

# **ROC's Second Report under the United Nations Convention against Corruption**

**April , 2022**



## Editor Preface

Following ratification by the UN on October 31, 2003, The *United Nations Convention against Corruption* (UNCAC) officially entered into force on December 14, 2005. In light of UNCAC's wide acceptance by the international society, in order to demonstrate anti-corruption resolution, keep up with international anti-corruption trends and regulations, and better prevent and eliminate corruption, Taiwan established and promulgated the *Act to Implement United Nations Convention against Corruption* (Act to Implement UNCAC), which came into force at December 9, 2015.

In 2019, Conference of the States Parties to UNCAC established a review mechanism for the implementation of UNCAC standards. Meanwhile Taiwan, despite not being a participant, has also been active in implementing UNCAC standards. In order to self-review implementation efficacy, Taiwan published ROC's Initial Report under the United Nations Convention against Corruption (hereafter referred to as "the Initial Report") in March 2018 according to Article 6 in the *Act to Implement UNCAC*; and in August of the same year, held the international review conference of the Initial Report, where 5 anti-corruption experts served as the panel and with intensive discussions with representatives from the government and the private sector, producing a total of 47 conclusive insights relating to "Anti-Corruption Reforms in Taiwan." It is, turns out, not only a recognition of Taiwan's exceptional anti-corruption effort, but also suggestions rendered for the future directions of related policies and thus serve as an important reference for our government when establishing anti-corruption policies, regulations, and related measures.

In order to implement the UNCAC self-review mechanism, international review conferences for ROC's reports under the UNCAC are held once every four years. There are two volumes, including the Second Report and Responses to the Concluding Observations on the Initial Report (Report of Responses to the Concluding Observations). The Second Report adopts the structure of the Initial Report and is divided into two parts, the general discussion and the special report. The general discussion provides an overall description of the implementation of UNCAC from 2017 to 2021, and the special report explains the implementation status and results pertaining to each UNCAC article. In addition, to demonstrate our recognition of the conclusive insights from the first international review, our editing team will not only compile the responses to the 47 conclusive insights into one volume, but

for related topics in the Second Report, add annotations that contain the corresponding conclusive insights and responses from the first report to reference.

Although Taiwan was heavily impacted by Covid-19 during the composition of ROC's Second Report, the central and local government agencies continued to gather and compile materials, while Central authorities helped to ensure the consistency of reports provided by local agencies and compiled and edited by Agency Against Corruption of Ministry of Justice (AAC). From August in 2021 to January in 2022, editing and reviewing meetings were convened, in which experts, scholars, private groups, and government agencies held discussions to determine whether Taiwan's anti-corruption policies, regulations, and other measures conform to the norms of UNCAC, as well as to identify areas for improvement. After gathering extensive insights from experts and scholars, the ROC's Second Project is set to be published in April 2022 following the approval by the Executive Yuan, in hopes of conveying to the public Taiwan's continued endeavors in carrying out anti-corruption initiative during the period between the Initial Report and the Second Report.

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## **【General Discussion】**

1. The term “Corruption” as used in this report adopts the definition for corruption given by Transparency International, which refers to the misuse of entrusted power in the public and private sector for improper gains. In the UNCAC’s norms, corruption-related criminal behaviors are specified in Articles 15 to 25.

### **I. Structure of Anti-Corruption Systems in Taiwan**

#### **A. Outline of Public and Private Sectors in Taiwan**

##### **The Public Sector**

2. According to *the Constitution of the Republic of China (Taiwan)*, the President serves as the head of the State, a position that shall be assumed by the Vice President should the office of President become vacant for any reason<sup>1</sup>. The central government is divided into the Executive Yuan, the Legislative Yuan, the Judicial Yuan, the Examination Yuan, and the Control Yuan, which shall exercise their due functions in accordance with the rule of law.
3. The Executive Yuan, the highest administrative organ of the State<sup>2</sup>, is composed of one Premier appointed by the President, one Vice Premier and seven to nine Ministers of State appointed by the President upon the recommendation of the Premier of the Executive Yuan. The Premier is the chairperson of the Executive Yuan Council, who decides by resolution upon major administrative policies and submits statutory or budgetary bills or bills concerning martial law, amnesty, declaration of war, rapprochement or treaties to the Legislative Yuan.
4. The Legislative Yuan, the highest legislative organ of the State<sup>3</sup>, is composed of 113 members elected by the people, who serve four years of tenure and exercise legislative power on behalf of the people. The Legislative Yuan has the power to decide by resolution upon statutory or budgetary bills or bills concerning final accounts of revenues and expenditures, martial law, amnesty, declaration of war, rapprochement or treaties, and other important affairs of the State. Acts

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<sup>1</sup> Please visit the official website of Office of the President Republic of China (Taiwan) for the organization and responsibilities of Office of the President (<https://english.president.gov.tw/Page/53>)

<sup>2</sup> Please visit the official website of the Executive Yuan for the organization and responsibilities of the Executive Yuan (<https://english.ey.gov.tw/Page/E43650B2CB14861B>)

<sup>3</sup> Please visit the official website of the Legislative Yuan for the organization and responsibilities of the Legislative Yuan (<https://www.ly.gov.tw/EngPages/List.aspx?nodeid=224>)

approved by the Legislative Yuan are later promulgated by the President before entering into force.

5. The Judicial Yuan, the highest judicial organ of the State<sup>4</sup>, shall have 15 Grand Justices, including a President and a Vice President of the Judicial Yuan. All of the Grand Justices shall be nominated and, with the consent of the Legislative Yuan, appointed by the President of the Republic. Each Grand Justice shall serve a term of eight years, except for the President and the Vice President of the Judicial Yuan, who shall not enjoy the guarantee of an eight-year term. The Judicial Yuan shall interpret the Constitution and shall have the power to unify the interpretation of laws and orders, and shall have charge of civil, criminal, and administrative cases, and over cases concerning disciplinary measures against public functionaries, and perform judicial administration tasks. Its subordinating agencies include courts of various levels, administrative courts, the intellectual property and commercial court, and the disciplinary court. The *Constitution of the Republic of China (Taiwan)* states that judges shall be above partisanship and shall hold trials independently in accordance with law, as well as hold office for life.
6. The Examination Yuan, the highest examination organ of the State<sup>5</sup>, is composed of a President, a Vice President, and seven to nine members, who serve four years of tenure following the nomination by the President and the approval of the Legislative Yuan. The Examination Yuan charges with matters relating to examination and qualification screening, security of tenure, pecuniary aid in case of death, retirement, employment and discharge, performance evaluation, scale of salaries, promotion, transfer, and commendation. Members of the Examination Yuan shall be above partisanship and shall independently exercise their functions in accordance with law.
7. The Control Yuan, the highest control organ of the State<sup>6</sup>, is composed of 29 members, including the President and Vice President, who serve six years of tenure following the nomination by the President of the Republic and the approval of the Legislative Yuan. The Control Yuan has the authority of impeachment, censure, and auditing. According to Article 3 of Organic Law of the Control Yuan, the Control Yuan shall establish a National Human Rights Commission and may

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<sup>4</sup> Please visit the official website of the Judicial Yuan for the organization and responsibilities of the Judicial Yuan (<https://www.judicial.gov.tw/en/np-1580-2.html>)

<sup>5</sup> Please visit the official website of the Examination Yuan for the organization and responsibilities of the Examination Yuan (<https://www.exam.gov.tw/en/cl.aspx?n=1366>)

<sup>6</sup> Please visit the official website of the Control Yuan for the organization and responsibilities of the Control Yuan (<https://www.cy.gov.tw/EN/cp.aspx?n=234>)

separately establish other committees. Members of the Control Yuan shall be above partisanship and shall independently exercise their functions in accordance with law.

8. Special municipalities and counties/cities are first-level local self-governing bodies of ROC. Currently, there are 6 special municipalities, 13 counties, and 3 cities in Taiwan. Special municipalities have councils (380 councilors in total) and governments, and counties/cities shall each have a council (532 councilors in total) and a government.
9. Townships/county-administered cities and mountain indigenous districts of special municipalities (hereafter referred to as “indigenous districts”) are second-level local self-governing bodies. Currently, there are 184 townships, 14 county-administered cities, and 170 districts in Taiwan. Townships/county-administered cities and districts shall each have a council (2,098 representatives in total) and an office.
10. According to the summary and analysis of the 2020 statistical yearbook of civil service, there were 366,494 all civil servants<sup>7</sup> in Taiwan at the end of 2020, among which 193,445 served in the central government agencies, the remaining 173,049 served in local government agencies, and an additional 229,216 public functionaries served in other institutions and public schools.

### **The Private Sector**

11. Profit-oriented organizations in the private sector mainly refer to companies registered in accordance with the *Company Act*. As of December, 2021, there were 736,6889 registered companies in Taiwan, with limited companies being the largest group (552,814) and companies limited by shares being the second largest group (178,385). Among public traded companies, there were 959 listed companies and 788 companies which shares are sold over-the-counter.
12. Non-profit-oriented organizations in the private sector include foundations and civil associations supervised by the central and local agencies. According to the statistics of Ministry of the Interior, in terms of civil associations, there were 127 political associations (parties), 11,267 occupational associations, and 59,783 social associations till 2020. According to the norms of the *Civil*

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<sup>7</sup> The all civil servants referred herein mean the civil servants/employees employed by administrative agencies, public enterprise org, hygiene & medical service org., and public schools(staff), who receive wages and/or stipends for their positions within the formal organization according to the organizational regulations of each of the above agencies. However, this does not include public school teachers, military personnel, and contract staff, technicians, janitors, regular workers, security guards, contingent workers and temporary workers employed by each and all of the agencies and schools.

*Association Act*, there are around 12 types of social associations, which can be classified into the causes of culture promotion, academic research, medicine, health, religion, charity, sports, social service, fellowship, or other public welfare.

## **B. Anti-Corruption Policy Formulation**

13. In the formulation of anti-corruption policies, Taiwan has always valued the integrity of the civil service. Since 1993, the Executive Yuan has successively promoted the Correct Ethics Action Plan, Anti Money Laundry Action Plan, the Follow-up Plan, and Anti-Corruption Action Plan, for which the Ministry of Justice's prosecution, investigation, and government agencies serve as the main enforcement agencies, and the specific strategies focused on anti-corruption and corruption prevention in the domestic public sector.
14. In 2008, a series of corporate frauds broke out in Taiwan, leading to a financial crisis triggered by the non-performing debts of financial institutions. Since then, we have been promoting the importance of corporate governance to domestic public companies by successively promoting various corporate governance-related management mechanisms and establishing regulations for companies to follow by enacting relevant laws and regulations and self-regulatory rules.
15. In 2009, the Executive Yuan promulgated the National Integrity Building Action Plan<sup>8</sup> and referenced the “National Integrity System” advocated by UNCAC and Transparency International to adopt a multifaceted cooperation strategy to integrate public and private sector efforts in integrity. After the implementation of the *Act to Implement UNCAC* in 2015, in order to actively strengthen the implementation of various anti-corruption laws and policies, the Executive Yuan issued a letter amending the Plan in 2016, formulating nine specific strategies and related implementation measures and performance targets. For details, please refer to Article 5 of the UNCAC monograph.

## **C. Anti-Corruption Legal Framework**

16. As a country of civil law system, the *Criminal Code of the Republic of China* (hereafter referred to as “Criminal Code”), the *Anti-Corruption Act*, the *Money Laundering Control Act*, and other

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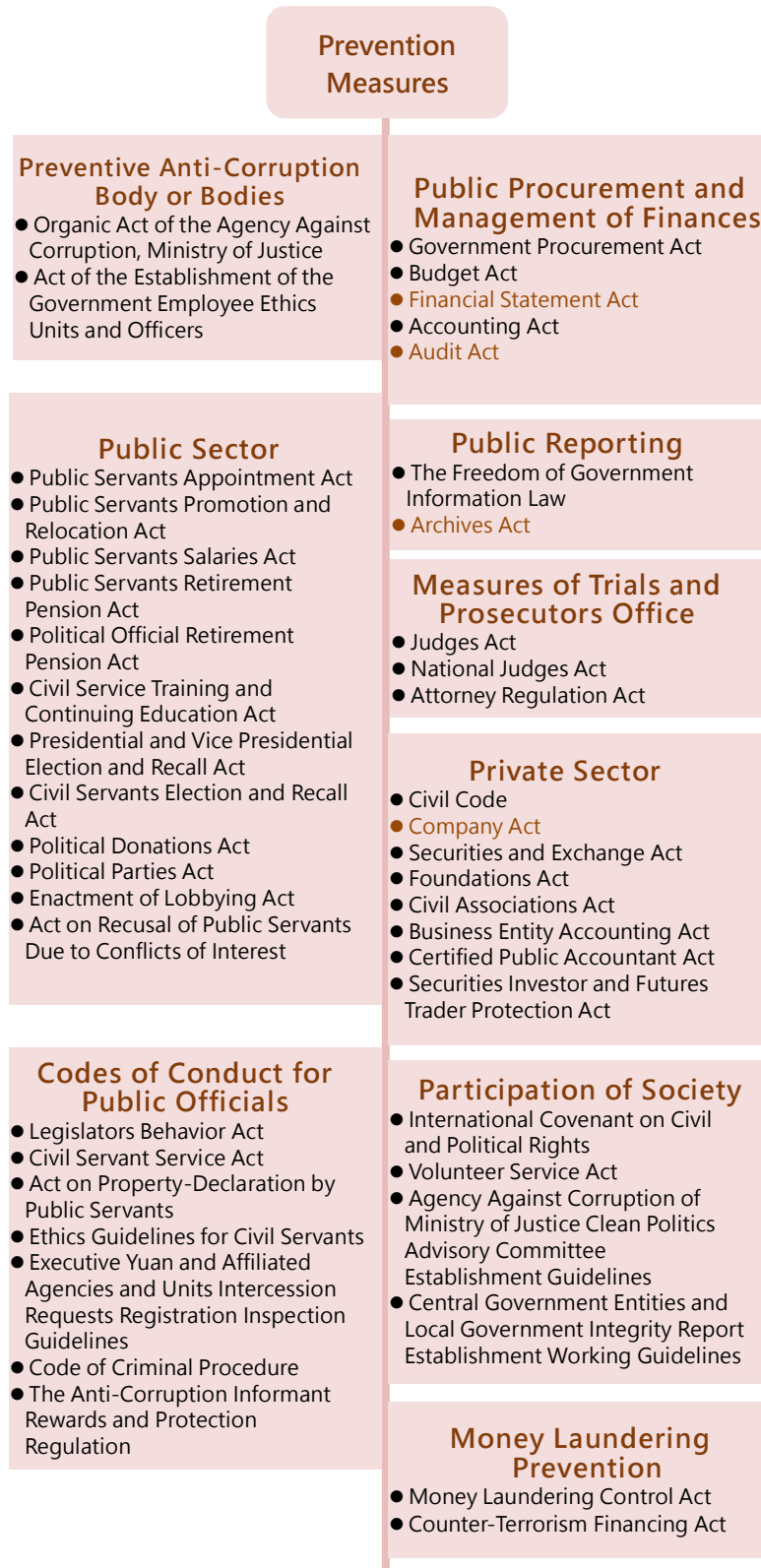
<sup>8</sup> The Program for Correcting Political Integrity, the Program for Eliminating Political Corruption, the Follow-up Promotion Program for Eliminating Political Corruption, and the Anti-Corruption Program will cease to be applicable due to being consolidated into this Program.

special criminal laws apply to criminal liability and penalties for corruption. In terms of procedural law, the provisions of the *Code of Criminal Procedure* and related procedural laws apply.

17. After the enforcement of the *Act to Implement UNCAC* in 2015, according to Article 7, government agencies at all levels in Taiwan shall review the laws and administrative measures under their jurisdiction in accordance with the UNCAC regulations. In case of non-compliance with the UNCAC regulations, the enactment, amendment or repeal of laws and regulations, as well as the improvement of administrative measures shall be completed within three years after the implementation of such law.
18. In line with the framework of the Legislative guide for the implementation of the UNCAC, Taiwan formulated a number of existing anti-corruption laws and regulations that together form the country's anti-corruption legal framework (Figure 1). Guided by our anti-corruption policy, we have been promoting the development or amendment of several anti-corruption laws and regulations since 2016 to strengthen our efforts to prevent and combat corruption. In the future, we will continue to build consensus in the community, gradually implement UNCAC in accordance with our national conditions, and actively take legislative actions to continue to improve our anti-corruption legal framework (please refer to Table 1 for details).

**Figure 1 The Current Anti-Corruption Legal Framework in Taiwan**

**Constitution of the Republic of China (Taiwan)  
United Nations Convention against Corruption (UNCAC)  
The Act to Implement UNCAC**



**Constitution of the Republic of China (Taiwan)  
United Nations Convention against Corruption (UNCAC)  
The Act to Implement UNCAC**

**Criminalization and Law Enforcement**

**Criminal Conviction**

- Criminal Code
- Anti-Corruption Act
- Money Laundering Control Act
- Government Procurement Act
- Trade Secrets Act
- Other Securities Financial or Special Criminal Legislation Penalty Regulations

**Law Enforcement**

- Civil Code
- Government Procurement Act
- The Banking Act of The Republic of China
- Immigration Act
- Code of Criminal Procedure
- Witness Protection Act
- Prison Act

**Jurisdiction**

- Criminal Code
- Mutual Legal Assistance in Criminal Matters Act

**International Cooperation**

**Extradition**

- Law of Extradition
- Cross-Strait Joint Crime-Fighting and Judicial Mutual Assistance Agreement
- Across the Taiwan Straits Arrest and Repatriation of Criminal or Criminal Suspects Working Guidelines

**Transfer of Sentenced Persons**

- Transfer of Sentenced Persons Act
- Cross-Strait Joint Crime-Fighting and Judicial Mutual Assistance Agreement
- Other protocols and agreements about the transfer of sentenced persons signed with foreign nations

**International Collaboration of Mutual Legal Assistance and other forms**

- Money Laundering Control Act
- The Communication Security and Surveillance Act
- The Banking Act of The Republic of China
- Mutual Legal Assistance in Criminal Matters Act
- The Law In Supporting Foreign Courts on Consigned Cases
- Cross-Strait Joint Crime-Fighting and Judicial Mutual Assistance Agreement
- Other protocols and agreements signed with foreign nations about mutual legal assistance in criminal matters. Other protocols and agreements signed with foreign nations and memorandum of understanding (MOU) about collaboration against crime

**Assets Recovery**

**Prevention and Detection of Transfers of Proceeds of Crime**

- Money Laundering Control Act
- The Banking Act of The Republic of China
- Act on Property-Declaration by Public Servants
- Regulations Governing Anti-Money Laundering of Financial Institutions

**Direct Recovery of Assets**

- Money Laundering Control Act
- Mutual Legal Assistance in Criminal Matters Act
- Money Laundering Control Act

**Mechanisms for Recovery of Property through International Cooperation in Confiscation and Return of Assets**

- Criminal Code
- Money Laundering Control Act
- Mutual Legal Assistance in Criminal Matters Act
- Code of Criminal Procedure
- Protocols signed with foreign nations about mutual legal

**Special Cooperation and Financial Intelligence Unit**

- Money Laundering Control Act
- Ministry of Justice Investigation Bureau Regulations

**Table 1 List of anti-corruption related laws and regulations or drafts amended in Taiwan since 2016**

<b>Laws and Regulations</b>	<b>Publication Time and Progress</b>	<b>Major Formulations and Amendments</b>
	Amended and published on December 30, 2015, effective from July 01, 2016	Introduced a new chapter on confiscation, clearly specified that “confiscation” has an independent legal effect, and expanded the target of confiscation. (Article 38 to Article 38-3)
Criminal Code	Amended and published on November 30, 2016	Introduced a priority of criminal jurisdiction for cases of cross-border aggravated fraud (Article 5)
	Amended and published on May 29, 2019	Clearly stipulated that relevant regulations shall extend to the violative effects of the mandate of seizures issued by civil servants in accordance with the law (Article 139)
	Amended and published on December 31, 2019	Amended the contents of the cessation of the right of recourse (Article 83).
Money-laundering Prevention Act	Amended and published on December 28, 2016, effective 6 months after publication	Reestablished order of money flow as the focus for implementing the money laundering prevention behaviors of the public and private sectors, so as to strengthen the prevention of money laundering in ROC and enhance the legal structure of international cooperation.
	Amended and published on November 07, 2018, effective upon the enactment date	Introduced exemptions from the obligation to maintain secrecy for financial institutions and designated non-financial businesses or personnel when reporting suspicious transactions; established an internal control audit system based on risk of money laundering, risk of terrorism, and scale of business. (Article 6,9 II,10 II)
	Amended and published on June 22, 2016, effective from July 01, 2016	Added Article 133 - seizure for recovery and Part 7-2 "Special Procedures for Confiscation" (Article 455-12 to 37).
Code of Criminal Procedure	Amended and published on June 19, effective 6 months after publication	Added a special chapter on outbound travel restrictions of defendants who shall be detained during investigation. Such restriction mandate can be directly issued by a prosecutor. (Article 93-2 to 93-6)
	Amended and published on January 08, 2020	Added a victim protection and litigation participation system. (Article 248-1 to 248-3, Article 271-2 to 271-4, Article 455-38 to 455-47)
International Mutual Legal Assistance in Criminal Matters Act	Amended and published on May 2, 2018, effective upon the enactment date	Established a complete legal framework for international mutual legal assistance in criminal matters.
Act on Recusal of Public Servants Due to Conflicts of Interest	Amended and published on June 13, 2018, effective 6 months after publication	Amended the scope of public officials and related parties, the definition of interests, the obligation of recusal, the prohibition of profiteering under the guise of authority, the prohibition of solicitation, and transactions.



