commercial Court Organization Act," which will enter into force from 1 July 2021. Under the new Acts, special intellectual property and commercial courts at the level of a high court will hear commercial litigation as the court of first instance, and a judgment rendered by such a court can only be appealed once, to the Supreme Court. The idea is to ensure that disputes of this nature can be resolved quickly, appropriately, and professionally. This would improve Taiwan's business environment and boost economic development.</li></ul>
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		<ul style="list-style-type: none"><li>· In the future, government agencies will continue engaging in dialogue with society and soliciting a broad range of opinions to use as reference in developing a reform program that is closely in line with conditions in Taiwan. This program will be actively promoted to facilitate further reform of business-related human rights remedy systems.</li></ul>
	State-based non-judicial grievance mechanisms	<p><b><u>UNGP27</u></b></p> <p>States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.</p> <p><b><u>Actions taken</u></b></p> <ul style="list-style-type: none"><li>· The Taiwan government encourages members of the public to make use of alternative dispute resolution (ADR) schemes (e.g. grievance, conciliation, mediation, and arbitration procedures that are provided to the public by courts, government agencies, and private groups) to achieve the earliest possible resolution of disputes involving many different matters, including medical treatment, labor-management issues, gender equality, and consumer protection.</li><li>· In the field of labor-related disputes, our government has established mediation, arbitration, and administrative decision mechanisms, while our "Code of Civil Procedure" and the "Labor Incident Act" passed on the authority of the aforesaid Code both provide for a compulsory conciliation system so that cases will, in</li></ul>

		<p>principle, have to first go through conciliation proceedings, and then proceed to judicial proceedings only after conciliation fails to yield a resolution.</p>
	<p>Non-State-based grievance mechanisms</p>	<p><b><u>UNGP28</u></b></p> <p>States should consider ways to facilitate access to effective non-State-based grievance mechanisms dealing with business-related human rights harms.</p> <p><b><u>Actions taken</u></b></p> <p>The Taiwan government has also launched a Search Platform for Alternative Dispute Resolution Mechanisms to provide stronger links between public and private ADR mechanisms. The Search Platform to sets out information on various ADR mechanisms, categorizing its listings on the basis of type of institution, type of dispute, name of organization, location of organization, etc. Anyone can use the ADR Search Platform to quickly find an ADR body to handle a dispute resolution process.</p> <p><b><u>Actions planned</u></b></p> <p>The Taiwan government will encourage companies to establish internal remedy systems so that disputes can be resolved through in-house complaint mechanisms. This would reduce the volume of litigation filed with the courts.</p>
		<p><b><u>UNGP29</u></b></p> <p>To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level</p>



		<p>grievance mechanisms for individuals and communities who may be adversely impacted.</p> <p><b><u>Actions taken</u></b></p> <p>Thanks in part to the joint advocacy of the Taiwan government and various other interested parties, more and more businesses -- in order to fulfill their social responsibilities and honor their human rights commitments -- have taken it upon themselves to establish human rights due diligence procedures, identify and assess related human rights issues, and set up an internal complaint mechanism that functions smoothly and ensures confidentiality.</p> <p><b><u>UNGP30</u></b></p> <p>Industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available.</p> <p><b><u>Actions taken</u></b></p> <p>Labor authorities in local governments throughout Taiwan have already established employment discrimination grievance channels to deal with instances of employment discrimination involving gender, age, and physical or mental disability. Accordingly, employees or job seekers who discover law-breaking behavior on the part of an employer can file a grievance via any of the aforementioned channels.</p>
	Effectiveness criteria for non-judicial grievance	<p><b><u>UNGP31</u></b></p> <p>In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:</p>



	mechanisms	<ul style="list-style-type: none"><li>(1) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;</li><li>(2) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;</li><li>(3) Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;</li><li>(4) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;</li><li>(5) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;</li><li>(6) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;</li><li>(7) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;</li></ul> <p>Operational-level mechanisms should also be:</p> <ul style="list-style-type: none"><li>(8) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design</li></ul>
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		<p>and performance, and focusing on dialogue as the means to address and resolve grievances.</p> <p><b><u>Actions planned</u></b></p> <p>Besides continuing to improve remedy systems and encouraging businesses to establish internal grievance mechanisms, the Taiwan government, in order to get people to make increased use of remedies and grievance channels, will also: (a) push for the passage of whistleblower protection legislation; (b) provide encouragement and protections to those who have the courage to reveal human rights abuses; and (c) strengthen protections for whistleblowers' privacy, personal safety, and right to work.</p>
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