Foundations Act	Formulated and promulgated on August 01, 2018, effective 6 months after publication	Established a comprehensive legal environment to improve consortium corporations' organization and business operations, including matters of conflict of interest avoidance, enhancement of financial management, and establishment of internal control, internal audit, and information disclosure systems.
Company Act	Amended and published on August 01, 2018, effective from November 01, 2018	To cooperate with the money laundering prevention policy, assist in establishing and improving the money laundering prevention system, strengthen money laundering prevention behaviors, and increase the transparency of legal entities (companies), specified that companies shall regularly report relevant information in electric form to the information platform established or designated by the central competent authority each year. (Regulations of disclosure of substantial beneficiaries, etc., Article 22-1)
Political Donations Act	Amended and published on June 20, 2018, effective 6 months after publication	Expanded the scope of information to be disclosed by political parties or political groups (accounting reports shall be made public). (Article 21-4)
Toxic and Concerned Chemical Substances Control Act	Amended and published on January 16, 2019, effective upon the enactment date.	Adopted in whistleblowers' protection mechanism. (Article 67)
Government Procurement Act	Amended and published on May 22, 2019	Increased the penalty for bribery and doubled the fine for illegitimate interests. (Article 59) Added provisions for the non-reimbursement or recovery of deposits and suspension of the right of the vendor to demand a term contract or payment of illegitimate benefits from the purchaser. (Article 31 , Article 101, Article 103)
Judges Act	Amended and published on July 17, 2019, effective 1 year after publication	Increased the proportion of external members on the Evaluation Committee; added a provision that gives external members the right to vote on the rewards and punishments of judges. (Article 30, Article 33 to Article 37, Article 39 to Article 41-2)
Attorney Regulation Act	Amended and published on January 15, 2020, effective upon the enactment date	Prohibited corrupt and abusive judicial officers from serving as lawyers. (Article 5)
National Judges Act	Amended and published on August 12, 2020	Allowed national judges to participate in all procedures throughout the trial process and hold discussions in equal standing with trial judges during deliberation, in order to enhance the transparency of court trial and of the deliberation process.

Drafts	Publication Time and Progress of Establishments and Amendments	Establishments and Amendments to Major Laws and Regulations
Extradition Law (Draft)	Submitted to Executive Yuan on May 17, 2018. In response to the amendment of the Criminal Procedure Law, the draft provisions of the Extradition Law were amended. Moreover, 3 articles were submitted to the Executive Yuan for review on April 1, 2020.	Specified that extradition shall be based on the principle of reciprocity. Specified the procedures for handling extradition requests received by the Ministry of Foreign Affairs or Ministry of Justice (MOJ); the exclusive jurisdiction of permitting extradition requests; the requirements and procedures for the requisition of extradition permissions, extradition arrests, extradition summons, extradition warrants; and the requested person's consent to extradition or waiving of relevant guarantees.
Criminal Code Offenses of Malfeasance in Office Chapter - Trading in Influence Offense (Draft)	Submitted to Executive Yuan on July 18, 2018. Currently undergoing review by the Executive Yuan, which has held 6 review meetings.	The improper exercise of public power by persons with influence over civil servants or public authority due to abuse of influence or the receiving of improper benefits shall hereby be classified as a criminal act (Article 123-1)
Criminal Code Obstruction of Judicial Justice Chapter (Draft)	Submitted to Executive Yuan on September 17, 2019. Currently undergoing review by the Executive Yuan, which has held 4 review meetings.	Added Obstruction of Judicial Justice Chapter (including protection of witnesses, examiners, and interpreters). (Article 172 to Article 172-8)
Political Donations Act (Draft)	Submitted to Executive Yuan in 2019 (all provisions sent to the Executive Yuan for review on June 30, 2020). Currently undergoing review by the executive Yuan, which has held 3 review meetings.	Added restrictions on donations from domestic companies and groups, whose major members are foreign companies or groups, from establishing another domestic company by reinvesting and making group political party funding. Added the regulation that the political contributions made by political parties, groups, and proposed candidates to affiliates shall be disclosed in the accounting report. (Article 20, Article 23, Article 36 Draft)
Whistleblower Protection Act (Draft)	Submitted to Executive Yuan on February 20, September 22, 2020 and December 2, 2021. Currently undergoing review by the Executive Yuan, which has held 2 review meetings.	Provided protection of confidentiality, personal safety, working rights guarantees and, commute of criminal liability, and reversal of burden of proof of whistleblowers in order to establish a better protection mechanism. Regarding work rights guarantees, the concept of "quasi whistleblowing" was adopted, for which a plan has been formulated to expand the scope of protection for persons who collaborate with investigations, serve as witnesses, refuse to participate in malfeasance, and person who is seeking administrative remedies.
Lobbying Act (Draft)	Submitted to Executive Yuan on April 29, 2021. Currently undergoing review by the Executive Yuan, which has held 6 review meetings.	The focus of the amendments includes expanding the scope of lobbyists (to include the assistants of public opinion representatives at all levels and the chiefs of the three central government agencies), simplifying the items required in lobbying registration, adding penalties for illegal lobbying, and amending the division of punishment for lobbying cases.

State Compensation Law (Draft)	Submitted to Legislative Yuan on September 3, 2021. Still undergoing review.	Strengthened the exercise of the right to claim state compensation and complied with the "institutional compensation system" and the requisition of state compensation regarding the abuse of public power by civil servants. (Article 7, Article 9)
Technology Investigation Law (Draft)	The MOJ announced on September 8, 2020 that it is in the process of developing feasible proposals to enact (amend) the law.	Summarized the authorization events and matters related to drone cameras and GPS tracking investigation, etc.; implemented communication monitoring procedures for communication software in accordance with the Communications Security and Surveillance Act; and added regulations concerning the adoption method, scope, and subsequent use of electromagnetic recordings and digital data.
Private Sector Bribery Law.	The MOJ is in the process of developing feasible proposals to enact (amend) the law.	The MOJ will hold discussions on the issues of "Examine the vulnerability in the existing legal system regarding corporate bribery," "Regulate the subject matter and behavioral patterns of corporate bribery," "Regulate the impact and risk assessment of corporate bribery on enterprises," and "Regulate the legislative model to prevent corporate bribery" and seek opinions from academia and practical circles to seek consensus and develop feasible proposals for legislation (amendment).
Corporate Criminal Liability	The MOJ is in the process of developing feasible proposals to enact (amend) the law.	The 2017 National Conference on Judicial Reform resolved to review the possibility of corporate criminal liability and the criteria for establishing subjective and objective constitutive elements. Regarding crimes defined by UNCAC, future discussions will be held to actively explore and establish relevant regulations regarding the types of penalties applied to legal persons.
Consolidation of Criminal Code and Corruption Ordinance	The MOJ is in the process of developing feasible proposals to enact (amend) the law.	The 2017 National Conference on Judicial Reform proposed the consolidation of the Criminal Code on Offenses of Malfeasance chapter and the Anti-Corruption Act and discussed whether the Anti-Corruption Act should be abolished or reverted back to the Criminal Code.
Undercover Investigation Law	The MOJ is in the process of developing feasible proposals to enact (amend) the law.	The standard method of investigation has a limited capacity in keeping up with the rapid changes in criminals' methods of operations and increasing numbers of organized, concealed, and internationalized crimes. As a result, undercover investigation has gradually become an effective tool applied in the criminal investigations of various countries.

### **Division of Labor in the Anti-Corruption System**

19. The central and local government agencies at all levels are responsible for planning, pushing forward, and executing Taiwan's anti-corruption initiative, as shown in Table 2 (Division of Labor in the Anti-Corruption System). Such work also requires the coordination and cooperation between the respective agencies, as indicated in Figure 2 (Organizational Chart of the Anti-Corruption System).
20. In terms of preventive measures, the AAC, responsible for integrity policy planning, anti-corruption, and corruption prevention work, plays the primary role that administers, commands, and supervises the government employee ethics units at all levels to push forward and execute related duties. In addition, Control Yuan (responsible for property-declaration by public servants, etc.); Ministry of the Interior (responsible for political donations, lobbying, etc.); Ministry of Economic Affairs and Financial Supervisory Commission (together, responsible for corruption prevention in the private sector, etc.); National Audit Office (responsible for financial audit of the government and its subordinate agencies); Directorate-General of Budget, Accounting and Statistics, Executive Yuan (responsible for internal control of the government, etc.); Ministry of Education (responsible for integrity education); and Investigation Bureau, MOJ (hereafter referred to as "Investigation Bureau," responsible for corruption prevention and vote-buying investigation, money laundering prevention and control and counter-terrorism financing prevention and control, as well as corporate corruption and fraud prevention, etc.), as well as Anti-Money Laundering Office, Executive Yuan (responsible for coordinating money-laundering prevention policies) and municipality, county, and city governments are responsible for jointly carrying out related work. Furthermore, in order to strengthen the anti-corruption mechanism, Executive Yuan has established Central Integrity Committee, while the central and local governments at all levels have separately established integrity reports mechanisms and convene regular meetings in which experts, scholars, and impartial community members are integrity committee members to provide feedback and advice.
21. In terms of criminalization and law enforcement, Taiwan has set up prosecutorial offices that correspond to the different levels of court trials, with prosecutors being responsible for coordinating the personnel of the AAC, Investigation Bureau, and police departments to jointly

investigate UNCAC-related crimes and press charges. Among the aforementioned agencies, the AAC is responsible for corruption Investigation in public sector; the Investigation Bureau administers “corruption prevention and vote-buying investigation,” “major economic crime prevention and control” (including corporate corruption), and “money laundering prevention and control” and conducts investigative and preventive work; and police departments are responsible for executing police work.

22. In terms of international cooperation and asset recovery, the Judicial Yuan, Ministry of Foreign Affairs, Ministry of Justice, Financial Supervisory Commission, Mainland Affairs Council, Coast Guard Administration (Ocean Affairs Council), AAC; Investigation Bureau; National Police Agency (Ministry of the Interior), Customs Administration (Ministry of Finance), and other relevant authorities are jointly committed to international cooperation against corruption and asset recovery work.
23. Furthermore, Taiwan actively encourages individuals outside government agencies, citizen groups, non-governmental organizations, community organizations, listed companies (with a corporate governance department), and financial institutions (with a law compliance department), as well as the nonfinancial businesses or professions designated by the *Money Laundering Control Act* to cooperate with relevant authorities in preventing and combating corruption.

**Table 2 Division of Labor in the Anti-Corruption System**

<b>Agency</b>	<b>Preventive Measures</b>
Executive Yuan (EY)	
Ministry of the Interior (MOI)	political donations, lobbying, establishment of election qualifications and standards for civil servant candidates, transparency of campaign financing, money laundering prevention and control
National Police Agency, MOI	
Ministry of Foreign Affairs	
Ministry of National Defense	defense anti-corruption evaluation
Ministry of Finance (MOF)	government financial management
Customs Administration, MOF	money laundering prevention and control
Ministry of Education	participation of society – promoting public education programs on corruption intolerance for the school curricula of all levels
Ministry of Justice (MOJ)	Publicizing government data, strengthening the integrity of prosecutorial office personnel and establishing the codes of conduct to mitigate corruption occurrence, money laundering prevention and control, etc.
Prosecutorial Offices	
Agency Against Corruption, MOJ	commanding and supervising government employee ethics units, planning and executing preventive anti-corruption policies and measures, code of conduct for public servants, government transparency, corruption prevention in the public and private sectors, participation of society, property-declaration by public servants, recusal of public servants due to conflicts of interest, etc.
Investigation Bureau, MOJ	corruption prevention in the public and private sectors, money laundering prevention and control, counter-terrorism financing prevention and control
Agency of Corrections, MOJ	
Ministry of Economic Affairs	corruption prevention in the private sector, money laundering prevention and control
Ministry of Health and Welfare	food safety and disease control, major medical procurement
Environmental Protection Administration, EY	
Ministry of Science and Technology	grant audit

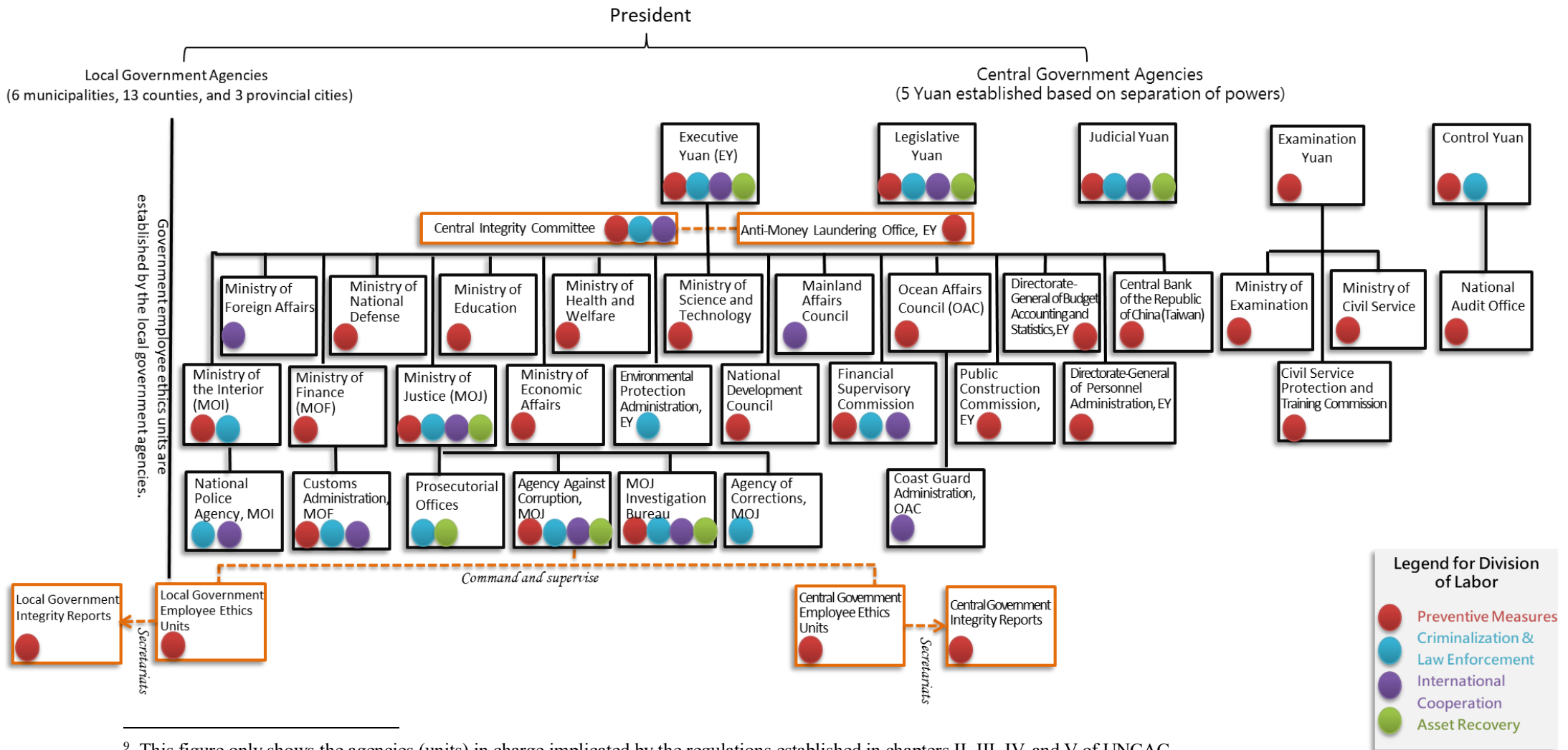
Agency	Criminalization & Law Enforcement	International Cooperation	Asset Recovery
Executive Yuan (EY)			
Ministry of the Interior (MOI)	political donations, lobbying		
National Police Agency, MOI	investigations of crimes outlined by UNCAC	international law enforcement cooperation	
Ministry of Foreign Affairs		international cooperation and mutual legal assistance, extradition	
Ministry of National Defense			
Ministry of Finance (MOF)			
Customs Administration, MOF	assisting investigations on money-laundering crimes	international cooperation	
Ministry of Education			
Ministry of Justice (MOJ)	legislative policies, legal person liability, witness protection, etc. for crimes and related criminal responsibilities outlined by UNCAC	international cooperation and mutual legal assistance, extradition, international transfer of prisoners	asset recovery,
Prosecutorial Offices	investigation and prosecution of crimes outlined by UNCAC, overseas bribery prevention and control		asset recovery
Agency Against Corruption, MOJ	investigation and disposal of corruption and related crimes, overseas bribery prevention and control, witness and informant protection	international cooperation and mutual legal assistance	asset recovery
Investigation Bureau, MOJ	investigation and disposal of corruption and related crimes, overseas bribery prevention and control, major economic crime prevention and control, enterprise corruption elimination, money laundering prevention and control, counter-terrorism financing prevention and control	international cooperation and mutual legal assistance	asset recovery
Agency of Corrections, MOJ	parole of crimes outlined by UNCAC		
Ministry of Economic Affairs			
Ministry of Health and Welfare			
Environmental Protection Administration, EY	informant protection in environmental protection cases		
Ministry of Science and Technology			

Agency	Preventive Measures
National Development Council	government risk management, open government
Mainland Affairs Council	
Financial Supervisory Commission	corruption prevention in the private sector (financial institutions), money laundering prevention and control, counter-terrorism financing prevention and control
Ocean Affairs Council (OAC)	participation of society – promoting ocean affairs, environmental protection, and integrity education programs
Coast Guard Administration, OAC	
Public Construction Commission, EY	government procurement
Directorate-General of Budget, Accounting and Statistics, EY	government financial management, government internal control
Directorate-General of Personnel Administration, EY	recruitment, employment, retention, promotion and retirement systems for public servants
Central Bank of the Republic of China (Taiwan)	money laundering prevention and control
Anti-Money Laundering Office, EY	overall planning of policies and executive strategies for money laundering prevention and control and counter-terrorism financing
Legislative Yuan	resolutions for acts and budgets
Judicial Yuan	strengthening the integrity of prosecutorial office personnel and establishing codes of conduct to mitigate corruption occurrence
Examination Yuan	
Ministry of Civil Service	appointment, salary, assessment, promotion, and retirement systems for public servants
Ministry of Examination	civil service examinations
Civil Service Protection and Training Commission	civil service training
Control Yuan	corrective measures, property-declaration by public servants, recusal of public servants due to conflicts of interest, political donations, lobbying
National Audit Office	government financial audit
Municipality and County (City) Governments	promotion of preventive measures in local government agencies



<b>Agency</b>	<b>Criminalization &amp; Law Enforcement</b>	<b>International Cooperation</b>	<b>Asset Recovery</b>
National Development Council			
Mainland Affairs Council		trans-border law enforcement cooperation	
Financial Supervisory Commission		international cooperation	
Ocean Affairs Council (OAC)			
Coast Guard Administration, OAC	assisting investigations on money-laundering crimes	international cooperation	
Public Construction Commission, EY			
Directorate-General of Budget, Accounting and Statistics, EY			
Directorate-General of Personnel Administration, EY			
Central Bank of the Republic of China (Taiwan)			
Anti-Money Laundering Office, EY			
Legislative Yuan	resolutions for acts and budgets	resolution of treaties	resolution of treaties
Judicial Yuan	trial of crimes outlined by UNCAC	mutual legal assistance, extradition	asset recovery
Examination Yuan			
Ministry of Civil Service			
Ministry of Examination			
Civil Service Protection and Training Commission			
Control Yuan	impeachment, censure		
National Audit Office			
Municipality and County (City) Governments			

**Figure 2 Organizational Chart of the Anti-Corruption System<sup>9</sup>**

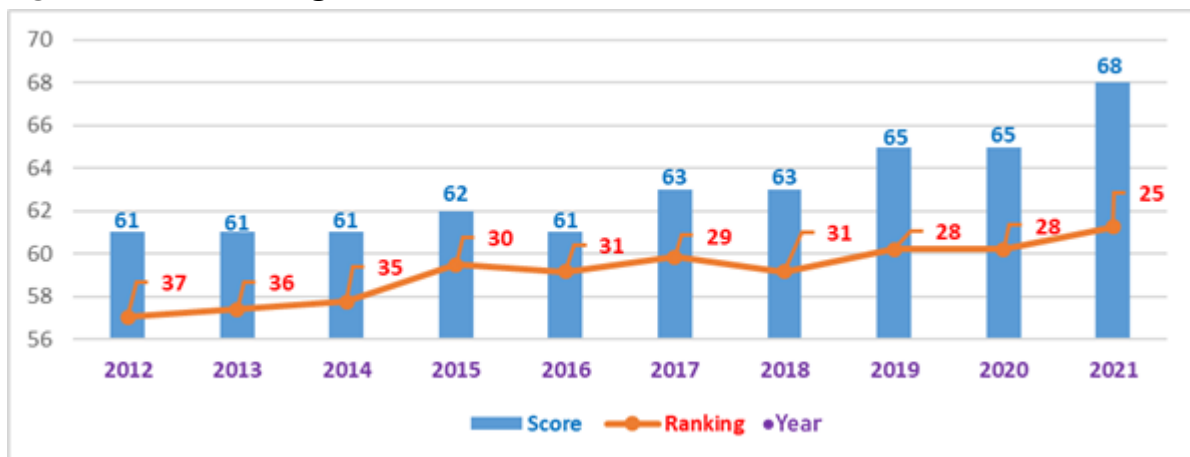


<sup>9</sup> This figure only shows the agencies (units) in charge implicated by the regulations established in chapters II, III, IV, and V of UNCAC.

## II. Environmental, Risk, and Trend Assessment

24. According to the Corruption Perceptions Index (CPI) published annually by Transparency International, Taiwan's score ranged from 61 to 68 (out of 100) and ranking ranged from 37<sup>th</sup> to 25<sup>th</sup> for the years 2012 to 2021. After the *Act to Implement UNCAC* took effect in 2015, the score steadily increased from 62 to 68, and the ranking also improved from 30<sup>th</sup> to 25<sup>th</sup>, showing a better result than those in the years before the *Act* took effect (as shown in Figure 3). In 2021, Taiwan's ranking and score exceeded that of 86% of the countries in the world, ranking 6<sup>th</sup> in the Asia-Pacific region<sup>10</sup> and maintaining the best score in recent years.

**Figure 3 Score, Ranking, and Trend Chart of Taiwan's CPI between 2012 and 2021**



25. Taiwan ranked 10<sup>th</sup> and 11<sup>th</sup>, respectively, out of 180 economies in the *Index of Economic Freedom* released in 2019 and 2020 by Heritage Foundation, a think tank, which pointed out that corruption is no longer prevalence, but it is still a problem, and that the collusion between politics and large enterprises may lead to corruptions in government procurement projects. Accordingly, in 2021, Taiwan improved the ranking to 6<sup>th</sup>, the best in the 27 years since the *Index* first being published, with the main reason for the rise in overall score resulting from the significant improvement in the performance of “clean and competent government.”
26. In the *Freedom in the World 2021* report released in March 2021 by Freedom House, a think tank, , Taiwan was rated as a liberal country and ranked second in Asia behind only Japan. The primary reasons behind the rating included the government’s successful management of the COVID-19 pandemic as well as the long-term pronounced progress in transparency improvement and public

<sup>10</sup> Only after New Zealand, Singapore, Hong Kong, Australia and Japan, ranking 25<sup>th</sup> with Bhutan.

participation in governance and decision-making.

27. According to the “2021 Bribery Risk Matrix” released in November 2021 by TRACE, a non-profit organization for global commercial anti-bribery, Taiwan ranked the 15th among 194 rated countries or regions in the world and was the 1st in Asia, surpassing Japan, Singapore, South Korea and Hong Kong with excellent performance in all major domains. Significant progress was made in the subdomains “Anti-bribery Deterrence” and “Government Processes Transparency.”
28. According to the 2020 Global Corruption Barometer (GCB) survey for the Asia region issued by Transparency International, 61% of Taiwanese respondents gave positive feedback about the government's effectiveness in combating corruption, with 38% of the respondents still feeling that corruption in the country has increased and 21% of the respondents believing that corruption has decreased. In addition, each year the Ministry of Justice commissions Transparency International Chinese Taipei to conduct the “Ministry of Justice Anti-Corruption Survey,<sup>11</sup>” with the main findings as follows:
  - (1) Respondents' tolerance of corruption: The mean tolerance of respondents for public servant corruption was 1.35 (scale of 0-10, with 10 being the most tolerant), indicating that as public awareness increased, public tolerance for corruption has remained at a relatively low level.
  - (2) Respondents' views on corruption: Regarding the 5 common corruption behaviors, the order of mean severity (scale of 0-10, with 10 being the most severe) shown in the 2020 survey is as follows: “corporate favors that influence policy” (6.3), “exploitation of authoritative power or management personnel by the private sector to obtain personal favors” (5.9), “election bribery in Taiwan” (5.1), “civilians' requesting of civil servants for intercessions” (5.0), “civilians bribing civil servants” (4.0).
  - (3) The results show that public opinion finds the corruption behaviors of the private sector to be a graver issue, whereas civilians' bribery of civil servants is less concerning.
29. Regarding the statistics on corruption crimes of public sector and the prosecution by district prosecutors offices in accordance with the *Anti-Corruption Act* and the Offenses of Malfeasance in Office of the *Criminal Code*, Taiwan reached the lowest point by 2.3 for the “corruption

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11 A telephone poll was conducted among adult citizens over 20 years selected by random dialing. For the survey reports over the years, please visit the website of the AAC, MOJ (<https://www.aac.moj.gov.tw/6398/6666/6696/Lpsimplelist>).

prosecution rate out of every 100,000 people<sup>12</sup>” (with respectively 265 and 237 cases of prosecution; was well as with 541 and 531 people prosecuted) in 2017 and 2021, reached the highest point by 3.0 (with 315 cases of prosecution and 714 people prosecuted) in 2020, since the *Act to Implement UNCAC* took effect in 2015. From 2017 to 2021, the prosecution rate of crimes involving public sector corruption remains within a stable low-scale range (see appendix 1 for the annual corruption prosecution rates for district prosecutors offices from 2002 to 2020). In addition, an analysis was conducted on the prosecuted public servants from 2017-2020, the results are summarized below<sup>13</sup>:

- (1) Rank: The majority of the public servants involved are of mid or entry-level ranks.
  - (2) Gender: Over 80% of the public servants prosecuted during 2017-2020 are male.
  - (3) Department: The majority of the public servants involved are from administrative sectors.
  - (4) Types of public affairs: The cases prosecuted during 2017-2020 did not show a significant tendency toward any particular type of public affair.
30. Regarding corruptions in the private sector, the majority of corruptions cases are banking corruption<sup>14</sup> and misappropriation of entrusted funds<sup>15</sup>, with convictions encompassing multiple special laws, including the *Criminal Code*, the *Banking Act*, the *Financial Holding Company Act*, the *Insurance Act*, the *Trust Enterprise Act*, the *Credit Cooperatives Act*, the *Act Governing Bills Finance Business*, the *Agricultural Finance Act*, and the *Securities Investment Trust and Consulting Act*. In addition, according to the related statistics on criminal offences provided by the Investigation Bureau, the number of cases prosecuted by district prosecutors offices gradually decreased from 24 cases per year in 2017 to 16 cases in 2020.

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<sup>12</sup> Corruption prosecution rate out of every 100,000 interim population= Number of people charged with corruption/ \*100,000 interim population

<sup>13</sup> For the detailed statistics and cross analysis, see “Appendix 4 Study of Corruption Offenses from the Viewpoint of Investigation and Prosecution Conducted by Prosecutors” in AAC’s 2017-2020 annual reports. (<https://www.aac.moj.gov.tw/5791/5793/5907/Lpsimplelist>)

<sup>14</sup> Refers to cases of illegal grant of loans, unjust enrichment, or breach of trust, etc. involving the owners, managers, or employees of banking organizations, for which the applicable laws and regulations are: Articles 33, 35, 125-2, 127, and 127-1 of the *Banking Act*; Article 17, Paragraph 4, Articles 44, 58, and 59 of the *Financial Holding Company Act*; Article 168-2 of the *Insurance Act*; Article 48-1 of the *Trust Enterprise Act*; Article 38-2 of the *Credit Cooperatives Act*; Article 58 of the *Act Governing Bills Finance Business*; Article 39 of the *Agricultural Finance Act*; and Articles 105-1, 108, and 109 of the *Securities Investment Trust and Consulting Act*.

<sup>15</sup> Refers to cases of criminal conversion or breach of trust as specified in the *Criminal Code* or *Securities and Exchange Act* involving company personnel such as members of the board, supervisors, managers, or employees, for which the applicable laws and regulations are: Article 336, Paragraph 2 and Article 342 of the *Criminal Code* and Article 171, Paragraph 1, Subparagraph 3 of the *Securities and Exchange Act*.

31. According to the *Anti-money Laundering and Counter-Terrorist Financing Measures: Mutual Evaluation Report*<sup>16</sup> published by The Asia/Pacific Group on Money Laundering (APG) in October 2019, “*Chinese Taipei has a well-developed financial sector and stable economy which makes it an attractive venue for both domestic and foreign proceeds of crime to be laundered. [...] Chinese Taipei is subject to an array of predicate offences that generate significant proceeds. These offences to a large degree stem from organized crime, including drug trafficking, fraud and smuggling. Other predicate offences of note include corruption and bribery, and specific types of fraud including tax and securities-related crimes....*” The report included Taiwan among the regular follow-ups list, the best result Taiwan has achieved since taking part in the evaluation. In December 2021, Taiwan submitted its first follow-up report (FUR) after the assessment, and was again evaluated and recognized by the APG Secretariat at the level of “regular follow-up,” which maintained the best ranking in Asia. In the same month, Taiwan also announced the latest risk assessment results of the “Risk Assessment Report on National Money Laundering and the Financing of Terrorism & Proliferation”<sup>17</sup>. The report listed 10 major categories of “very high-risk” money laundering crimes in Taiwan, including drugs, fraud, securities crimes, gambling, corruption and bribery, intellectual property, etc., and for the first time, it included virtual assets, online games, art auctions, car sales, and pawnshops as well.
32. In conclusion, although Taiwan has been ranked among the least corrupt countries in the Asia-Pacific region, monitoring the possible threats of corruption to our nation’s sustainable development continues to be a top priority. As detailed in the second national report, a comprehensive inspection of the possible corruption trends in our nation was made using the Global Corruption Barometer as well as domestic investigations and statistics, with aim to—under the guidance of the UNCAC framework—decrease the risk of corruption by way of utilizing advantages, seizing opportunities, reinforcing vulnerabilities, and defusing threats.

(1) On precautionary measures: Owing to the large amounts of personnel involved in large-scale

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<sup>16</sup> See APG’s 3rd Mutual Evaluation Report of Taiwan on the website of Anti money laundering office of the Executive Yuan. (<https://www.amlo.moj.gov.tw/1461/31062/1482/15056/post>)

<sup>17</sup> For the “National Risk Assessment Report on Money Laundering, Terrorism and Military Expansion Financing,” please visit the official site of the Anti-Money Laundering Office, Executive Yuan (<https://www.amlo.moj.gov.tw/media/20211299/2021%E5%9C%8B%E5%AE%B6%E6%B4%97%E9%8C%A2%E8%B3%87%E6%81%90%E5%8F%8A%E8%B3%87%E6%AD%A6%E6%93%B4%E9%A2%A8%E9%9A%AA%E8%A9%95%E4%BC%B0%E5%A0%B1%E5%91%8A.pdf?mediaDL=true>)

construction procurement and rush order projects, as well as investigative and judicial agencies in the public sector and large listed companies and financial services in the private sector, corruption has a major impact on a country's society and economic activities. In addition, in the face of the emergency of the COVID-19 pandemic, some countries have generated derivative corruption risks due to extensive and rapid corresponding measures, as well as insufficient accountability and supervision mechanisms for the implementation of follow-up measures. With the surge in demand for personal protective equipment (such as masks and protective gowns) and COVID-19 vaccines, the challenges arising from the pandemic such as product manufacturing, trafficking and cybersecurity have also received high attention<sup>18</sup>. Especially when considering the democratic nature of our nation, the diversity of our society, and our people's low tolerance for corruption, it is essential that we induce social participation and implement anti-corruption policies and measures on transparency, integrity, and honesty in order to effectively lower the risk of corruption in both the private and public sectors and improve the public's subjective perception of corruption. Furthermore, because the factors that lead to corruption in Taiwan are diverse and complicated, private and public sectors must have risk awareness, strengthen integrity, and possess bribery or money laundering risk management capabilities, while the prevention mechanisms of internal control, collaboration, and transparency are also paramount in effective corruption risk management.

- (2) On criminalization and law enforcement: The formulation of exhaustive anti-corruption criminal norms is one of the country's primary strategies for reducing the risk of corruption. Regarding criminalization, although Taiwan has continued to amend relevant laws, we still need to introduce legislation to strengthen the accountability mechanisms concerning bribery or the acceptance of bribes by foreign public officials, influential transactions, obstruction of justice, and statutes of limitations. At present, Taiwan has initiated relevant drafts or discussions to gather consensus from the public. In terms of law enforcement, Taiwan has also focused on matters that whether the protection mechanism for whistleblowers as well as the workforce and resources for law enforcement and judicial agencies are sufficient for comprehensively combating and eradicating

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<sup>18</sup> Please refer to the COVID-19 section on the official website of the United Nations Office on Drugs and Crime. ([https://www.unodc.org/documents/data-and-analysis/covid/COVID-19\\_research\\_brief\\_trafficking\\_medical\\_products.pdf](https://www.unodc.org/documents/data-and-analysis/covid/COVID-19_research_brief_trafficking_medical_products.pdf))

corruption.

- (3) On international cooperation and asset recovery: In regards of international stands, Taiwan has very limited participation in international or regional cooperation mechanisms for preventing or combating corruption, resulting in many challenges for combating cross-border corruption crimes and recovering assets. In order to overcome this limitation and reduce the risk of corruption caused by difficulties in carrying out cross-border law enforcement, in recent years Taiwan has invested national resources to fully support work for the prevention and combating of money laundering; achieved extraordinary results and showed a high level of commitment in the third round of mutual evaluation by the APG; regularly reviewed self-compliance with UNCAC norms; revised the agreement on mutual legal assistance in criminal matters and extradition laws to align with international standards; and pragmatically expanded formal and informal international cooperation mechanisms. At present, although in practice the number of successful asset recovery cases directly related to corruption crimes is relatively small, the successful cross-border recovery of stolen goods for other types of crimes, such as drug trafficking and telecommunication fraud, by way of international cooperation can be used as a reference for the recovery of assets in future corruption cases, in turn demonstrating Taiwan's energy in combating cross-border corruption crimes.

### **III. Summary of Implementation and Performance during the Report Period**

#### **A. Improvement of the legal system of government procurement and promotion of Government Procurement Integrity Platform**

33. Taiwan has implemented the "Government Procurement Act" (GP Act) since 1999, which was formulated with reference to the norms and spirit of the Agreement on Government Procurement (GPA) of the World Trade Organization (WTO) by incorporating the features of openness, fairness, transparency, competitiveness, efficiency, decentralization of responsibility, promotion of interests and prevention of corruption. Also, the GP Act is consistent with Article 9 of the UNCAC (for relevant implementation results, please see the section on Article 9 "Public Procurement and Management of Public Finances" of the UNCAC).



34. Chapter VII of the GP Act stipulates criminal penalties for crimes involving government procurement. Where a representative, agent, employee, or any other staff of a supplier who, in performing their duty, commits an offense specified in this Act, the wrongdoer shall be subject to the punishment prescribed in the relevant Articles; in addition thereto, the supplier shall also be subject to the fine prescribed therein (Article 92). In addition, the 2019 amendment of the GP Act has increased the civil liability of suppliers for giving improper benefits, including but not limited to allowing the procuring entity to terminate or rescind contracts, and deducting two times the improper benefits from the contract amount. In the event of failure to deduct from the contract amount, the entity shall notify the supplier to pay it within a time limit (Article 59). Where the supplier offered, promised, or delivered improper benefits to relevant personnel in relation to procurement, the bid bond deposited shall not be refunded or returned, the refunded or returned bid bond shall be recovered (Article 31), and administrative sanctions of suspension for 3 years shall be imposed (Articles 101 and 103), etc., which all are implementations of the legal person liabilities stipulated in Article 26 of the UNCAC.
35. In order to ensure the quality of important public construction or procurement projects in Taiwan, the Executive Yuan has instructed the Ministry of Justice to issue the “Implementation Program for the Integrity Platform for Institutional Procurement” via an official letter in 2016. All agencies put forward their demands and needs and, under the guidance of the AAC, the Government Employee Ethics Units jointly established interdisciplinary communication channels involving relevant government agencies such as governmental prosecution and integrity departments, civic groups, manufacturers and the general public, in order to create a public service environment where people dare to serve and assume responsibility, assist in completing public construction projects on schedule with the required quality, continue improving the transparency of the case handling process of the Integrity Platform by allowing all citizens to participate in the supervision, and to enhance the general public’s understanding and mutual trust. As of December 2021, there are 29 cases being processed by the Integrity Platform.

**B. Improvement of the legal system of private sectors and continuous increase of the level of corporate governance**

36. In 2018, Taiwan formulated and promulgated the Foundations Act to improve the HR, accounting, internal control auditing, financial management, information disclosure systems and exit mechanisms of foundations. In response to the rapid changes in the domestic and foreign business environments, the amendment of the Company Act in the same year was also the greatest in the past 17 years in terms of scale. The key points of the amendment included attaching importance to corporate social responsibility, enhancing the transparency of legal persons, and enhancing corporate governance.
37. For the development of corporate governance in Taiwan, in addition to continuing the institutionalization of the concept of corporate governance, reference was made to the development trends of international corporate governance and domestic corporate governance practices to introduce the five-year version of the “Roadmap for Enhancing Corporate Governance in Taiwan” and the three-year “New Version Corporate Governance Roadmap” (2018-2020), and the “Corporate Governance 3.0: Sustainable Development Roadmap” has been promoted since 2021. Below are important achievements of the promotion:
- (1) In order to assist investors and enterprises in understanding the effectiveness of corporate governance implementation and to introduce healthy competition among enterprises, the corporate governance assessment is completed in April every year and the list of all listed (public) companies is published as well as the assessment results based on the categories of industrial sectors and market values. In addition, the constituents of the “TWSE Corporate Governance 100 Index” and “TPEX Corporate Governance Index” are updated by referencing the annual corporate governance assessment results, liquidity and financial indicators for the investors’ reference.
  - (2) To enhance the functions of boards of directors, as of 2021, all listed (public) companies (1,747 companies) have completed the establishment of independent directors positions, and the number of listed (public) companies that established audit committees has reached 1,576.
  - (3) In order to enhance the disclosure of non-financial information of listed (public) companies to firmly implement corporate social responsibility, companies in the financial insurance industry, food industry, chemical industry and listed (public) companies with a paid-in capital exceeding

NT\$5 billion are currently required to prepare and submit CSR reports. As of 2021, 586 listed (public) companies have published and submitted their 2020 annual reports.

- (4) To assist directors and supervisors in the implementation of business information and compliance with laws and regulations, and to strengthen the functions of the boards of directors, listed (public) companies with a paid-in capital of NT\$2 billion are since 2019 required to establish the position of corporate governance supervisor. As of 2021, the position of corporate governance supervisor has been set up in 492 listed (public) companies; 59 financial holdings, securities and banking companies; 33 insurance companies and 28 securities companies.
38. The promotion and implementation of corporate governance depends on the cooperation of the government, non-governmental organizations and companies (including the TWSE, the TPEX, the Securities and Futures Institute, and the Securities and Futures Investors Protection Center (SFIPC), etc.) to establish regulations, conduct seminars, assessment, evaluation, or to actively participate in shareholder meetings or the supervision of company operations as shareholders, thereby making joint effort to improve the corporate governance environment. According to the latest assessment results released by the Asian Corporate Governance Association in 2020, Taiwan ranked the 4th among the 12 Asian markets evaluated, which was the best achievement in recent years.

### **C. Comprehensive enhancement of the national money laundering prevention and control system to reach international standards**

39. In 2018, Taiwan accepted the third round of mutual evaluation on the anti-money laundering and counter-terrorism financing by the APG. The Executive Yuan specially established the “Anti-Money Laundering Office” to coordinate and integrate the money laundering prevention policies and action programs, improve the effectiveness of money laundering prevention, and re-establish the order of payment transparency in Taiwan by combining the efforts of both the public and private sectors. By introducing international resources to broaden perspectives, Taiwan’s anti-money laundering and counter-terrorism financing measures came in line with international standards, and finally reached the best level of “regular follow-up” at the third round of mutual

evaluation by APG, which was not only better than the level “enhanced follow-up” obtained in 2011, but also the best result among member countries in the Asia-Pacific region.

40. Among the 40 technical compliance items, a total of 36 reached the level of “Largely Compliant” (LC) or above; and among the 11 performance compliance items, a total of 7 items reached the level of “Substantial level of effectiveness” (SE): “Risk, Policy and Coordination,” “International Cooperation,” “Financial Intelligence,” “Confiscation,” “Criminal Investigation and Prosecution on Terrorism Financing,” “Terrorism Financing Prevention Measures and Financial Sanctions” and “Financial Sanctions on Weaponry Expansion.”
41. Since the mutual evaluation, Taiwan has amended the “Money Laundering Control Act” in November 2018 to include “Enterprises Handling Virtual Currency Platforms or Transactions” into the scope of money laundering prevention, and the Executive Yuan has designated the Financial Supervisory Commission (FSC) as the competent authority to formulate and promulgate the “Regulations Governing Anti-Money Laundering and Countering the Financing of Terrorism for Enterprises Handling Virtual Currency Platform or Transaction” in 2021. In addition, from 2020 to 2021, the anti-money laundering and counter-terrorism financing regulations have been strengthened for specific non-financial professionals such as jewelry companies, notaries public, accountants, bookkeepers and bookkeeping/taxation declaration agents, land administration agents and real estate brokers. In 2021, a detailed follow-up report was submitted to provide a progress statement on the 4 recommendations that were rated as “Partially Complaint” (PC) in the third-round mutual evaluation report.

#### **D. Implementation of the seizure and confiscation of the proceeds from corruption and illegal crimes**

42. The compulsory collection of assets is the basic principle of the UNCAC. Based on the spirit of “no one may benefit from crime,” it is necessary to eliminate the economic incentives of crime generating considerable illegal benefits, so that criminals or any third parties cannot obtain illegal benefits from committing crimes. On December 30, 2015, a dedicated chapter on “confiscation” was added to the “Criminal Code” to clearly state that “confiscation” has an independent legal effect and expand the scope of compulsory collection. In addition to criminal individuals, it also

includes natural persons, legal persons and third parties. Proceeds obtained in bad faith or due to crime may be subject to confiscation. Further, Article 40 of the “Criminal Code,” which was amended and implemented on July 1, 2016, states that criminal instruments or proceeds owned by the offender or a third party that are found to be subject to confiscation may be separately confiscated even after the final judgment.

43. For the enforcement and implementation, in order to facilitate prosecution agencies to handle matters such as the investigation, seizure, injunction, confiscation, sale, and mutual legal assistance, the Ministry of Justice issued an official letter on January 17, 2017, to establish “Guidelines of Prosecution Agencies on Collecting Criminal Proceeds” and instructed the Taiwan High Prosecutors Office to establish an information platform for the collection of criminal proceeds as a contact window between the prosecution agencies and other agencies to facilitate the compulsory collection of criminal proceeds. Each prosecution agency shall also set up a dedicated taskforce for the collection of criminal proceeds to ensure that there can be absolutely no chance to benefit from conducting crime and that the illegal proceeds will be completely stripped from the criminals while cutting off their niche in order to eliminate the incentives to commit crimes.
44. Each and all district prosecutors offices continue to handle the seizure and confiscation of illegal proceeds generated from corruption. The statistics of cases of misfeasance stipulated in the “Anti-Corruption Act” and the “Criminal Code” in the past five years are shown in Tables 3 and 4.

**Table 3 Statistics on cases of misfeasance and corruption handled, investigated and seized by district prosecutors offices in the past 5 years**

Year	Number of seizure cases	Monetary amount seized (excl. foreign currency amount)
2017	72 cases	TWD 91,040,000
2018	87 cases	TWD 70,670,000
2019	70 cases	TWD 51,410,000
2020	104 cases	TWD 54,690,000
2021	84 cases	TWD 394,790,000
Total	417 cases	TWD 662,260,000 ( 662,600,000 )

Data source: MOJ

**Table 4 Statistics on District prosecutors offices’ collection of criminal proceeds from cases with final court judgments in the past 5 year**

Year	Number of seizure cases	Monetary amount confiscated
2017	117 cases	TWD 36,015,000
2018	116 cases	TWD 267,490,000
2019	105 cases	TWD 658,550,000
2020	132 cases	TWD 9,578,100,000
2021	112 cases	TWD 131,650,000
Total	582 cases	TWD 10,941,940,000

Data source: MOJ

**E. Expanding the international mutual legal assistance mechanism in criminal matters to combat crime**

45. In recent years, due to globalization, criminal groups have engaged in transnational economic crimes, smuggling, money laundering, and drug trafficking through illegal means, which have severely damaged the social order and economic stability. With the frequent international movement of people, goods and money, cross-border crime has also increased, and countries around the world are facing threats and challenges brought about by organized and internationalized crime. With the threat of transnational (cross-border) crime, international mutual legal assistance, extradition and other mechanisms against crime shall be adopted to conduct investigation and collection of evidence, trace the flows of funds, seize criminal assets and hunt down fugitives. In addition to the “Transfer of Sentenced Persons Act” implemented in 2013, Taiwan further promulgated and implemented the “Mutual Legal Assistance in Criminal Matters Act” in May 2018 to establish a complete legal framework for international mutual legal assistance against crime.
46. As a member of the international community, Taiwan has actively promoted the signature of relevant treaties and agreements in recent years to maintain the international order and fulfill the spirit of humanitarianism. Since the promulgation of the “Mutual Legal Assistance in Criminal Matters Act,” Taiwan has successfully signed treaties (agreements) on mutual legal assistance in criminal matters with Poland, Nauru and Belize, and signed a criminal justice cooperation agreement with Slovakia. Taiwan’s competent authorities and foreign governments, institutions

or international organizations can provide or accept assistance required for investigation, trial, implementation and other related criminal judicial procedures, which greatly improves the efficiency and effectiveness of international criminal judicial cooperation.

47. In addition, Taiwan has signed sentenced persons transfer agreements with the Kingdom of Eswatini, Denmark and Switzerland in recent years, and has respectively transferred 7 German, 1 British, 1 Danish, and 1 Polish sentenced persons respectively to Germany, the United Kingdom, Denmark, and Poland to continue serving their sentences. While implementing the sentences to achieve judicial justice, Taiwan also demonstrated the spirit of humanitarianism, so as to achieve results in rehabilitation and safeguard the human rights of the inmates in correctional institutions.

#### **F. Transparent sharing of government information to promote public participation**

48. Government information disclosure and data openness and transparency are the basis for promoting citizen participation. Promoting the effective application of data is regarded by various countries as an important part of economic growth and government governance. In responses to the international development trends, Taiwan has established “Government Open Data Platform” as an open data portal website for government agencies continuously adding open data for free usage by the general public, and citizens can also provide feedback on data needs and suggestions for improvement through various channels to improve the quality of data and decision-making. To accelerate the promotion of data openness, Taiwan has formulated the “Advanced Action Program for Government Data Openness” to plan specific measures for government data openness, guide each and all of government agencies to deepen the promotion of data openness, improve the collaborative governance model of government and private data, thereby actively implementing the provisions stipulated in Article 10 of the UNCAC and expanding the availability of high-value data such as the remaining inventory of masks, real estate registration, and a variety of traffic and weather information, etc.
49. By referencing the specifications of the international organization “Open Government Partnership” (OGP), public opinions were solicited through the “Public Policy Online Participation Platform,” the “Executive Yuan Open Government National Action Plan Taskforce,” was established, and the first “Open Government National Action Plan” of Taiwan was developed. By adhering to the

spirit of public-private cooperation, the public and private sectors jointly proposed 19 commitments, including completing government open data and data sharing mechanism, youth policy participation, promotion of gender-inclusive dialogue and participation, enhancing political donation transparency, and promoting the legislation of the “Whistleblower Protection Act” and increasing the transparency of beneficial ownership, all of which will be officially fully implemented from January 2021 to May 2024. It is hoped that through public-private cooperation, the openness and transparency of government information can be promoted to enhance public participation and make policies more in line with the expectations of the general public.

#### **G. Strengthen integrity risk management and internal control for the Tentative Integrity Awards**

50. Since 2005, the Executive Yuan and its subordinate ministries have promoted the establishment of a risk management mechanism to manage risks in advance and reduce the likelihood of occurrence and impact of risks, to achieve the governance goals of agencies. In order to integrate the government’s internal control, risk management, and performance management mechanisms and guide the independent management of agencies, the “Principles for Risk Management and Crisis Handling of the Executive Yuan and affiliated agencies” had been implemented in 2021. All personnel of all agencies shall participate in risk management (including internal control) operations, and the head of each agency shall be ultimately responsible for promoting risk management and crisis handling.
51. The National Development Council (hereinafter referred to as the NDC) along with the Directorate-General of Budget, Accounting and Statistics, Executive Yuan (hereinafter referred to as the DGBAS) formulated the “Handbook for Risk Management and Crisis Handling of the Executive Yuan and affiliated agencies” in accordance with the above-mentioned principles to guide each agency in carrying out practical operations. For its control of the internal environment, it includes the establishment and maintenance of public service integrity and ethical values, and the shaping of an ethical governmental administrative culture. For the risk identification, it is required to identify corruption and major risks that affect governance effectiveness, and to improve government transparency. As for the risk assessment, the factors of degree of risk impact



and possibility of potential corruption shall be considered when evaluating the priority and selection of risk countermeasures.

52. To actively implement the contents of Point 13 of the concluding remarks concerning the annual integrity assessment of public agencies, the AAC has since 2019 commissioned the Transparency International Chinese Taipei to conduct research, and assisted in promoting the pilot implementation of the “Integrity Awards” focused on the overall integrity and performance of institutions and agencies with five aspects as scoring benchmarks: “chief’s determination and continuous acts of integrity,” “information and administrative transparency,” “risk prevention and accountability,” “demonstration of the effectiveness of integrity,” and “clean and competent innovation and diffusion.” It also encouraged institutions and agencies to value ethical governance through an incentive-based assessment, and established a learning model to drive a positive cycle of anti-corruption work. In the three years since the pilot implementation was launched, 43 central and local administrative agencies have participated in the assessment of the Awards and provided their feedback.

#### **H. Promoting the participation of society in zero tolerance for corruption and comprehensive integrity education**

53. To implement anti-corruption among the general public, the AAC aims to promote the ideas of integrity and the participation of society to civil servants, those who have business and work interactions with agencies, professionals, schools, enterprises, communities, civil organizations or the general public, etc. The promotion of the idea of integrity includes the composition of customized teaching materials and the implementation of seminars and training according to the characteristics agency’s business with risk. The participation of society includes recruiting integrity promotion volunteers to promote volunteer service, implement integrity and character-building education at schools, promote corporate integrity, and corporate social responsibility and encourage the formulation of ethical norms. It also involves using mass communication media to expand the promotion and raise the general public’s awareness of the severity of corruption and the threat it poses, and to promote exchanges and interactions with the general public with the expectation to increase the people’s willingness to report corruption and illegal acts. This will in

turn shape a social environment of “zero tolerance for corruption” that encourages the entire general public to participate in anti-corruption work.

54. For activities promoting the participation of society, the AAC guides the Government Employee Ethics Units to cooperate with the central competent authority or local government to emphasize the governance with “Corporate Integrity” to different private sectors or industries with the content of corporate integrity compliance and enterprise ethics responsibilities. It also jointly organizes various activities for the participation of society and communicates with the corporate sector or professionals and scholars through seminars and forums to reach consensus. Among these seminars and forums, in response to the needs of the industrial sector, 9 large-scale manufacturer promotion seminars on “Promoting Industrial Development, Improving Administrative Efficiency, Breaking the Myth of Illegal Profits and Citizen Services” were organized from 2019 to 2021 through cross-ministerial, cross-county and city cooperation and national project publicity to allow the industrial sector to understand the government’s efforts in establishing a proper investment environment, enhance the linkage between both sides, and convey the government’s administrative transparency, simplified administration and convenience for the general public as well as the idea and importance of business integrity.
55. In addition, in order to spread the value of ethics and integrity to future generations, the AAC started to instruct the Government Employee Ethics Units to implement “Integrity Education Promotion Activities for Schools” in 2019 to allow the idea of integrity to take root in schools, including in schools in remote areas, while sufficiently caring for disadvantaged students and creating digital teaching materials on integrity, so that the promotion of integrity education will be more deeply rooted and popularized. Furthermore, materials such as picture books, anime, cartoons and comics, micro movies, puppet shows, and interactive e-books with “integrity and ethics” as their topic will be launched successively to assist the integrity volunteers in promoting the content of integrity education and the participation of society in more creative and diverse ways.
56. The Ministry of Education has also revised its “Guidelines for Facilitating Character and/or Moral Education Programs” to incorporate “integrity and self-sustainability” into the core value of morality, and added character education into the reference and allocation indicators of the relevant

award and subsidy application programs and as the basis for the selection and commendation of school (kindergarten) principals with the aim of introducing the concepts and ideas of integrity and ethics to students of all ages and foster future workplaces with good integrity.

#### **I. Constant Promotion of Government Defense Integrity Index Resulting in Consecutive Successes**

57. Transparency International launched the “Government Defense Integrity Index” in 2012, which is the world’s first objective indicator to assess the national defense and national security-related systems, monitoring mechanisms and operational transparency of countries all around the world. To be in line with the international trend of integrity in military governance, Taiwan’s “National Integrity Building Action Plan” includes the “Government Defense Integrity Index Evaluation and Preparation” in the performance goals of the “Continue Indicator Research” on an annual basis.
58. Taiwan was rated as a “low corruption risk” (Band B) country in 2013 and 2015. The Ministry of National Defense continues to implement governance measures such as transparency, accountability and participation, and clearly defines the division of powers and responsibilities among business units, actively demonstrating positive results in the areas of “Politics,” “Personnel,” “Financial,” “Military Operations” and “Procurement.” For example, the Control Yuan and the Budget Center of the Legislative Yuan are required to operate independently. The information of the national defense budget is available to the general public in a categorized form, and the revenues and expenditures of budget are strictly controlled to improve the financial transparency of national defense. In addition, strict codes of conduct for military personnel management, and stringent norms such as military discipline and code of ethics have formulated, which can help to reduce the risk of corruption and abuse of power. At the same time, the opinions of external experts are considered and international academic exchanges are conducted, so that external persons can learn more about the results of the military’s implementation of integrity.
59. On November 16, 2021, the National Defense and Security Taskforce affiliated to the Transparency International released the third evaluation results of “Government Defense Integrity Index (GDI).” Taiwan received an excellent evaluation of Band B “low corruption risk” for the third time. A total of 86 countries around the world were evaluated in the same year, and New

Zealand was the only country rated “Band A,” while Taiwan as a “Band B” country ranked 6th worldwide and was the only country in Asia with such “Band B” level.

**J. Interdisciplinary training and female professionals involved in national anti-corruption works**

60. As mentioned in the Preamble of the UNCAC, to effectively prevent and combat corruption, a comprehensive and interdisciplinary approach is required. In addition to providing professional training to judges, prosecutors, integrity officials and investigators responsible for preventing and combating corruption in the public and private sectors, training programs for the interdisciplinary skills necessary for investigating and handling cases concerning government procurement, public construction, money laundering and severe economic crimes are provided for new recruits or in-service staff.
61. To encourage the above personnel and staff to obtain relevant certificates in related fields, the Ministry of Justice continues to promote the implementation of a three-level system of financial licenses. Prosecutors, prosecution investigators, investigators, agents, and enforcement officers must pass comprehensive financial training to obtain an intermediate or higher level certificate in order to qualify for investigating and handling severe financial and economic crime cases. As of December 2021, there are 1,195 staff holding licenses of the basic level, 606 holding licenses of the intermediate level, and 463 holding licenses of the advanced level. In September 2020, the “Training Program for Professional Corruption Investigation” was launched for the first time to strengthen the theoretical basis and deepen the exchange of practical experience to enhance the professional skills of prosecutors in handling corruption cases. In addition, the AAC arranges for newly recruited government ethics officers to undergo training for certification of government procurement law on an annual basis. The Anti-Money Laundering Division of the Ministry of Justice Investigation Bureau (MJIB) also encourages its staff to obtain the Certified Anti-Money Laundering Specialist certification. As of 2021, a total of 24 staff has obtained such certificate.
62. International studies have found that women have a lower level of tolerance for corruption. Since the establishment of the AAC, female staff has been actively trained to work on integrity matters. Statistics on the number and ratio of female integrity officers at all levels nationwide from 2017

to 2020 show that the number of female integrity officers has increased from 1,219 persons in 2017 to 1,405 in 2021. In addition, according to the observation of job titles of female officers, by 2021, the ratio of female officers with a job title of senior executive officer and executive officer have respectively increased to 15.52% and 49.83%, indicating a yearly increasing trend.

#### **IV. Strategic Promotion and Future Prospects**

##### **A. Continuing to Reach Social Consensus to Improve the Anti-Corruption Legal System**

63. During the publication cycle of the second national report, Taiwan has successively formulated or amended a number of laws and regulations, such as the “Mutual Legal Assistance in Criminal Matters Act,” the “Act on Recusal of Public Servants Due to Conflicts of Interest,” the “Foundations Act,” the “Company Act,” the “Money Laundering Control Act,” the “Government Procurement Act,” the “Code of Criminal Procedure,” the “Judges Act,” the “Attorney Regulation” and the “National Judges Act,” and actively taken legislative actions to implement the various UNCAC regulations.
64. To allow Taiwan’s legal system to come in with the UNCAC norms in matters concerning the criminalization of corruption, the Ministry of Justice has drawn up a draft amendment to some provisions of the Criminal Code in reference to the concluding observations of the first national report. The Executive Yuan has preliminarily reviewed Article 121-1 for gratuity crimes and Article 123-1 for trading in influence or abuse of influence (illegal lobbying) therein. Of these, the crime of trading in influence or abuse of influence clearly specifies that a civil servant who has influence, or anyone who is not a civil servant but has influence over civil servants abuses his power to conduct acts such as soliciting, promising to accept, or accepting improper benefits to lobby the personnel of any public agencies, which will be punishable according to this Article. In addition, Chapter 10-1 “Obstruction of Justice” containing Articles 172-1 to 172-8 is added in to the “Criminal Code” to punish the crimes of absconding, contempt of court, improper lobbying, and the offenses and crimes of harassment, bribery and improper measures against witnesses, expert witnesses, interpreters or persons with close interests. The above-mentioned amendments are all currently under review by the Executive Yuan. After the review and approval, the approved

version will be sent to the Legislative Yuan for review as soon as possible, with the aim to continue to reach social consensus to improve the anti-corruption legal system.

65. In addition, for the promotion of legislation for special investigative methods, since scientific and technological investigation methods adopted by the investigation agencies may involve interference in the basic human rights, it might result in legal disputes or obstacles to implementation. In order to prevent the means of criminal investigation from falling behind the pace of scientific and technological development, and to ensure the legitimacy of investigations carried out by investigation agencies, the Ministry of Justice has prepared a draft of the “Act of Scientific and Technological Investigation” which grants legal authorization for the adoption of scientific and technological investigation, and it has completed the draft notice. At present, external opinions are being compiled and a literature review of foreign legislation is being conducted while actively discussing and trying to reach consensus, so as to strike a balance between both criminal prosecution and human rights protection.

#### **B. Formulation of Dedicated Laws and Regulations for the Protection of Whistleblowers in Public and Private Sectors**

66. It has become an international trend to formulate dedicated laws and regulations for the protection of whistleblowers, which can demonstrate a country’s policy emphasis on clean and competent government. In order to encourage whistleblowing, improve the protection of whistleblowers’ rights and interests, and implement the resolution of the 2017 National Conference on Judicial Reform and the UNCAC, Taiwan plans to formulate dedicated laws and regulations to protect the rights and interests of whistleblowers, and is actively developing the draft of the “Whistleblower Protection Act” (public-private-sector-merged version) to provide a comprehensive protection mechanism for whistleblowers to disclose information on illegal acts without further worries.
67. The Executive Yuan submitted a draft to the Legislative Yuan for review in 2019, but failed to complete the negotiation, and was also unable to complete the legislation due to the expiry of the review period. In 2020, the Ministry of Justice actively considered the suggestions from the 9th term of the legislators, and submitted the amendment draft to the Executive Yuan for review. The Executive Yuan then invited various agencies to attend two review meetings. After the Ministry of

Justice reviewed and compiled the external opinions, the amendment draft was submitted again to the Executive Yuan on December 2, 2021 for review, and the Executive Yuan held the 3rd review meeting on January 4, 2022. Meanwhile, in order to encourage citizen participation and strengthen the transparency of national policies, on October 28, 2020, the Executive Yuan added “promoting the legislation of the “Whistleblower Protection Act” as one of the commitments of Taiwan’s “Open Government National Action Plan.” The Ministry of Justice has also invited external experts, scholars and non-governmental members to hold work seminars in groups to formulate a public participation mechanism and specific progress measurement indicators for the promotion of the draft, and established a “Whistleblower Protection Section” on the official site of the AAC to enhance information transparency and implement public participation. It hopes to complete legislative work as soon as possible to establish and improve the system of protection, remedies, immunity and right to work for whistleblowers, so that the general public may proactively disclose any illegal and improper acts without worries.

68. Prior to the completion of the legislation of “Whistleblower Protection Act,” some competent authorities have taken the initiative to standardize the grievance system and related protection mechanisms for whistleblowers in their professional fields. Take the FSC as an example. It has continuously amended relevant laws and regulations of finance. By 2021, 16 financial holding companies, 38 domestic banks, 68 specialized securities firms, and 41 insurance companies have established whistleblower channels and their protection systems. The Environmental Protection Administration of the Executive Yuan has gradually incorporated whistleblower clauses into environmental protection regulations. For example, the “Toxic and Concerned Chemical Substances Control Act” amended in January 2019 helps to strengthen the overall legal framework of the whistleblowers protection mechanism of Taiwan.

### **C. Improving the Legal System of International Cooperation and Deepen Judicial Exchange and Cooperation**

69. Although Taiwan promulgated the “Mutual Legal Assistance in Criminal Matters Act” in May 2018, in view of the gap between the content of the “Extradition Act” and the practice of international extradition, and the conflict with the current criminal procedure system, the draft of

the “Extradition Act” has been amended to match the amendment of the “Code of Criminal Procedure.” The Executive Yuan will review and complete the revision as soon as possible to actively cooperate with other countries in mutual legal assistance in extradition, hunt down fugitives, and transfer them to the requesting country or receive their returns for legal sanctions. By doing so, the right of execution of punishment can be realized to serve justice and complete the legal framework of international criminal judicial assistance.

70. Meanwhile, Taiwan will continue to negotiate with foreign countries and sign agreements on mutual legal assistance in criminal matters. Taiwan interacts with countries with which we have not signed agreements on mutual legal assistance in criminal matters in accordance with the “Mutual Legal Assistance in Criminal Matters Act” and the “Transfer of Sentenced Persons Act” to promote judicial cooperation on the basis of reciprocity, and actively attempt to sign relevant agreements or treaties for mutual legal assistance in criminal matters and transfer or extradition of sentenced persons, to establish a stable cooperation platform to enhance the depth, breadth and effectiveness of combating crime.

#### **D. Measures to Improve Integrity and Transparency of Prosecutors and Judicial Agencies**

71. In response to the demands and requests from all social circles, without detriment to the independence of judiciaries or violation of other constitutional principles, the Judges Act was amended and promulgated in 2019. By reforming the system of judge evaluation and disciplinary chamber of the judiciary, it has established a mechanism allowing diverse and multiple external participation with comprehensive procedural protection, accelerated punishment procedures, and immediate supervision and removal of incompetent judges. In addition, we have also added regulations specifying that if the judge or Justice of the Judicial Yuan with substantive appointment commits corruption and is brought a guilty verdict, or a disciplinary sanction of dismissal, removal or transference from his position of Judges by the adjudication by the Disciplinary Chamber of the Judiciary, the basic pay received during the period of suspension shall be returned, resulting in a deprivation of the basic living protection in suspension for those who do not possess the moral ethics of a judge.



72. The “Attorney Regulation Act” amended and promulgated in 2020 is also an important part of judicial reform. In order to promote the general public’s trust in the judiciary and improve the lawyer system, this amendment is aimed to completely eliminate the transference from major criminals such as corrupt judges to lawyers, and revise the requirements for issuing attorneys’ certificates. For those who have already transferred from a judge to a lawyer, the Ministry of Justice may also revoke the certificate within 2 years (Articles 5 and 9). In addition, anyone who applies for obtaining the attorneys’ certificate is involved in a particularly severe crime such as corruption and bribery and is prosecuted by a prosecutor, the Ministry of Justice may suspend the review of the certificate application. For those who are already performing legal duties, the Attorney Disciplinary Committee may order the suspension of the performance of legal duties (Articles 7 and 74).
73. The “National Judges Act” was promulgated on August 12, 2020, stipulating that, except for juvenile delinquency cases and crimes committed under the “Narcotics Hazard Prevention Act,” first instance cases of district courts after prosecution by prosecutor involving “those who commit an intentional crime resulting in death” and “offenses whose minimum punishment is imprisonment of at least 10 years” will, starting January 1, 2023, and January 1, 2026, respectively be judged by six national judges and three judges who comprise the national judge court to jointly conduct criminal trials, so that the randomly-selected national judges can form judgments by personally witnessing the trial process and discussing with the professional judges. It is expected that to improve enhance judicial transparency and trust from the general public to reflect the general public’s legitimate legal sentiments and, enhance the general understanding of laws and demonstrate the ideas of popular sovereignty through the exchanges, mutual understanding and feedback between the national and professional judges.
74. In addition, to improve the transparency and supervision of the prosecution system, the Ministry of Justice plans to formulate the draft of the “Nationals Participation in Review of Non-prosecution Disposition Act” to establish an independent external “National Prosecution Review Council,” a set of external independent supervision mechanism composed of ordinary citizens other than prosecutors to review the “non-prosecutions” made by prosecutors in cases of severe crimes which have no complaints (such as corruption cases) and assess the legitimacy and

appropriateness of the non-prosecution, so as to enhance judicial transparency and trust as well as to evaluate the feasibility of the setup of the National Prosecution Review Council within a prosecution agency. In addition, the Prosecutor Evaluation Committee continues to handle prosecutor evaluations, which is expected to effectively improve the transparency and supervision of the prosecution system.

#### **E. Implementation of Preventive Anti-Corruption Measures for Emergency Procurement**

75. According to Subparagraph 3, Paragraph 1, Article 22 of the GP Act, an entity may apply limited tendering procedures to a procurement of a value reaching the threshold for publication where in so far as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the entity, the subject of the procurement could not be obtained in time by means of open or selective tendering procedures. The entity may proceed with the limited tendering procedures by giving a detailed account of each specific case in conformity with the requirements, and report it to the head of the entity or the personnel authorized by the head for approval. Where it is applicable to conduct price completion under restricted tendering, such tendering shall be a preferred method to use. In addition, where the procurement is an emergent one in response to imminent danger to the life, body, health, or property of the people; the rules of Subparagraph 2, Paragraph 1, Article 105 of the GP Act and the “Regulations for Invitation to Tender and Award of Contract in Special Procurement” may be applicable.
76. In response to the outbreak of the COVID-19 pandemic, the central and local entities of Taiwan’s government agencies have shortened procurement procedures since 2020 to quickly obtain epidemic prevention materials to prevent and control the pandemic. Hence, the case number and value of emergency procurements conducted in accordance with the above regulations have increased significantly. Although the tender documentation of emergency procurements may be exempted from disclosure on the Government e-Procurement System, the publication of tender awarding shall be indispensable. When an entity conducts the preceding procurement, its tendering opening, price competition, price negotiation, contract awarding, and inspection and acceptance shall be monitored by its comptroller (accounting) and relevant units together (procurements of values reaching the threshold for supervision shall be reported to its superior entity for monitoring).

In addition, the procurement control unit may monitor and supervise the written materials, information network or other related information and materials of the above-mentioned procurements.

77. On September 3, 2021, at the 24th committee meeting of the Central Integrity Committee of the Executive Yuan, it was resolved that the relevant ministries and committees shall closely monitor and supervise the issue of emergency procurements and propose a better mechanism, so as not to abuse the emergency procurement systems. Government-related emergency procurements shall be handled in accordance with the “Government Procurement Act,” and the information and procedures shall be applied and handled more rigorously. Take the current vaccine procurement, which is a seller’s market, for example, the confidentiality agreements involving commercial secrets shall in the future be disclosed if necessary after the execution of the contracts, in order to realize administrative transparency.

## **【 Essay: A Review of the Implementation of the United Nations Convention against Corruption (UNCAC) in Taiwan 】**

### **Chapter I General Provisions (Articles 1 to 4)**

Although Taiwan has withdrawn from the United Nations since 1971 and is now in a unique position under the international environment, we do not separate ourselves from the international community. The determination of Taiwan against corruption was manifested by her legislation of the “Act for the Implementation of the UNCAC” on May 20, 2015 and the implementation on December 9 at the same year, in line with the global trend against corruption and the international legal system for the effective prevention and eradication of corruption. According to Article 2 of the Act, the UNCAC regulations have become domestically legally effective to improve the system of preventing and combating corruption, strengthen international cooperation, technical assistance and information exchange in anti-corruption, ensure the collection of illegal assets and promote the transparency and accountability system of government agencies in accordance with the the purposes of the Convention.

(§1-4)

## Chapter II Preventive Measures

### Article 5 Preventive Anti-corruption Policies and Practices

#### Concluding observations of the international review committee of the initial report:

***Measure 1: The formulation of the nine strategies of the “National Integrity Building Action Plan” and the implement of 39 of the 46 measures.***

In 2020, there were 41 performance targets (5 of the original 46 targets had been delisted), of which 38 items were achieved as a whole, reaching a 93% of achievement rate. All relevant agencies also explained the reasons for the unachieved targets and continued to keep these items on the watch list. Please refer to page 29 of the Report on Responses to Concluding Observations for detailed information.

***Measure 3: The emphasis on corruption prevention in Taiwan is reflected in the adoption of preventive measures in 6 ministries, National Development Council, 2 directorates-general, Customs Administration, 2 commissions, National Audit Office, Central Bank, AAC, MJIB, and the Government Employee Ethics Units of the central agencies and local agencies.***

Taiwan continues to implement the sunshine laws, strengthen the promotion of social participation, fair and transparent government procurement, and increase the transparency of agencies and legal entities. Various domestic agencies also continue to promote the operation of the anti-corruption measures, and cooperate with preventive actions such as special examination, inspections, and internal control to comprehensively promote the preventive anti-corruption measures. Please refer to page 30 of the Report on Responses to Conclusive Observations.

***Measure 13: Conducting, annually, the Integrity Assessment on public institutions to encourage internal efforts for better governance and integrity.***

The AAC continues to conduct public opinion surveys on integrity and collect data on the quantitative indicators of the integrity assessment of various agencies, and has built a reporting system as a reference for the promotion of integrity work. In order to strengthen the integrity assessment of various agencies, from 2019 to 2021, the pilot implementation of the “Integrity Awards” was promoted. In addition, Taiwan also conducts corporate governance assessments (by the Ministry of Economic Affairs and the Ministry of Finance) for state-owned enterprises, and actively participated in the third global “Government Defense Integrity Index,” and was rated as a “Band B” country, ranking 6th worldwide. Please refer to page 38 of the Report on Responses to the Concluding Observations.

#### **1. Preventive Anti-Corruption Policies (§5 I-III)**

##### **(1) National Integrity Building Action Plan**

- A. Take reference to the concept of “National Integrity System” proposed by the Transparency International to set up a national anti-corruption development strategic objective, coordinate all government agencies in the proper implementation of anti-corruption measures specified in the UNCAC, and formulate the 9 specific strategies respectively known as “Strengthening the accountability system for management of government agencies with integrity and implement risk control and management practices,” “Facilitating openness and transparency to prevent conflicts of interest,” “Continuing indicator research and grasp the pulse of public opinions as well as international trends,” “Putting the code of conduct for civil servants into effect and establish a government model,” “Encouraging society to participate and facilitate a consensus regarding transparency and zero tolerance for corruption,” “Promoting campus integrity and deepen students’ character education,” “Strengthening corporate integrity and build an anti-corruption consensus in the private sector,” “Adding and amending laws on corruption investigation, enhance investigation capacity and put whistleblower protection into effects” and “Promoting international cooperation and assets recovery and establishing a mutually beneficial mechanism among countries ” and other relevant specific enforcement measures and performance measurement indicators. (§5 I-III)
- B. Since 2016, the Executive Yuan has managed a total of 46 enforcement measures of this Plan. The Ministry of Justice convenes each and all of the ministries and departments of the Executive Yuan annually to review the implementation results of the previous year and sets the performance goals for the year, which will all be submitted to the Executive Yuan for approval and for further promotion of the implementation. The enforcement measures and achievement of performance goals from 2016 to 2020 are shown in Table 5. (§5 I-III)

**Table 5 Implementation status of the “National Integrity Building Action Plan”**

Year	Listed measures for implementation	Delisted measures for implementation	Performance targets achieved	Achievement rate
2017	46	-	42	91%
2018	44	2	40	91%
2019	43	1	40	93%

2020	41	2	38	93%
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Data source: MOJ(AAC)

(2) The “Act on Property-Declaration by Public Servants” requires administrators responsible for leadership, decision-making, supervision of other essential functions, or duties vulnerable to corruption, shall disclose their property for public inspection and respond to the examination and matching of the entities (institutions) for declaration. The transparency of the property of these personnel aims at the realization of monitoring by the people. (§5 I and III)

A. In 2019, 61,254 people declared their personal properties to the Control Yuan, AAC, and other ethics units. The declarations of 6,131 people have been picked for public review in 2020 at the random selection ratio of 10.01%. In addition, 976 cases were chosen for matching property declared in the previous year and the subsequent year to determine whether there were any unusual changes in the property of the declarants. The random picking ratio was 15.92% (the number of cases for comparison with the previous year and the next year ÷ the number of cases selected by random picking for review). (§5 I and II)

B. Table 6 shows the statistics of reviews and penalties by the Control Yuan’s Anti-Corruption Committee and the Ministry of Justice’s Public Servants Property Declaration Review Committee from 2017 to 2021. Punishment was imposed for deliberate cheating in the declaration, failure to make the declaration by the deadline without justifiable reasons, and lack of explanation for the comparison of property between years without justifiable reasons. The term of office of some public servants may have expired, or, due to political appointment, promotion, transfer of duties or other factors, they may fall prey to violation of law and receive punishment due to their ignorance of applicable laws. For these reasons, the AAC guides the Government Employee Ethics Units on an annual basis to organize the education classes, and so as the Control Yuan. After the implementation of the authorization system for property declaration of public servants, the declarants agree to use the authorized intermediary information for declaration, which has gradually reduced the occurrence of false property declarations. In the future, we will continue to promote the adoption of authorized

intermediary information to help those public servants obliged to declare properties to complete their declaration successfully. (§5 I and II)

**Table 6 Statistics on reviews and fines of public servant property declaration cases**

Year	Number of cases reviewed	Number of cases fined	Amount fined
2017	664	196	TWD 27,630,000
2018	573	117	TWD 23,980,000
2019	615	179	TWD 48,286,000
2020	697	193	TWD 36,741,000
2021	522	81	TWD 24,769,000

Data source: Control Yuan and MOJ(AAC)

- (3) The “Act on Recusal of Public Servants Due to Conflicts of Interest” establishes public servant conflict of interest rules to effectively deter corruption and inappropriate use of one’s official position for personal gain. This law explicitly states that public servants shall voluntarily avoid any conflicts of interest as well as avoid taking advantage of their official position to gain profit for themselves or their associates or to seek favors for their associates. Further legislation has been enacted to prohibit business deals. Table 7 shows the statistics of reviews and penalties by the Control Yuan’s Anti-Corruption Committee and the Ministry of Justice’s Public Servants Property Declaration Review Committee on the relevant cases from 2017 to 2021. (§5 I and II)

**Table 7 Statistics on reviews and fines of cases involving avoidance of conflict of interest by public**

Year	Number of cases reviewed	Number of cases fined	Amount fined
2017	29	13	TWD 171,110,000
2018	14	2	TWD 1,500,000
2019	25	5	TWD 1,360,000
2020	28	18	TWD 71,764,400
2021	40	29	TWD 10,235,400

Data source: Control Yuan and MOJ(AAC)

- (4) The “Political Donations Act” clearly stipulates that those who may contribute to political donations are limited to profit-seeking business and public welfare social organizations.

However, in order to prevent political donations from being diverted to operation that are under the table, which would not be conducive to effective management, the Act has been expressly stated that donations by such organizations which may adversely affect national security and fair political competition, easily lead to corruption, or are obviously inconsistent with its purpose of establishment shall be prohibited. For example, religious associations, public enterprises, manufacturers that have signed government procurement contract of a large amount or an investment contract of important public construction and are performing the contract, or profit-seeking businesses in accumulative deficit that have not been made up in accordance with its financial statement in the previous year are prohibited from contributing the political donations. Foreign citizens, residents in the People's Republic of China, Hong Kong and Macao, juridical persons, associations or other institutions; or the juridical persons, associations or other institutions mainly composed of the members of the above foreign citizens and residents are also prohibited (See Article 7 of the Act) to avoid improper connection of political donations with public affairs, usage of large-amount donations or the involvement of foreign powers to affect government decision-making. In addition, there is an upper limit on the total annual donations made by profit-seeking entities and social organizations to political parties and candidates.

- A. Since 2004, the "Political Donations Act" has been implemented smoothly, and the related legal system has been continuously improved to ensure adequate and comprehensive regulations. On January 31, 2019, the Ministry of the Interior inquired the opinions of various agencies on amendments to the act. Upon the recommendation of the Control Yuan, it was proposed that when a political party or a candidate spends its political donations for any specific related person, such expenditure shall be disclosed in the accounting report. The Ministry of the Interior prepared draft amendments to Articles 20, 23, and 36 of the "Political Donations Act" and submitted them to the Executive Yuan for review. The Ministry of the Interior has also prepared draft amendments to the entire act to incorporate the aforementioned amendment to the three Articles, and submitted them to the Executive Yuan on June 30, 2020; therefore, the Executive Yuan held three legal amendment review meetings



on August 4, November 16, 2020 and December 9, 2021. Currently the draft is still under review.

- B. In 2019, the Control Yuan established the “Political Donations Public Review Online System,”<sup>19</sup> which archives all information on the income and expenditure data of political parties and candidates for election in the database. The general public may use this platform to check specific political parties, candidates for election or donors, the expenditure items and other related detailed information. The entire contents of the accounting reports of the political parties and candidates for election are also made public on the platform for public viewing, to improve the transparency of political donations information.
- C. Table 8 shows the statistics of reviews and fines by the Control Yuan’s Anti-Corruption Committee of the cases of political donations. (§5 I and II)

**Table 8 Statistics on reviews and fines of the cases of political donations**

Year	Number of cases reviewed	Number of cases fined	Amount fined
2017	357 cases	140 cases	TWD 27,448,836
2018	121 cases	108 cases	TWD 21,172,012
2019	7 cases	4 cases	TWD 1,760,000
2020	39 cases	5 cases	TWD 8,535,461
2021	336 cases	90 cases	TWD 21,522,547

Data source: The Control Yuan

- (5) The “Lobbying Act” specifies the public and transparent procedures for lobbying to prevent the funneling of unjustified benefits and regulates the participation of democratic politics. In addition, this law also explicitly states that the president, vice president, the chief and the deputy chief of the special municipality governments, county (city) governments, or townships (town, city) who are the subjects of lobbying are not permitted to lobby for or request lobbying for government entities where they have served for five years and until three years has passed since their resignation, and this applies further to the representatives of the people at all levels (§5 I and II)

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<sup>19</sup> Control Yuan’s open platform for public oversight of political party funding: <https://ardata.cy.gov.tw/home>.

- A. From August 8, 2008, to December 2021, the number of lobbying cases accepted and handled by various agencies reached 484, of which 455 were approved and registered, and 370 were registered for the Legislative Yuan, which accounted for 81%. The registration status of case acceptance and lobbying is published on the official site of each agency according to the laws and regulations. The Ministry of the Interior will establish the lobbying registration online application to facilitate the usage by lobbyists and the acceptance agency, and allow them to understand the progress of each case in a timely manner to increase the number of lobbying application registrations.
- B. For punishment of illegal cases, there was one case subject to punishment where the applicant failed to complete the registration within the specified time limit, and the punishment was later revoked after the completion of the registration. The Control Yuan has no cases subject to punishment.
- C. The Ministry of the Interior prepared a draft amendment to the “Lobbying Act” and submitted it to the Executive Yuan on April 29, 2021. The key points of the amendment include expanding the scope of definitions of lobbyists (adding assistants to elected representatives at all levels and heads of central third-level bodies), simplifying the required matters for the registration process, adding provisions on penalties for illegal lobbying, and amending the division of labor in the process of reviewing and punishing illegal lobbying cases.

## **2. Preventive Anti-Corruption Practices (§5 I-III)**

### **(1) Institutional Integrity Assessment Mechanism**

Since 2019, the AAC has commissioned research on the establishment of a mechanism for assessing the integrity of public agencies by means of incentive measures based on the existing assessment mechanisms such as national-level awards and the ““Evaluation Indicators” for the integrity assessment promoted by the AAC before 2018, which resulted in the initiation of the “Integrity Awards” evaluation and award system. It is expected that by using such evaluation and award mechanism, the public sector will be motivated to take the initiative in self-examination, strengthen anti-corruption awareness and introduce innovative anti-corruption measures. By participating in the awards, the awareness of integrity among the chief of each and all agencies and the staff can be raised, and the highlights of the integrity

of agencies can be discovered. From the second half of 2019 to 2021, affiliated agencies (43 in total) were nominated by the central ministries and local governments to participate in the trial assessment, in which the assessment system will be improved by accumulating empirical experience. Please refer to II, 2, (4), 1 “Initiation of the ‘Integrity Awards’” in the Report on Responses to the Concluding Observations. (§5 I-III)

(2) Integrity Platform for Institutional Procurement

In order to complete the national major public constructions on schedule and to curb improper external interference, Taiwan promoted an integrity platform for institutional procurement in 2016 to cooperate with the policies of adopting the most advantageous tender for national procurement with large amount. For major procurements handled by various agencies, an integrity platform was established according to the needs of the chief of the agencies to provide interdisciplinary communication channels for relevant government agencies (prosecutors, AAC and integrity government units, and PCC), civil societies, experts, the general public and manufacturers to strengthen government supervision mechanisms, maintain manufacturers’ reasonable rights and interests, create a working environment in which public servants can proceed business without worries, and enable the general public to obtain and enjoy high-quality public construction. In addition, in order to strengthen the disclosure of information on procurement projects to the general public, the section for administrative transparency has been established at the official sites of the execution agencies, and information such as the background of the project, the planning process, the progress of the project, the clarification to relevant questions, and the relevant meeting materials and records shall all be disclosed and available to the general public. As of December 12 of 2021, there were 32 projects (with a total project amount of more than TWD 781.224 billion) in which various agencies have established an integrity platform. Among them, 29 projects are under construction, of which major projects such as “the Project for Construction of Reservoir for Niao-tsui Tan of Wu River” and “the Taipei City Government’s Project for Construction of North and South Ring Sections for Circular Line of Taipei MRT” have respectively established integrity platforms. The other 3 projects have been completed. As an example, “the Project for C1/D1 Land Development in the Designated Areas of Taipei Main

Station, Department of Rapid Transit Systems, Taipei City Government” adopted the operation mechanism of the integrity platform was successfully completed on schedule with high and satisfactory quality.

(3) Open Government National Action Plan

By taking reference to the norms of the international organization “Open Government Partnership,” Taiwan has established the Executive Yuan Open Government National Action Plan Taskforce to formulate the “Taiwan Open Government National Action Plan,<sup>20</sup>” which would adhere to the spirit of public-private cooperation, focus on transparency, accountability and participation, and be implemented from January 2021 to May 2024. Government departments/agencies and the private sectors will jointly promote 19 commitments, which are categorized into five major fields respectively known as “promoting open data and freedom of information,” “expanding the public participation mechanism,” “increasing gender and ethnic inclusive dialogue,” “enhancing integrity policies” and “anti-money laundering,” among which “enhancing integrity policies” includes three commitments respectively known as “enhancing political donation transparency,” “establishing and improving the government procurement integrity platform” and “legislation of the Whistleblower Protection Act,” and “anti-money laundering” includes two commitments respectively known as “beneficial ownership transparency” and “policies on financial transparency of religious groups to close AML loopholes,” all of which are aiming at strengthening concrete measures against corruption.

(4) Corporate Governance Roadmap

Since the Executive Yuan established the Corporate Governance Reform Taskforce to legalize corporate governance in 2003, companies have begun to attach importance to corporate governance and the protection of investors' rights and interests. The five-year term of “Strengthening Taiwan’s Corporate Governance Roadmap” was released in 2013, the three-year term of “New Corporate Governance Roadmap” was then released in 2018, and

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<sup>20</sup> For details of Taiwan Open Government National Action Plan, please refer to [https://www.ndc.gov.tw/en/Content\\_List.aspx?n=0DA7FCB068C7ECF5&upn=819FA8F2A1CE018F](https://www.ndc.gov.tw/en/Content_List.aspx?n=0DA7FCB068C7ECF5&upn=819FA8F2A1CE018F)

the “Corporate Governance 3.0- Sustainable Development Roadmap” was released in 2020<sup>21</sup>. We have gradually completed regulations for the establishment of positions of independent directors, the establishment of audit committees, the insuring and maintenance of directors and supervisors liability insurance, the adoption of electronic voting, the preparation of corporate social responsibility reports, the case-by-case voting of shareholders’ meetings, and the shortening of time limit for submission and publication of annual financial reports for companies above a certain size under the joint promotion efforts of both public and private sectors. The Asian Corporate Governance Association (ACGA) released its preview of “CG Watch 2020” on November 25, 2020. Among 12 regional markets, Taiwan ranks 4th in ACGA’s survey result, and is only after Australia, Hong Kong and Singapore. Improving in market ranking, Taiwan scored 62.2 points, the best since 2003, edging even closer to Hong Kong (63.5 points) and Singapore (63.2 points). Australia and Taiwan were the only two countries to improve in every category among 12 regional markets Furthermore, both Taiwan and Australia top the scoring in the “Government & Public Governance” category, and Taiwan scored second place, very close to Hong Kong, in the “Regulators” category, demonstrating that Taiwan’s promotion of corporate governance has been recognized internationally.

(5) The Public Oversight Mechanism

The Public Construction Commission of the Executive Yuan (hereinafter referred to PCC) cooperated with the central entities and the county and city governments to promote the “Public Overseeing” mechanism, established a report system and processing procedures for the implementation of major public constructions, and supervises government governance with the assistance from private sectors to detect project deficiencies early and seek improvement (see Table 9 for details of the statistics). In addition, people with relevant expertise or with social justice will be chosen for rating under the “Guidelines of Oversight of Public Construction by the People” to reward the entities or institutions rated as Class A or above, and the citizens who make good reports will be awarded monetary bonuses and

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<sup>21</sup> For details of relevant contents of the Roadmap for Corporate Governance, please refer to <https://www.sfb.gov.tw/ch/home.jsp?id=884&parentpath=0,8,882>

certificates of merit. If any citizens discover problems such as poor construction quality in any public construction projects, they can do the report via the “Information System for Oversight of Public Construction by the People” and inquire about the progress of the case as well. (§5 I and II)

**Table 9 Statistics on performance results of the Public Oversight mechanism**

Year	Cases reported	Average responding days
2017	1,133cases	2.82days
2018	1,274 cases	3.31 days
2019	1,138 cases	2.42 days
2020	1,099 cases	2.12 days
2021	1,113 cases	2.11 days

Data source: Public Construction Commission, Executive Yuan

(6) Integrity Education at Schools

To promote integrity education in schools, the Ministry of Education has proactively revised its “Guidelines for Facilitating Character and/or Moral Education Programs” to incorporate “integrity and self-sustainability” into the core value of character-building, and instructed all public and private universities, technology universities and colleges and the competent authorities of education affairs of all county and city governments to add character education into the reference and allocation indicators of relevant award and subsidy application programs, as well as the basis for the selection and commendation of school (kindergarten) principals, in order to deepen integrity education at schools. In order to continue to convey the idea of “deeply rooting integrity education and the concept of anti-corruption starting from an early age” to the general public, the AAC cooperates with educational institutions to develop picture books, online games, puzzle rooms, cartoons and anime, comics and manga for students of different ages, create a variety of integrity teaching materials for promotion use in teaching. The materials are distributed by digital means such as uploading them to media platforms to improve the effectiveness and publicity of integrity education. Please refer to II, 2, (10) “Integrity Education for Kindergartens and Elementary Schools” in the Report on Responses to the Concluding Observations. (§5 I and II)

(7) Strengthening Private Sector Accounting and Auditing Standards

Since 2017, the FSC has adopted the International Financial Reporting Standards (IFRSs). In addition to adopting IFRS 9 “Financial Instruments” and IFRS 15 “Revenue from Contracts with Customers” on January 1, 2018, and IFRS 16 “Lease” on January 1, 2019, new or revised IFRSs issued by the International Accounting Standards Board (IASB) will continue to be evaluated and approved in order to improve the quality of financial reporting and continue to be geared to international standards in the future. In addition, the FSC oversees and instructs the Accounting Research and Development Foundation with reference to the International Standards on Auditing (ISA) to formulate generally accepted auditing standards as the professional norms for domestic auditing. Please refer to the section on Article 12 of the UNCAC.

(8) Anti-Corruption Volunteers

Based on Article 7 of the “Volunteer Service Act,” each competent authority's government ethics unit shall establish the anti-corruption volunteer corps, and shall be responsible for recruiting, training and supervising the volunteers. In September 2011, the “Agency against Corruption, Ministry of Justice Anti-Corruption Volunteers Program” was formulated. As of 2021, 31 anti-corruption volunteer corps consisting of 1,757 volunteers had been established nationwide. The service will center on "assistance to government work" and "marketing and promotion of integrity." This program aims at the training of volunteers for a better understanding of public affairs and applicable laws so that they may assist government institutions in anti-corruption education, allow for the entrenching of integrity on campus, enhancement of operational transparency, and supervision of anti-corruption by the people, and thereby encourage people and groups outside of government institutions to proactively participate in the prevention and combating of corruption. Please refer to II, 2, (3), “Promotion of Anti-Corruption Volunteers” in the Report on Responses to the Concluding Observations. (§5 I and II)

(9) Management of Epidemic Prevention Materials

The Center for Disease Control of the Ministry of Health and Welfare continuously monitors and controls the inventory and consumption of various epidemic prevention materials of government units of all three levels (central, local and medical institutions) via the

Management Information System (MIS). Based on Article 14 of the “Implementation Regulations Governing Materials for Communicable Disease Control and Establishment of Resources,” the competent authority shall conduct annual inspections of the materials for communicable disease control of units at various levels. If defects are detected, supervision for improvement shall be made. Hence, the Center for Disease Control of the Ministry of Health and Welfare lists the readiness of epidemic prevention materials as an evaluation index for the evaluation of epidemic prevention operations by local health agencies on an annual basis, and in the MIS it can check the open information of the inventory, consumption and safety stockpile of each item of epidemic prevention materials of units of all three levels. (§5 I and II)

(10) Electronic Management of Customs Services

The management of Customs clearance in Taiwan is moving towards the electronic approach, and the “CPT Single Window” was established so that the possibility of face-to-face contacts between Customs officers and business operators was reduced. By means of the electronic systems, Customs implements standardized operations to verify clearance documents and licenses, preliminarily analyze the tariffs and values of the goods, determine different levels of inspection through the risk management system. Supplemented by the secure electronic payment function, we therefore can further reduce improper discretion and time-consuming procedures, and confirm the accountability through the post-clearance inspection and auditing of electronic records, which would not only speed up the clearance of goods, but also serve as an information sharing platform between government agencies to strengthen risk management, Customs facilitation and cargo safety. All of these bring a positive impact on the combat against Customs corruption. The World Economic Forum (WEF) released “The Global Enabling Trade Index 2016,” in which Taiwan topped the indicator of "Customs Transparency” among 136 economies. The WEF also released “The Global Competitiveness Report 2019,” in which Taiwan’s transparency ranked the 29th out of 141 rated countries. These achievements were closely related to the active utilization of smart technology in recent years to improve Customs performance in border management. (§5 I and II)

(11) Electronic Expenditure Application and Verification



In order to implement the government’s electronic and paperless policies and simplify the operation of expense reimbursement and settlement, the DGBAS plans to establish a shared “Expenditure Application and Verification System” for the “Digital Government Master Plans” promoted by the Executive Yuan to promote the electronic reimbursement of budgets. The user-oriented design of the Expenditure Application and Verification System is interfaced with other common systems (such as the electronic invoice platform, payroll system, and WebITR duty system, etc.). The introduction of electronic expense application and verification services to various government agencies will gradually be promoted. It is expected that the efficiency of government operations will be accelerated through digitalization, and the improvement and optimization of expenditure application and verification process of various agencies will be realized. (§5 I and II)

(12) Developing and Compiling Guidelines for Integrity and Anti-Corruption

The AAC supervises and cooperates with Government Employee Ethics Units to select major agencies with services with integrity risk such as police administration, environmental protection inspections, funerals, major public construction projects, land administration, subsidies and procurement cases. Respective competent authorities and relevant experts and scholars are invited to collect case discussions, develop preventive measures, develop and compile publicity materials, provide staff with official business reference, and implement roll planning case data supplements, and add new or revise existing risk cases or preventive measures from time to time to prevent similar breaches from happening again and improve prevention effectiveness. In 2021, 47 cases of compilation for various businesses have been completed. (§5 I and II)

**3. Participation in International or Regional Organizations (§5 IV)**

- (1) Besides actively participating in international anti-corruption conferences, such as the Asia-Pacific Economic Cooperation (APEC)/Anti-Corruption and Transparency Working Group (ACTWG) regular meetings, “ACT-EGILAT Law Enforcement Cooperation Joint Seminar,” “ACT-NET Webinar for Relevant Units for Anti-Corruption and Law Enforcement,” the annual seminar of the “International Association of Anti-Corruption Authorities” (IAACA),

Transparency International (TI) Annual Membership Meeting and the International Anti-Corruption Conference (IACC), etc. In 2017, APEC held the “APEC Workshop on Enhancing Whistleblowers Protection in Corruption Cases” in Taiwan to discuss the achievements of the “APEC Whistleblower Protection Guiding Principles” and provide a context for the cross-border cooperation of whistleblower protection mechanism. Please refer to the section on Article 60 of the UNCAC. (§5 IV)

- (2) The AMLD of MJIB serves as Taiwan’s national Financial Intelligence Center, which handles the international transmission of information related to money laundering prevention, conducts international transference of corruption-related information with other foreign financial intelligence centers in accordance with treaties, agreements or the Egmont Group's charter and the principles of information exchange, and continues to participate in international organizations such as the Financial Action Task Force (FATF), the APG, and the Asset Recovery Interagency Network- Asia Pacific (ARIN-AP) to establish mutual consultation channels with overseas counterparts. Please refer to the section on Article 14 of UNCAC. (§5 IV)
- (3) The issues related to Customs integrity have been drawing international attentions. Every year, Taiwan Customs participates in APEC/Sub-Committee on Customs Procedures (SCCP), World Customs Organization (WCO)/Revised Kyoto Convention Committee (RKC) and Technical Committee on Customs Valuation (TCCV) meetings, World Trade Organization (WTO)/Anti-dumping Committee, Subsidies and Countervailing Measures Committee and Committee on Rules of Origin (CRO) meeting, and complies with the WCO “Revised Arusha Declaration,” which reveals the spirit that the public and private sectors shall establish an open and transparent relationship and jointly combat corruption. We have been taking specific internal actions such as strengthening supervisory responsibility, implementing integrity education, and formulating code of conduct. In addition, Taiwan Customs keeps streamlining clearance procedures in terms of partnership cooperation, process simplification, and utilization of information and technology. (§5 I-III)

## **Article 6 Preventive Anti-Corruption Body or Bodies**

***Measure 2: The establishment of the Central Integrity Committee (CIC) to ensure the coordination of the anti-corruption efforts of the various agencies in Taiwan.***

***Measure 24: Promoting effective cooperation between national authorities (Article 38) under the guidance of the CIC.***

When the Central Integrity Committee of the Executive Yuan encounters issues related to inter-ministerial integrity, the participating members can fully discuss them at the meeting, and implement the measures determined according to the chair's instructions, or they can be coordinated by the Ministers of State of the Executive Yuan, so that the relevant ministries and committees can make improvement on the concerned issues of integrity as an effective solution and cooperation plan. Please refer to page 51 of the Report on Responses to the Concluding Observations.

***Measure 4: The CIC should review the current anti-corruption organizational framework to identify any obstacles to cooperation and coordination among agencies involved in combating and preventing corruption, and to minimize the overlapping and duplication of functions.***

***Measure 10: As the internationally best practice is to rely on a "Single Dedicated Anti-Corruption Agency" (ACA), the government should consider adopting this practice and provide the ACA with the necessary resources to function effectively.***

The most effective way to eliminate corruption crimes is the adoption of an intersected-network approach to investigate corruption and cooperate with anti-corruption work. For the work of "corruption investigation," the AAC supervises the Government Ethics Units to uncover clues of corruption within the agencies while the Investigation Bureau is responsible for uncovering corruption clues outside the agencies, in which AAC and MJIB will form an intersected network to jointly combat all corruption. For corruption prevention, the AAC cooperates with the implementation and establishment of sunshine laws and related preventive measures, which can effectively improve the level and effectiveness of Taiwan's integrity promotion work. Please refer to page 56 of the Report on Responses to the Concluding Observations.

***Measure 7: The system of "resident prosecutors" stationed in the AAC to direct investigations and ensure their independence and the establishment of an advisory committee to provide external monitoring.***

***Measure 12: To ensure better independence of the AAC's Advisory Committee, the Taiwan Government should consider the appointment of its members by the Premier.***

For criminal cases filed and investigated by the AAC, the resident prosecutors shall directly command the investigation, and proceed with necessary investigation immediately after determining the investigated matters of each specific case. The AAC has set up an Integrity Review Committee comprised of 11 to 15 members appointed by the Minister of Justice, and representatives of other ministerial agencies, experts and scholars in professional fields and independent community

representatives are invited to participate together to strengthen the power of external supervision. The current appointment system and operation mode have indeed satisfied the requirements of interdisciplinary independence, and in the future, adjustments will be made based on the effectiveness of its operation and the extensive collection of opinions from the general public. Please refer to page 57 of the Report on Responses to the Concluding Observations.

***Measure 9: The commitment to the training of specialized staff is reflected in the ACC's conducting of 115 courses for 7,772 personnel from 2013 to 2017.***

***Measure 20: The Government considers the reinforcement or enhancement of the preventive functions of the AAC to encourage proactive prevention of corruption and to promote integrity.***

Every year, the AAC continues to conduct training courses for new recruits and existing staff to enhance their professional functions, and send certain staff to participate in international seminar and studies. Please refer to pages 48 and 73 of the Report on Responses to the Concluding Observations.

#### **4. Preventive Anti-corruption Body or Bodies (§6 I)**

- (1) Since 2008, Taiwan has established the Central Integrity Committee of the Executive Yuan, which holds regular meetings, with the President of the Executive Yuan as the convener and the Ministry of Justice as the secretariat to ensure and coordinate the anti-corruption work of various government agencies. Under the guidance of the Central Integrity Committee of the Executive Yuan, effective cooperation between ministries and committees is promoted to allow the participating members to fully engage in discussion during the meeting, and implement the matters instructed by the chair or coordinated by the Ministers of State of the Executive Yuan, so that the relevant ministries and committees can improve their actions on integrity governance issues, and establish a monitoring and coordination mechanism to obtain effective solutions and cooperation plans allowing the participation of experts, scholars and independent community representatives to serve as members of the integrity committee to provide consultation, which will strengthen the prevention functions of the anti-corruption mechanism. Please refer to II, 3, (1), “Maximize the Functions of the Central Integrity Committee of the Executive Yuan” in the Report on Responses to the Concluding Observations. (§6 I)
- (2) Taiwan has established the Agency Against Corruption (AAC) on July 20, 2011, which performs the composite function of anti-corruption and investigation of corruption, the

planning and implementation of the national anti-corruption policy, anti-corruption, prevention of corruption and investigation of corruption. AAC commands and supervises Government Employee Ethics Units in central and local agencies (institutions) and public enterprises for the advocacy of anti-corruption. The Government Employee Ethics Units set up within agencies could take timely audits, provide early warnings and take other anti-corruption actions to grasp the risks of corruption and corruption prevention, so as to be able to respond to relevant corruption and illegal matters in real time, which is a unique organizational design in Taiwan. As of December 2021, there are 220 staff in AAC, 1,059 staff within 377 Government Employee Ethics Units of central administrative agencies, and 1,602 staff within 594 Government Employee Ethics Units of local government agencies.

- (3) The “Act of the Establishment and Management of the Government Employee Ethics Units and Officers” requires that the Government Employee Ethics Units shall be responsible for the “education and social participation of anti-corruption,” “design, advocacy, and execution of rules and regulations and preventive measures for anti-corruption,” “design, coordination, and advocacy of recommendations for anti-corruption,” and the “declaration of property by public servants, avoidance of conflicts of interest, and ethics of anti-corruption,” all of which are planned, coordinated and supervised by the AAC (§6 I)
- (4) The MJIB is responsible for corruption prevention and election bribery investigations, major economic crime prevention, money laundering prevention, and counter-terrorist financing in accordance with the “Organic Act for Investigation Bureau, Ministry of Justice.” The Economic Crime Prevention Division is responsible for the task of major economic crime prevention, which prevents, discover, investigate and curb major economic crimes such as corruption in the private sectors.
- (5) For combating corruption, Taiwan mainly adopts prosecutors as the major force of criminal investigation. The AAC is otherwise responsible for planning integrity governance policies and implementing anti-corruption, corruption prevention and corruption investigation. The MJIB is responsible for investigating and preventing corruption cases. Under the command of the prosecution units of the Ministry of Justice, the AAC and MJIB respectively conduct investigations and collect evidence of criminal cases, and communicate, coordinate, and

cooperate with the prosecution units via regular meetings arranged by the horizontal communication platform, so as to reach the optimal effect of a “pincer movement” to jointly combat corruption. Please refer to the section on Article 36 of the UNCAC.

- (6) The Control Yuan (the declaration of property by public servants), the Ministry of the Interior (political donation, lobbying, etc.), the Ministry of Economic Affairs and the FSC (prevention of corruption in private sectors), and the National Audit Office (financial auditing of the governments and subordinated entities), the DGBAS (internal control of the government) and other relevant agencies are also the bodies for jointly promotion of the prevention of corruption in accordance with their statutory duties. For the anti-corruption system of Taiwan, please refer to the General Introduction. (§6 I)
- (7) In 2017, the “Anti-Money Laundering Office, Executive Yuan” was established to coordinate the policies and guidelines for preventing money laundering and countering terrorism financing in order to improve the effectiveness of Taiwan for relevant works, supervise and coordinate preparatory works for the third mutual evaluation by the APG, combine the efforts from both the public and private sectors, re-establish the order of transparency of payment in Taiwan. By introducing international resources to broaden perspective, Taiwan’s anti-money laundering and counter-terrorism financing measures became in line with international standards.

## **5. Increasing and disseminating knowledge about the prevention of corruption (§6 I (b))**

- (1) Each agency shall establish function of integrity reports with the Government Employee Ethics Unit as the secretariat and chaired personally by the head of the agency. Experts, scholars and unbiased members of the society shall serve as integrity committee members to provide consultation (90 agencies has introduced unbiased members of the society in 2021) and analyze corruption prevention and administrative transparency measures to effectively strengthen the prevention mechanism of integrity government. (§6 I)
- (2) Government Employee Ethics Units aims at promoting ideas of integrity and the participation of society to civil servants, those who have business and work interactions with agencies, professionals, schools, enterprises, communities, civil organizations or the general public,

etc. Within this, the promotion of integrity includes the preparation of customized teaching materials and the implementation of seminars and training according to the risk characteristics of the tasks of the agency. Social participation includes the recruitment of integrity volunteers to promote volunteer services, the implementation of integrity and character education at schools, the promotion of corporate integrity and corporate social responsibility, and encouraging the formulation of ethical norms and other diversified methods to motivate the general public to participate in anti-corruption work. (§6 I)

- (3) For integrity education at schools, please refer to the section on Article 5 of the UNCAC and II, 2, (10), 1 “Amendment of ‘Guidelines for Facilitating Character and/or Moral Education Programs’ of the Ministry of Education” in the Report on Responses to the Concluding Observations. (§6 I)

## **6. Independence (§6 II)**

- (1) Taiwan has pioneered the system of “resident prosecutors,” in which senior prosecutors are selected and appointed by the Ministry of Justice to be stationed in the AAC to directly participate in the investigation of corruption and related crimes, so as to ensure that the investigation of cases can be independent without any form of interference. In addition, an external supervision mechanism was introduced to set up the “Clean Politics Advisory Committee.” Professionals from all fields of society jointly inspect the closed cases for misjudgments, delays or coverups, and put forward suggestions on Taiwan’s integrity governance policies, so as to enhance the independence and impartiality of the dedicated anti-corruption agencies. Please refer to II, 3, (4), “Ensuring the Independence of the AAC” in the Report on Responses to the Concluding Observations. (§6 II)
- (2) The officers of the Government Employee Ethics Units shall perform their duties and exercise their authority as ordered by the head of the agency or the superior Ethics Units in accordance with the “Act of the Establishment and Management of the Government Employee Ethics Units and Officers” and its enforcement rules. Article 8 of the Act also explicitly states that the appointment, dismissal, transfer, performance appraisal, routine appraisal, and rewards and punishments of the Government Employee Ethics Units Officers

shall be approved (dispatched) by the Ministry of Justice (AAC). Therefore, the Ministry of Justice is fully empowered for the command and supervision of the officers of the Government Employee Ethics Units, so as to maintain the position of independently and impartiality. (§6 II)

- (3) On May 13, 2019, AAC issued the “Directions Governing the Government Ethics Units in Execution of Administrative Investigation,” which respectively specified the legal principles that shall be followed in the exercise of the authority of Government Employee Ethics Units, the rights and interests of the parties concerned, the scope of investigation, the initiation requirements, enforcement methods, and investigations that shall be prohibited, confidentiality obligations and the termination of procedures, so as to ensure that administrative investigations are proper and legal, without abusing their authority to infringe upon the rights and interests of the general public, which ensures that officers of Government Employee Ethics Units are independent and impartial to perform their functions and powers. The draft of “Anti-corruption Officials Power Exercise Act” will also be formulated in the mid-to-long term so as to make their empowerment more comprehensive and explicit. (§6 II)

## **7. Training of Specialized Staff (§6 II)**

- (1) In order to cultivate the professional skills of new recruits, basic professional knowledge training is carried out on an annual basis for the integrity staff who have passed the national examination. During the training period, the certification mechanism of procurement professional training is adopted. Trainees can obtain the professional procurement certificate after completing a certain number of hours of training and passing the examination, which effectively strengthens the new recruits’ own academic abilities and the knowledge of handling procurement supervision tasks. In addition, to strengthen the existing staff’s professional knowledge of corruption prevention or related crime investigation, specialized training programs are adopted to improve their professional skills of execution of project auditing, supervision of procurement cases and investigations. In order to deepen the professional quality of the heads of Government Employee Ethics Units and their skills in crisis handling and risk management to meet the needs of the implementation of integrity



government tasks in the future, relevant on-the-job training for middle and high-level heads of Government Employee Ethics Units is planned to be conducted. Please refer to II, 6, (1), “Training by AAC to the Specialized Staff” in the Report on Responses to the Concluding Observations. (§6 II)

- (2) The statistics of the number and ratio of female integrity staff at all levels of units in Taiwan from 2017 to 2021 are as follows:
  - A. In terms of the ratio of position rank: The ratio of female staff of higher-rank positions (the ratio of senior executives increased from 6% in 2017 to 15.52% in 2021 and that of executive officers increased from 46% in 2017 to 49.83% in 2021) shows an upward trend year by year. In the lower-rank positions, the ratio of female staff fell from 64% in 2017 to 58.16% in 2021.
  - B. In terms of the number of staff: The number of female staff also increased significantly from 1,219 in 2017 to 1,405 in 2021.
- (3) MJIB conducts professional training for new recruits every year, as well as seminars on economic crime prevention and money laundering prevention, so as to improve the professional knowledge of the staff. Please refer to II, 6, (2), “Relevant Training to Specialized Staff” in the Report on Responses to the Concluding Observations.

## Article 7 Public Sector

### **Concluding observations of the international review committee of the first national report:**

***Measure 14: Government, with the support of Legislative Yuan, should consider further restricting political donations from companies and associations.***

The “Political Donations Act” clearly stipulates that the making of political donations is limited to individuals, political parties, civil association and profit-seeking entities, and expressly states the prohibitions on donations from such organizations or entities. Foundations (including those established with government donations) and public schools are not allowed to donate because they are not within the scope of the subjects allowed to make donations. After review, in order to prevent domestic companies and groups whose major members are foreign companies or groups from making political donations by reinvesting to establish another domestic company and group, the Ministry of the Interior has proposed a draft of “Political Donations Act” in 2019, which added provisions on restricting donations from the above-mentioned subjects, as well as provisions stating that if the object of expenditure is any specific related person of a political party or a candidate, such data shall be disclosed in the accounting report. This draft is currently under review

by the Executive Yuan. Please refer to page 11 of the Report on Responses to the Concluding Observations for the status of the declared income from the donations to candidates and political parties.

## 8. Recruitment, Hiring, Retention, Promotion and Retirement System (§7 I)

- (1) The “Civil Service Employment Act” stipulates that the employment of civil servants shall be based upon passing examinations, obtaining civil service employment qualifications or rank promotion qualifications as mandated by law. Persons at the age of retirement pursuant to Article 27 and the situations specified in Paragraph 1, Article 28 of the same law are not entitled to be employed as civil servants. Among them, Subparagraph 4 of Paragraph 1 of Article 28 of the Act stipulates that persons who, while in a civil service position, have been convicted of graft or corruption-related offences or are wanted for such offenses and whose prosecution is unresolved, may not be employed as civil servants (the number of removed public servants is shown in Table 10). In addition, it is planned to establish a flexible recruitment system for government agencies, develop a legal system for employment, regulate in detail the methods and procedures of personnel employment for each agency, such as the requirement of all agencies to offer employment opportunities in transparency and fair competition among the candidates. (§7 I)

**Table 10 Statistics of the number of public servants removed under the circumstances stipulated in Subparagraph 4 of Paragraph 1 of Article 28 of the Civil Service Employment Act**

Year	2017	2018	2019	2020	2021	Grand total
Number of staff removed due to corruption	23	25	10	17	15	90

Data source: Ministry of Civil Service

- (2) The “Civil Service Employment Act” stipulates that the employment of civil servants by various agencies involving national security or vital interests may be gone through special inspections. We have also formulated “Regulations of Special Checking the Civil Servant Related to National Security and Grand Interest,” which specify the competent authorities responsible for

the special inspection, applicable scope, normative content, enforcement methods and remedy procedures. (§7 I)

- (3) Due to the characteristics of duties and works of police officers and the actual needs of the employment of police staff, the qualifications of police staff are more stringent than those of civil servants in accordance with Article 10-1 of the “Police Personnel Management Act.”
- (4) The “Civil Service Promotion and Transfer Act” stipulates that the promotion and transfer of civil servants shall be based on the principles of equal emphasis on seniority, performance, internal promotion, and external supplementation. Standards and scoring systems shall be explicitly stated along the hierarchy of promotion under the procedure of screening and open selection for fairness, justice, public and transparency in promotion. All agencies shall conduct transfer procedures and implement various relocations and transfer for personnel conforming to the nature of their positions and administrative requirements. The applicable transfer regulations, shall be as determined by the supervisory agency. The current “Regulation Governing the Recruitment of Personnel of Agencies under the Ministry of Economic Affairs,” “Regulations Governing the Transfer or Rotation of Customs Officers during the Term,” and “Cashier Management Manual” also provide explicit regulations governing the rotation of duties among their personnel. (§7 I)
- (5) The “Civil Service Retirement, Severance and Survivor Relief Act” stipulates that the current retirement system for civil servants has relevant regulations on retirement and pension payment application. For those who involves in committing the crimes under the “Anti-Corruption Act” or the crimes specified in the Chapter “Offenses of Malfeasance in Office” of the “Criminal Code” and have been sentenced to an imprisonment or other more severe punishments, or those who have been referred by a responsible authority for disciplinary sanction or review by the Control Yuan in accordance with the “Civil Service Discipline Act,” their retirement applications shall not be accepted. In addition, for the civil servants committing crimes under the “Anti-Corruption Act,” the crimes specified in the Chapter of “Offenses of Malfeasance in Office” of the “Criminal Code,” or other crimes of abusing authorities, opportunities or any other means afforded by his or her position during the term of office and convicted after their retirement, severance or resignation in accordance with this Act, punitive provisions such as

deprivation or reduction of any related pension, severance, or separation payments are formulated. The entitlement of monthly pension payment of the retired civil servants, convicted and sentenced for the offenses in breach of the “Anti-Corruption Act” or the crimes specified in the Chapter of “Offenses of Malfeasance in Office” of the “Criminal Code,” shall be suspended for the duration of imprisonment, for those whose deprivation of civil rights has not been reinstated, or for those who are still wanted by the authorities. According to statistics, from May 13, 2016 (the date of enforcement to the amended “Civil Service Retirement Act”) to December 2021, there were 20 retired civil servants deprived of pension payment after their conviction for the crimes of corruption and malfeasance in office, 60 whose pension payment was reduced., and 155 whose pension payment had been suspended after their sentence to prison for the crime of corruption and malfeasance in office, or their deprivation of citizen's right. (§7 I)

- (6) To prevent any suspected political officials from evading punishments by applying for early retirement, on August 9, 2017, Taiwan amended the “Regulations on Retirement and Pensions for Political Officials,” which explicitly states that political officials who are suspected of committing the crimes under the “Anti-Corruption Act” or the crimes specified in the Chapter “Offenses of Malfeasance in Office” of the “Criminal Code” with sentence to an imprisonment or other more severe punishments shall be suspended to claim the principal and interest of the public deposit or retirement remuneration. For those who have committed the crimes under the “Anti-Corruption Act,” the crimes specified in the Chapter “Offenses of Malfeasance in Office” of the “Criminal Code” or crimes of abusing authorities, opportunities or any other means afforded by his or her position during the term of office, they will be deprived of the right to claim the principal and interest of the public deposit or the retirement remuneration. The statistics show that there are 4 retired political officials who had been deprived of their rights to claim retirement remuneration due to criminal punishment before the amendment of the Regulations. From August 11, 2017 to August 2021, there were one suspended to claim the principal and interest of public deposit or retirement remuneration and two deprived of the right to claim the principal and interest of the public deposit or retirement remuneration. (§7 I)
- (7) In 2021, AAC conducted its own research project on “Analysis and Prevention of Corruption Crimes in Government Positions” in accordance with the “Guidelines for Research,

Development and Implementation of the Ministry of Justice and Subsidiary Units.” Through judicial cases analysis involving corruption by civil servants and identification of positions vulnerable to corruption, we can improve the procedures for selection, training and rotation for such positions to prevent corruption. (§7 I)

- (8) The “Civil Service Pay Act” and the “Guidelines for Remuneration of Military Personnel, Civil Servants and Teachers” explicitly stated for the welfares and payment of remuneration to civil servants. The financial burden of governments at all levels, average national income, economic growth rate, the change in consumer price index and the salary level if private sectors will be taken into account for adjustment of remuneration to civil servants. After being reviewed by the "Military and Civil Service Remuneration Review Committee," the results will be provided as an important reference for the Executive Yuan in making decisions for the adjustment of remuneration to the above staff, so as to ensure the fair living standard of civil servants and reduce the risk of involvement in corruption. (§7 I)
- (9) Article 21 of the “Civil Service Examinations Act” stipulates that only after passing the training period can a person be formally appointed as the civil servant. In order to equip civil servants with basic concepts, moral integrity and proper service attitude, the basic training courses for civil servants in Taiwan includes the concepts of "public service ethics and core values." The required basic administrative knowledge also enables civil servants to understand the code of conduct they shall abide by, and reinforce concepts such as avoidance of conflicts of interest, law-based administration, and administrative neutrality, so that they could perform their duties correctly and properly.
- (10) The “Civil Service Training and Continuing Education Act” stipulates that competent authority shall be responsible for the professional training of civil servants, or shall appoint their subordinated entities to provide the training. In addition, since 2017, Taiwan has included the courses of integrity ethics into the connotation of the annual study hours of each civil servant. From 2017 to 2021, a total of 31,700 sessions of integrity-related ethics training were held, one-third of which are physical courses and the rest are conducted in the form of webinars or online courses. There are 2,134,959 participations with an accumulative certified study time period of 3,835,286 hours. (§7 I).

**Table 11 Statistics on training related to integrity and ethics**

<b>Year</b>	<b>Sessions</b>	<b>Person-time</b>	<b>Certified study hours</b>
2017	7,993	566,951	1,090,873
2018	8,247	432,148	819,841
2019	6,223	409,767	706,555
2020	5,242	409,589	685,111
2021	3,995	316,504	532,906

Data source: Directorate –General of Personnel Administration, Executive Yuan

## **9. Criteria for Candidates for Public Functionaries to Be Elected (§7 II)**

The “Presidential and Vice Presidential Election and Recall Act” and the “Civil Servants Election and Recall Act” have expressly stipulated the eligibility and election criteria for seats of civil servants. Those who have committed crimes such as corruption and bribery shall not be registered as candidates; regarding the election criteria, it is explicitly stated that the candidates who get the most votes shall be elected. For the situation of single-candidate election or the number of candidates is less than the number of seats to be elected, the number of votes a candidate obtained must reach a certain proportion of the total number of voters at the electoral district in order to be officially elected. In addition, the candidates for the national integrated election and the overseas election shall be elected to the seats when winning 5% of the votes on the list of the political party by order of the number of votes earned with protection for female candidates at the ratio of no less than 1/2. The “Local Government Act” also provides for the reserved quota of seats for female candidates of local elected representatives. (§7 II)

## **10. Transparency in the election of candidates for public functionaries and the funding of political parties (§7 III)**

- (1) The “Political Donations Act” stipulates that those who intend to register or have already registered for elections in accordance with laws and regulations may accept political donations, and provides transparent measures, such as the way of accepting the donations (the recipients shall open a designated account and report to the Control Yuan for approval. Any political donations of money shall be deposited into such designated account within 15 days upon acceptance), the way of donation (anyone may not contribute donations in the name of others or

contribute secret donation of more than NT\$10,000. Donations in cash of more than NT\$100,000 shall be paid by check or bank transfer), income and expenditure records, and reporting methods (the recipient shall record income and expenditure, set up accounting reports, and provide detailed data about the object of income or expenditure of more than TWD 30,000. The accounting report shall be declared to the Control Yuan recorded after being audited and attested by the accountant), and the method of disclosure (the entire content of the accounting reports shall be publicized over the Internet). This Act also stipulates relevant transparency measures for political parties' acceptance of political donations. Please refer to II, 1, (2), 2 "Statistics on the income from the political donations of the persons planning to participate in campaign, political parties and political associations" in the Report on Responses to the Concluding Observations. (§7 III)

- (2) The "Political Parties Act" provides clear regulations on the transparency of all political party financing (political party subsidies, political donations, political party membership dues, etc.). Political parties are not for the purpose of profit-seeking, and they must not use their own power to compete with the general public for profits. Political parties may not operate or invest in profit-making businesses. In addition, in order to normalize the operation of political parties and prevent them from being constrained by specific financial powers due to financing pressures (which would lose their ability to operate independently and thus deviating from public opinions), it is clearly stated that the Ministry of the Interior shall allocate a part of its annual budget to subsidize the political parties that have attained at least 3% of the votes in the latest national legislative elections for legislators-at-large and legislators residing overseas. In addition, political parties shall submit to the Ministry of the Interior the annual property and financial statements of the previous fiscal year. The final account report shall be audited and certified by a certified public accountant commissioned by the political party, and passed by the party's representative assembly or party congress. Such accounting report shall be published by the Ministry of the Interior in the government gazette or newsletter, as well as online. All 124 political parties required to apply for the 2020 financial declaration have successfully submitted satisfactory declaration according to the requirements. Please refer to II, 1, (2), 2 "Statistics on the income from the political donations of the persons planning to participate in campaign,

political parties and political association” in the Report on Responses to the Concluding Observations. (§7 III)

#### **11. Strengthening the Systems to Promote Transparency and Prevent Conflicts of Interest (§7 IV)**

- (1) For details on transparency in governmental financial management, please refer to the section on Article 9 of the UNCAC.
- (2) For details on transparency in governmental executive departments, please refer to the section on Article 10 of the UNCAC.
- (3) The “Act on Recusal of Public Servants Due to Conflicts of Interest” aims to establish the norms to be followed by public servants for recusal due to conflicts of interest, so that corruption and conveyance of unjust interests can be efficiently eliminated. Furthermore, the “Freedom of Government Information Law,” the “Lobbying Act,” the “Administrative Procedure Act,” the “Civil Servant Service Act,” the “Public Servants’ Administrative Neutrality Act,” the “Government Procurement Act,” and the “Ethics Guidelines for Civil Servants” also stipulate relevant norms to prevent conflicts of interest. And we will continue to promote the legal compliance to specific government staff based on the agency resources and their business characteristics, and will disclose in accordance with laws and regulations any and all acts that violate the provisions of “Act on Recusal of Public Servants Due to Conflicts of Interest.”

#### **Article 8 Code of Conduct for Public Officials**

**Concluding observations of the international review committee of the first national report:**

***Measure 16: The government shall consider making it mandatory for public officials to declare to the AAC any improper approach to them by lobbyists.***

Continue to strengthen the publicity of the Lobbying Act; in addition, regarding the cases of lobbying, the Ethics Guidelines for Civil Servants stipulates that it is the obligation of public servants to register any relevant matters. The “Principles for Reward and Punishment Process for Inspection of Lobbying Registration by the Executive Yuan and its Affiliated Agencies” shall apply to failure for registration, intentional concealment, delay or backlog to report, etc. Please refer to page 44 of the Report on Responses to Conclusive Observations.

#### **12. Promotion of integrity, honesty, and conscientiousness of public servants (§8 I and II)**



- (1) The “Ethics Guidelines for Civil Servants,” as a code of conduct for civil servants, stipulates clear norms, reporting and registration procedures for the situations of accepting valued gifts, taking part in dinner parties or other and entertainment activities, encountering entreaties or lobbying. These Guidelines also stipulates that each agency (institution) may, as needed, formulate more stringent regulations to include those that are not originally applicable to these Guidelines but are applicable to other special regulations, such as the military staff specified in “Instructions for the Integrity and Ethics of Military Personnel” of the Ministry of National Defense, the public servants and teachers to which the Ministry of Education’s “Code of Ethics for Public Servants and Teachers of the Affiliated Agencies and Schools Governed by the Ministry of Education” is applicable, and the employees to which the “Code of Ethics for Employees of the Ministry of Economic Affairs” is applicable. The public servants covered by these Guidelines are those whose conditions of employment are governed by the “Civil Servant Service Act.” Each agency is authorized to incorporate its temporary worker into its own regulations as needed, or to incorporate the regulations into the contracts at the time of entering into agreement. (§8 I and II)
- (2) The “Executive Yuan and Subordinated Entities Guidelines for Registration and Monitoring of Influence Lobbying” require all agencies to establish the dedicated section for their website, and strengthen publicity about the prohibition of requests for making an intercession. The AAC and the central Government Employee Ethics Units of level 2 or higher will also conduct random inspections on cases involving illegal concerns. From 2017 to 2021, a total of 55 random inspections were conducted, of which 8 cases were referred for investigation and 1 case was processed for administrative punishment. (§8 I and II)
- (3) There are also codes of conduct for each specific type of public servants, such as the “Legislative Yuan Member Behavior Act,” “Ethic Code of Conduct for Anti-Corruption Officers,” “Regulation for the Implementation of the Self-discipline of Judges at the Courts of all Levels,” “Code of Conduct for Judges,” “Code for the Self-Regulation of Judges in Social Interaction and Wealth Management,” “Regulations Governing the Evaluation of Prosecutors in Performance of Duties,” “Enforcement Rules for the Regulations Governing the Evaluation of Prosecutors in Performance of Duties,” “Ethic Code of Conduct for Prosecutors,” “Regulations

Governing the Overall Evaluation of Prosecutors,” “Professional Code of Conduct for Corrections Officers of the Ministry of Justice,” and “Ethics Regulations for Procurement Personnel,” to ensure the integrity of public officials. (§8 I and II)

**13. The code of conduct for public officials implemented in consideration of the relevant initiatives of regional, interregional or multilateral organization (§8 III)**

The “Ethics Guidelines for Civil Servants” was formulated with reference to the United Nations General Assembly’s “International Code of Conduct for Public Officials” (hereinafter referred to as the International Code of Conduct), code of conduct in public service advocated by the “Organization for Economic Cooperation and Development” (OECD) and the ethics of public service advocated by the “Asia-Pacific Economic Cooperation” (APEC).

- (1) Point 1 stipulates that the Executive Yuan has established these Guidelines to ensure that civil servants in its employ carry out their duties with integrity, fairness and unselfish motive in accordance with laws and regulations and, thereby, to maintain the Government’s good reputation, which is consistent with the forepart of Article 3 of the International Code of Conduct which states that public officials shall perform their duties wholeheartedly, impartially and selflessly, etc. (§8 III)
- (2) Point 3 stipulates that civil servants shall perform their duties in accordance with law and in an impartial manner that serves the public interest. They shall not take advantage of their official powers, procedures or opportunities to seek illegitimate gain for themselves or others, which is consistent with the backend of Article 1 of the International Code of Conduct which states that the highest priority of public officials shall be loyalty to the public interest of the country reflected through the democratic system of government. (§8 III)
- (3) The forepart of Point 4 stipulates that civil servants shall not demand, solicit or accept financial/material gratuities from parties who have vested interests in civil servants’ official duties, which is consistent (in terms of requirements and standards) with Article 9 of the International Code of Conduct which states that public officials shall not directly or indirectly solicit or accept any gifts or other favors for duties or for making judgments. (§8 III)

**14. System for measures for reporting corruption (§8 IV)**

- (1) Article 240 of the “Code of Criminal Procedure” states that any person who knows that there is suspicion that an offense has been committed may report it. Article 241 of the Code further states that a public official who, in the execution of his official duties, learns that there is suspicion that an offense has been committed must report it. In addition, Articles 13 and 14 of the “Anti-Corruption Act” stipulate punishment to the immediate superiors who have actual or direct proof that a person under their supervision or responsible for supervision, accounting, auditing, crime investigation, inspection, or government ethics and internal affairs has committed one or more of the acts listed in the Act and has failed to expose case to the competent authorities. These are all Taiwan’s institutional norms for the reporting of corruption. (§8 IV)
- (2) Criminal acts of corruption are in nature stealthy. In order to encourage insiders who acknowledge crimes to speak up for reporting, we have developed a public-private-merged version of the “Whistleblower Protection Act,” whereby the identity, personal safety and the right of work of the informants of corruption and malfeasance will be protected. , Meanwhile, provisions on the reduction and exemption of criminal liability and the inversion of the burden of proof will also be provide, so as to build a more complete protection mechanism. Please refer to the section on Article 33 of UNCAC. (§8IV)
- (3) The “Anti-Corruption Informant Rewards and Protection Regulation” states that those who report undiscovered cases of corruption which are later convicted by the court will be rewarded monetarily. Please refer to II, 4, (3), “Rewards for Reporting Corruption” in the Report on Responses to the Concluding Observations. (§8IV)

#### **15. Reporting (declaring) conflicts of interest to appropriate authorities (§8 V and VI)**

- (1) The “Act on Recusal of Public Servants Due to Conflicts of Interest” stipulates that the interested parties may report (declaration) conflicts of interest to appropriate agencies such as legislatures, service agencies, superior agencies or the Control Yuan according to the various identities as elected representatives, public officials, and heads of agencies. (§8 V)
- (2) The “Act on Property-Declaration by Public Servants” clearly stipulates that high-level civil servants and public officials whose assigned duties may involve the funneling of unjustified interest shall faithfully declare their property, so as to confirm whether such property has

increased abnormally or is significantly incomparable to their income. Paragraph 2 of Article 12 of the Act states that for public servants obliged to declare properties having increments of total properties that are above the total annual income of themselves, their spouses, and underage offspring after comparing the properties declared in two consecutive declaration years, certain fine will be imposed if they fail to do so without presenting any justifiable reasons. This provision regulates the unjustified property of public officials. (§8V)

- (3) For more information on the “Lobbying Act,” please refer to the section on Article 5 of UNCAC.
- (4) The elected local administrative chiefs and elected local representatives are also subject to relevant regulations such as the “Act on Property-Declaration by Public Servants,” the “Act on Recusal of Public Servants Due to Conflicts of Interest” and the “Lobbying Act.” The elected local administrative chiefs shall also comply with regulations regarding staff employment, government procurement, and integrity ethics. (§8 II and VI)

## **Article 9 Public Procurement and Management of Public Finances**

### **Concluding observations of the international review committee of the first national report:**

*Measure 15: The government shall consider the establishment of a Clean Procurement Committee. Such a committee should also include representatives from civil society, academia, experts and the private sector.*

Taiwan’s “Complaint Review Board for Government Procurement” is composed of 26 members who are impartial experts with legal or procurement-related expertise; the “Working and Evaluation Group of Procurement” is composed of 5 members, and may invite staff of relevant entities, or experts and scholars to participate according to the needs for any specific issues to assist in review and provide consultation. In addition, we have a mechanism for introducing external experts to participate in the procurement integrity platform established for any entity’s major public construction projects. Please refer to page 41 of the Report on Responses to Conclusive Observations.

## **16. Establishment of a transparent procurement system for the effective prevention of corruption (§9 I)**

### **(1) Current Procurement System**

Taiwan’s GP Act is formulated with reference to the norms and spirit of the World Trade Organization’s (WTO) Agreement on Government Procurement (GPA), which features openness,

fairness, transparency, competition, efficiency, decentralization responsibility, the promotion of interests and prevention of corruption, and incorporates the anti-corruption system design (§9 I):

- A. The public distribution of information relating to procurement procedures and contracts (§9 I(a))
  - (A) According to Article 27 of the GP Act, for open tendering procedures or selective tendering procedures, an entity shall publish a notice of invitation to tender or of qualification evaluation on the Government Procurement Gazette, and also make it available on the information network. The content of a notice, the number of days for publication, means of publication is subject to the “Regulations for Publication of Government Procurement Notices and Government Procurement Gazette.”
  - (B) According to Article 28 of the GP Act, for tendering procedures, an entity shall prescribe a reasonable time-limit for tendering from the date of publishing a notice of invitation to tender or the date of inviting suppliers to tender until the deadline for submission of tender or the deadline for receipt of documents. The minimum of the time-limit for the various tendering procedures by different thresholds is stipulated by the “Standards for Time-limits for Tendering” prescribed pursuant to this Article.
  - (C) According to Article 29 of the GP Act, tender documentation for open tendering procedures and the documents for qualification evaluation for selective tendering procedures shall be made publicly available for free or for sale on site or via mail, from the date of publication through the deadline for submission of tender or the deadline for receipt of documents. And the above documentation shall include all the information required for the submission of tenders by tenderers. For procurement conducted with a public notice, all entities currently provide tendering documentation files via the Government e-Procurement System in accordance with electronic procurement procedures specified in Article 93-1 for suppliers to obtain tender documentation electronically.
  - (D) According to Article 61 of the GP Act, except for extraordinary circumstances, an entity shall publish the outcome of an award on the Government Procurement Gazette and notify all tenderers in writing after award of contract provided that the procurement is of a value reaching the threshold for publication (TWD 1 million). The foregoing shall also apply if the contract cannot be awarded. In addition, according to Article 62, when entities conduct the procurement

of a value not reaching the threshold for publication but exceeding one tenth of that threshold (TWD 100,000), the result of contract awarding shall also be uploaded to the Government e-Procurement System.

- (E) The statistics of procurement via open notice with a value more than TWD 100,000 publicly handled by various agencies from 2017 to 2020 are shown in Table 12.

**Table 12 List of statistics of awarded contracts via open notice with a value more than TWD 100,000 by all entities from 2017 to 2020**

Year	Awarded cases	Contracts via open notice		Total Value of Contracts (TWD 100 million)	Contracts via open notice	
		Awarded cases	Proportion (%)		Value of Contracts (TWD 100 million)	Proportion (%)
2017	187,089	163,953	87.63	13,725	11,298	82.31
2018	198,165	173,945	87.78	17,644	15,056	85.34
2019	196,218	170,827	87.06	18,716	13,471	71.97
2020	202,319	173,379	85.70	17,817	15,378	86.31

Data source: Public Construction Commission, Executive Yuan

**B. Pre-requisites for participating in the government procurement ( §9I(b) )**

- (A) The qualification of tenderers shall be specified by the entity in the tender documentation in accordance with Articles 36, 37 of the GP Act and the “Standards for Qualifications of Tenderers and Determination of Special or Large Procurement.” The entity shall not restrain competition unduly and shall only prescribe the qualifications essential to contract performance.
- (B) When an entity conducts procurement cases, the technical specifications specified in its tender documentation shall be formulated in accordance with Article 26 of the GP Act, Articles 24 to 25-1 of the “Enforcement Rules of the Government Procurement Act,” and “Precautions to the Execution of Article 26 of the Government Procurement Act,” and shall not be in a view to, or with the effect of, creating unnecessary obstacles to competition.
- (C) Articles 50 to 52 of the GP Act have clearly defined the principles of evaluation of tender and award of contract. An entity shall review the tenderers submitted according to the requirements set forth in the tender documentation. The circumstances of not opening the tender or not

awarding the contract are stipulated, the tender documentation shall state that whether the lowest tender or the most advantageous tender shall be adopted.

(D) According to Article 94 of the GP Act and Article 4 of the “Regulations Governing the Organization of Procurement Evaluation Committee,” the Committee shall be not less than 5 members with relevant professional knowledge on procurement matter, who shall be appointed within or outside the entity. Among them, at least one third of the total number shall be experts or scholars. Furthermore, those experts and scholars shall not be incumbent staff members of any government agencies, and a recommended list shall be prepared jointly by the responsible entity, the Ministry of Education, the Ministry of Examination and other relevant entities. Article 5 of the Regulations states that an entity shall not select any Committee member who has been “convicted of corruption or malfeasance,” “suspended of citizens rights and the suspension is still in effect,” “announced to be bankrupt and has not recovered the property rights,” “as a professional whose practicing license has been suspended, revoked, or abolished.” Article 14 of the “Regulations for Review by Procurement Evaluation Committee” stipulates the circumstances in which the committee members shall resign or be dismissed. In addition, Article 6 of the “Regulations Governing the Organization of Procurement Evaluation Committee,” amended and promulgated on August 8, 2018, stipulates that the name list of Committee members shall be published immediately unless there is a necessity not to disclose the list at the entities’ discretion upon taking into consideration of the characteristics of the case and the actual needs.

C. Adopt objective and pre-determined criteria to award the contract of procurement (§9 I(c))

(A) According to Article 52 of the GP Act, the award of contract conducted by an entity shall follow the principles that the tender meets the requirements set forth in the tender documentation and is the lowest tender or the most advantageous tender.

(B) According to Article 56 of the GP Act, where an entity plans to award a contract to the most advantageous tender, the evaluation criteria set forth in the tender documentation shall be used to determine the most advantageous tender by comprehensively evaluating the technology, quality, function, commercial terms, or price of the tenders with ranking or score. Taking the procurement of public construction technical services as an example, the ratio of the number of

contracts awarded via the most advantageous tender increased from 94.32% in 2019 to 94.77% in 2020; and the ratio of the value of contracts dropped slightly from 98.47% in 2019 to 97.91% in 2020.

The comparison of the number of awarded contracts and the amount of the most advantageous tender from 2017 to 2020 are shown in Table 13 below.

**Table 13 List of the number and value of most advantageous tender awarded from 2017 to 2020**

Year	Awarded cases	Proportion (%)	Value of contracts (TWD 100 million)	Proportion (%)
2017	48,980	26.18	3,396	24.75
2018	53,846	27.17	6,173	34.99
2019	55,148	28.11	5,284	28.23
2020	57,033	28.19	5,485	30.78

Data source: Public Construction Commission, Executive Yuan

- D. Establish an effective domestic secondary review system (§9I(d))
- (A) According to Article 75 of the GP Act, a supplier may file a protest in writing with an entity if the supplier deems that the entity is in breach of laws or regulations in the stages of the invitation to tender, the evaluation of tender, or the award of contract, which impair the supplier's rights or interest in a procurement.
- (B) According to Article 76 of the GP Act, where the value of procurement reaches the threshold for publication, a supplier may file a written complaint with the Complaint Review Board for Government Procurement as established by the responsible entity, or the municipal or the county (city) governments, depending upon whether the procurement is conducted at the level of central government or local government, within fifteen days from the date following the date of receipt of the disposition if the supplier objects to the disposition, or from the expiry of the prescribed period if the entity fails to dispose the case within the period. The restriction of the threshold for publication shall not apply to a dispute arising from not refunding or returning of bid bond, or recovery of bid bond.
- (C) According to Article 83 of the GP Act, the review decision prepared by the Complaint Review Board for Government Procurement shall be deemed as a decision on an administrative petition.



Any supplier objecting the review decision may file an administrative litigation to the administrative court in accordance with the “Administrative Litigation Act.”

(D) In 2021, the Complaint Review Board for Government Procurement of the PCC handled a total of 272 cases of complaints, and 279 cases were settled (including the cases handled before 2021), which reached a ratio of about 102.6%; another 316 cases were received and accepted in 2020, and 322 cases were settled (including those handled before 2020), which reached a ratio about 101.9%.

E. Regulations governing the personnel responsible for procurement (§9 I(e))

(A) Article 15 of the GP Act stipulates the procurement personnel shall follow the principles for recusal. In addition, Article 16 stipulates that entreating or lobbying shall not be used as the reference in the evaluation of tenders and is preferred to be in writing or to be recorded.

(B) According to Paragraph 1 of Article 95 of the GP Act, it is preferred for an entity to conduct its procurement by professional procurement personnel. However, where the value of a procurement reaching the threshold for a certain amount (over TWD 1 million, and TWD 3 million for entities stationed abroad), the procurement is required to be conducted by professional procurement personnel. The training regulation of the procurement personnel is prescribed pursuant to Paragraph 2 of the same Article provides the relevant regulations. The PCC entrusts several institutions for basic and advanced training of professional procurement personnel. The average number of trainees is about 10,000 per year, and the number of qualified personnel is about 7,000. Such training aims at enriching the knowledge of the procurement personnel, upgrading procurement efficiency and quality, and preventing deficiencies in procurement.

(C) Article 112 of the GP Act provides the legal basis for formulating the “Ethics Regulations for Procurement Personnel,” including the prohibited conducts of procurement personnel and the measures to be applied in the breach of the Regulations.

(2) Emergency Procurement

A. According to Subparagraph 3 of Paragraph 1 of Article 22 of the GP Act, an agency may apply limited tendering procedures to a procurement of a value reaching the threshold for publication if in so far as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the entity, the subject of the procurement could not be obtained in time by

means of open or selective tendering procedures. The entity may proceed the limited tendering procedures by giving a detailed account of each specific case in conformity with the requirements, and report it to the head of the entity or the personnel authorized by the head for approval. The limited procedure refers that two or more suppliers are invited to compete or only one supplier is invited for tendering without giving the public notice.

- B. Where the procurement is an emergent one in response to imminent danger to the life, body, health, or property of the people; the rules of Subparagraph 2 of Paragraph 1 of Article 105 of the GP Act and the “Regulations for Invitation to Tender and Award of Contract in Special Procurement” may be applicable. In response to the COVID-19 epidemic, the central and local entities at all levels in Taiwan’s government agencies have shortened procurement procedures to timely obtain epidemic prevention materials. Hence, the number and the value of emergency procurement conducted in accordance with the above regulations have increased significantly. Due to the facts that that there is still a shortage of vaccines worldwide and a competition of acquiring vaccines as well, the supply and demand of vaccines are still seller-oriented. Since the relevant vaccine procurement contracts, delivery schedules and prices are matters of confidentiality agreement between the buyers and sellers concerning commercial secrets, those contents will be disclosed after the completion of contract performance in the future. In addition, the information on the purchasing quantity and the delivery of vaccines are both published on the government’s official site for review<sup>22</sup>.

### (3) Supplier Traceability System

In order to assist the agency in collecting the previous performance history of suppliers for determination of selection and award, the PCC integrates the information submitted by various government agencies in the public construction tender management system, establishes a “the tracing system of suppliers of public construction projects,” and uploads the data to government’s e-procurement website and public construction tender management system for review by the general public. The statistical data of the traceability of suppliers of the construction projects that are currently available for review include the “Number of Awarded Project Contracts,” “Number

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<sup>22</sup> Official site of Taiwan Centers for Disease Control of the Ministry of Health and Welfare/COVID-19 (SARS-CoV-2 Infection)/COVID-19 Vaccines

of Projects under Construction,” “Number and Ratio of Verified Ranks,” “Number of Public Construction Golden Quality Award Won,” “Number of Major Occupational Accidents during Construction,” “Records of Suspension” and “Performance Score Results” during the past 5 years for the reference for agency procurement selection and project performance management. As of December 2021, 14,843 suppliers have registered their data. For example, the Taipei City Government has incorporated the contract performance history of the tenderers into the selection review mechanism, and has formulated a “work plan for incorporating the tenderer’s contract performance history into the selection review mechanism” for usage by various agencies of the City Government.

- (4) For more information on the Institutional Procurement Integrity Platform, please refer to the section on Article 5 of UNCAC.
- (5) Major Procurement by Medical Institutions

The Ministry of Health and Welfare has formulated the “Guidelines for Major Procurement Projects of Medical Institutions affiliated to the Ministry of Health and Welfare” to strengthen the internal control and supervision mechanism for the medical institutions affiliated, including the prohibition of outsourcing of core medical business; and equipment procurement projects with a value of more than TWD 5 million and the procurement projects of property, labor, engineering, equipment leasing, business outsourcing or cooperative operation with a value of more than TWD 10 million shall be reported to the Ministry of Health and Welfare for further submission to the review by at least 3 external experts and scholars whose review results will be submitted to the committee for deliberation and approval for further enforcement, so as to ensure that the affiliated medical institutions can strictly and thoroughly implement the procurement operation in accordance with laws and regulations. (§9 I(c))

## **17. Measures to promote government financial transparency and accountability (§9 II)**

### **(1) Open Financial Information**

- A. According to the “Accounting Act,” the “Freedom of Government Information Law” and other regulations, the government shall take the initiative to disclose budget (account settlement of budget) and accounting reports. Respective agencies shall also disclose their budget (account

settlement of budget) and related supporting documents on the official site at regular intervals in accordance with the above regulations for the examination of the general public, so as to enhance the transparency of government financial information.

- B. The Executive Yuan has promulgated the “Regulations Governing the Budgeting of the Central Government for Mid-Term Plan,” the “Central and Local Government FYxxxx Budget Preparing Principles” and the “Regulations for Preparing Central Government General Budget of FYxxxx” as the fundamental rules and regulations for the operation of the overall budget system to build a complete operating system, and closely integrate the plans with the budget. Each competent authority shall, in accordance with the Executive Yuan’s administrative guidelines, budget preparing principles and budget preparing methods, formulate administrative plans and provide the estimate of annual revenue and expenditure within the scope of their jurisdiction, which shall be submitted to the Executive Yuan. Relevant agencies will work in conjunction with the priorities of current policy to review the budgets based on the principles of national development and financial stability by order of policy priorities and actual effects, and finalize the general budget draft of the central government for referral to the Legislative Yuan for ratification.
- C. In addition, the “Financial Statement Act,” requires that the general financial statements of the central government and affiliated units of the previous fiscal year should be compiled in each fiscal year, and the semi-annual balance statement of the central government and affiliated units of the current fiscal year shall also be prepared, so as to achieve the purpose of financial openness to firm the trust from the general public. (§9 II)

(2) Simplify the reimbursement of grants

Since 2016, the NDC has been promoting the “streamlining the reimbursement of grants from administrative agencies,” and has formulated policy recommendations such as “open and transparent reimbursement regulations,” “simplified reimbursement procedures,” “smooth communication for problem-solving” and relevant coordinated sets of measures, which a two-phase approach to promote the improvement. For the first phase, the priority will be given to simplifying the reimbursement problems faced by social welfare organizations (groups) and academic (research) institutions, thus gradually expanding to other grants for public-private cooperation projects. The government implements the “subtraction principle” of reducing burdens

of workloads, establishes the cost concept of reimbursement operations, promotes business innovation with long-term core efficiency, forms positive and profitable reimbursement operations, and further upgrades administrative efficiency. (§9 II)

(3) Examination of Grants

In order to supervise the effectiveness of the implementation of various grants given to non-governmental organizations, ensure the proper use of grants, and realize effective and transparent usage of government resources, each agency can formulate methods for on-site inspections. For example, Point 3 of the “Guidelines for the Implementation of On-site Inspection of the Source Documents for Grants Given by the Ministry of Science and Technology” states that the proportion of amount sampled for on-site inspections shall not be lower than 6% of the grants given. However, the execution agency involved in false reports shall be subject to the punishment according to the severity of the circumstances, and the proportion of amount sampled for inspections in the following fiscal year will be increased at a rate above 7% of the grants given to enhance the inspection. In addition, Point 4 of the Guidelines states that the execution agency shall properly preserve and destroy the source documents, income and expenditure reports with other related materials, various account books and important reference books of the grants based on the “Accounting Act” and the “Audit Act,” so as to maintain the data integrity of and availability for inspection.

(4) Auditing

The “Audit Act” provides regulations governing duties and functions of auditing including: supervising the execution of budgets, reviewing financial revenues and expenditures, reviewing final statements, reviewing property and financial illegal or disloyal behaviors, evaluating financial performance, and determining financial responsibilities, etc. From 2017 to December 2021, there were 16 cases of financial violation by the personnel of specific agencies reported to the Control Yuan for action according to the provisions of the Article 17 of the “Audit Act”; there were also 22 cases reported to the Control Yuan and referred to the prosecution units, all of which would promote transparency and accountability in government financial management. (§9 II)

(5) Internal Control Mechanism

The Executive Yuan requires each agency to conduct routine supervision, self-evaluation, internal audit and other supervision operations, as well as to evaluate the effectiveness of the agency's overall internal control annually, sign the internal control statement, and upload such statement on the government information disclosure section of the official site for implementation of the agency's self-management to ensure the achievement of internal control objectives such as achieving governance effectiveness, providing reliable information, complying with laws and regulations, and ensuring assets safety. In addition, the Executive Yuan and its affiliated agencies has been implementing a new integrated system of "administrative agency risk management (including internal control)" since January 2021 to promote the integration of risk management tools into daily operations and decision-making by agencies to prevent risks or mitigate the occurrence of the risk and the degree of influence. (§9 II)

## **Article 10 Public Reporting**

### **18. Improve the transparency of government administration (§10)**

#### (1) Promoting the Disclosure of Government Information

- A. The "Freedom of Government Information Law" establishes a the institution for the publication of government information, to facilitate people to share and fairly utilize government information, protect people's right to know, further people's understanding, trust and overseeing of public affairs, and encourage public participation in democracy; Article 5 of the Law stipulates that government information shall be made available to the public actively in accordance with the Law (Article 7 provides relevant provisions) or provided as requested by any person. (§10)
- B. Article 46 of the "Administrative Procedure Act" stipulates that the party or an affected person may apply to an administrative authority for examining, transcribing, copying or taking photographs of relevant materials or records, which falls within the scope of the disclosure of government information. (§10)
- C. The "Archives Act" regulates archives management of government agencies in order to promote archival openness and application, to optimize archival functions, and to implement the freedom of government information. (§10)

#### (2) Measures for Strengthening Administrative Transparency

On December 21, 2016, the Executive Yuan promulgated the “Principles for the Advocacy of Administrative Process Transparency for the Executive Yuan and Affiliated Agencies (Institutions).” By the disclosure mechanism of operation-related regulations and orders, along with review standards, procedures, progress and examples for the authorized operation process in all agencies, we could introduce external supervision to ensure the transparency and credibility of the operation and decision-making process of government administration. According to the statistics, as of 2021, the central and local government agencies have promoted a total of 180 administrative transparency measures, which included 122 for application cases, 11 for grants cases, 14 for implementation of major or project budgets and 1 for external donations cases in terms of business types.

### (3) Promoting the Disclosure of Government Data

The enhancement of transparency in government governance and public participation in public policy issues are the major trends for governments around the world. Through the opening of government data, we can promote the flow of data across agencies, improve governance efficiency, meet the needs of the general public, and strengthen public scrutiny of the government. Taiwan has established the “Government Open Data Platform” as a Taiwan’s government agencies’ open data portal website for government agencies continuously adding open data for free usage by the general public, and the citizens can also feedback data needs and improvement suggestions through various channels to improve the data and decision-making quality. From 2015 to 2017, Taiwan was ranked the first place in the index of Open Knowledge International (OKI) of the UK, which is an achievement of the joint efforts of all government agencies and civil society. In recent years, we have also actively promoted data openness policies, such as the access to the data on inventory of masks, real estate registration, various traffic and weather information., and will continue the promotion of integrating the existing offshore wind power data of relevant agencies and establishing a platform to enhance the value-added application of environmental data by the general public.

### (4) Institutional Integrity Assessment Mechanism

From 2019 to 2021, Taiwan has promoted the tentative “Integrity Awards” which aims to promote the transparency of information and administration, implement risk prevention and accountability,

strengthen early warning of corruption and introduce integrity innovations. Please refer to essay on Article 5 of UNCAC and II, 2, (4), 1 “Initiation of the tentative “Integrity Awards” System” in the Report on Responses to the Concluding Observations.

#### **19. Publication of the corruption risks issues reports (§10(c))**

- (1) According to Article 6 of the “Act to Implement United Nations Convention against Corruption,” Taiwan shall periodically publish the UNCAC National Report every 4 years. The first national report was published in 2018, which comprehensively reviewed the implementation of UNCAC regulations in Taiwan, and explained the legal system, the effectiveness of implementation and future policy improvements. In August of the same year, an international review conference was held, and international anti-corruption experts put forward 47 concluding observations for reference and implementation. In order to guide all agencies to implement the recommendations from the concluding observations, the Executive Yuan released an interim report<sup>23</sup> in August 2020 to explain the implementation progress, preliminary results, and follow-up policy plans of the recommendations. (§10)
- (2) Since 2012, AAC has regularly presented the “Analysis of the Current State of Anti-Corruption” report to the Central Integrity Committee of the Executive Yuan, which includes the analysis of the overall situation of integrity in Taiwan, the promotion of anti-corruption work, and major advances and improvements. Please refer to essay on Article 6 of UNCAC and II, 3, (1), “Full Play to the Functions of the Central Integrity Committee of the Executive Yuan” in the Report on Responses to the Concluding Observations. (§10)
- (3) The Ministry of Justice annually conducts the integrity opinion survey to study the general public’s perceptions and expectations of government integrity, to measure and track the changes and trends of the opinion on clean government issues in a long-term approach as a reference for future integrity promotion measures. The 2020 integrity opinion survey was a continuation of the “evaluation of the public on the understanding of clean politics and the sources of information” report in 2019. In this survey, a majority of respondents believed that the top priority for the

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<sup>23</sup> Agency Against Corruption (AAC)/Integrity Policy/United Nations Convention against Corruption (UNCAC)/International Review/Implementation, Management and Control of Conclusive Observations for the First National Report  
<https://www.aac.moj.gov.tw/5791/5793/5809/5811/841558/post>



government to effectively combat corruption was to “investigate and prosecute corruption” (40.7%). Compared with the survey results in recent years, the respondents in 2020 shows gradually-decreasing tolerance for corruption committed by public servants, which had reached to a certain low level. Please refer to II, 2, (4), “Integrity Opinion Survey Promotion” in the Report on Responses to the Concluding Observations.

- (4) In order to effectively prevent the risk factors of corruption, AAC discloses certain cases of corruption investigation on its official site<sup>24</sup> at an appropriate level and without violation of the principle of non-disclosure in the course of investigations. (§10)

## **Article 11 Measures Relating to the Judiciary and Prosecution Services**

### **20. Strengthening the integrity of judicial and prosecution personnel (§11 I and II)**

#### (1) Legal Regulations

- A. Article 7 of the “Anti-Corruption Act” states that “if a person who is in charge of investigation, pursuit or trial of a case commits the offense of Item 5, Paragraph 1, of Article 4 or Item 3, Paragraph 1, of Article 5, the penalty shall be increased by a half.” Accordingly, judges or prosecutors who are in charge of judicial investigation and trials will be sentenced to more severe penalties if they have engaged in anything specified in the above-mentioned regulations. (§11 I and II)
- B. The Judicial Yuan has formulated the “Regulation for the Implementation of the Self-discipline of Judges at the Courts of all Levels,” the “Code of Conduct for Judges,” the “Code for the Self-Regulation of Judges in Social Interaction and Wealth Management,” and the “Best-Practice Principles for Judges” for all of the judges to comply with. The “Judges Act” provides comprehensive rules on the evaluation of judges and the removal of incompetent judges. Therefore, it is necessary to elevate the normative basis for the internal and external conduct of judges to a legal level to better implement the goal of combating corruption.
- C. The Ministry of Justice has promulgated the “Regulations Governing the Evaluation of Prosecutors in Performance of Duties,” the “Enforcement Rules for Regulations Governing the Evaluation of Prosecutors in Performance of Duties,” the “Ethic Code of Conduct for

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<sup>24</sup> Agency Against Corruption (AAC)/Corruption Investigation Section  
<https://www.aac.moj.gov.tw/5791/5793/5871/5889/Lpsimplelist>

Prosecutors,” and the “Regulations Governing the Overall Evaluation of Prosecutors” for prosecutors to comply with.

(2) Evaluation System

- A. The Judicial Yuan established a “Judicial Evaluation Committee” in accordance with Article 30 of the “Judges Act.” With the participation of external experts and scholars, the general public’s trust in the objectivity, neutrality, independence and impartiality of the Judicial Evaluation Committee will be enhanced, and we can ensure that the exercise of the authority of the Committee will not be restricted by professional prejudice or ideology.
- B. The “Judges Act” also applies to prosecutors, which introduces a mechanism of diversified external committee members that jointly establishes a “Prosecutor Evaluation Committee” composed of judges, prosecutors, attorneys, scholars and independent community representatives. In 2012, a new prosecutor evaluation system was implemented. By providing fair and objective evaluation procedures to eliminate incompetent prosecutors and sufficient procedural protections for prosecutors under evaluation, the system prevents people with intentions from abusively using the evaluation mechanism to interfere with prosecutors working on cases, jeopardizing their independence of duty.
- C. In order to implement the resolutions of the 2017 National Conference on Judicial Reform on “enhancing the independence of Judges and Prosecutors Evaluation Committees” and “strengthening the authority of Judges and Prosecutors Evaluation Committees to improve the effectiveness,” the amendment to “Judges Act,” promulgated in July 17 of 2019, includes provisions stating that the Evaluation Committee shall be composed of a variety of external members, with the number of scholars and independent community representatives increasing from 4 to 6, restrictions on eligibility and recusal of committee members shall be applied, and parties concerned or victims of crimes other than the prosecutors of a closed case handled by the judge under evaluation may request the individual case evaluation to such judge.
- D. If there are obvious and significant errors due to acts committed intentionally or with gross negligence, causing serious infringement on the rights and interests of the people, the investigation may be conducted by the Evaluation Committee or the Control Yuan. When the Evaluation Committee believes no disciplinary action is necessary, they can move the case to the

Judicial Personnel Review Committee or officers with the supervisory authority for deliberation and supervisory disposition.

- E. If the Evaluation Committee considers a disciplinary action is necessary for a judge or prosecutor, they can forward the case to the Control Yuan for deliberation and impeachment. Also, the Control Yuan can impeach the illegality or dereliction of duty of the judge and prosecutor first and then send the case to the Disciplinary Chamber of the Judiciary for review. It is sufficient for the Disciplinary Chamber of the Judiciary to determine based on concrete facts and circumstances which are disciplinable that the judge or prosecutor has no longer fit to serve the duty, the disposition such as dismissal, removal or transference shall be rendered. The amendment of the “Judges Act” was promulgated on July 17, 2019. The trial to disciplinary cases against judges and prosecutors of the first instance of the Disciplinary Court shall be conducted by a collegiate panel composed of two Expert Lay Judges and 3 professional judges, so as to include opinions from a wide range of the general public and enhance the credibility of the judgment made by the Disciplinary Chamber of the Judiciary.
- F. The Judges Evaluation Committee has adopted 70 resolutions from 2012 to July 16, 2020, none of which involved corruption<sup>25</sup>. Among them, a total of 20 cases were forwarded to the Control Yuan; while a total of 14 cases were handled by the Judicial Personnel Review Committee. After the implementation of the new individual case evaluation system for judges on July 17, 2020, a total of 397 cases of evaluation on judges had been accepted, and 237 cases had been settled (one of which was withdrawn by the Party concerned), and none of which involved corruption till December 2021. (§11 I and II)
- G. The Prosecutors Evaluation Committee has adopted 66 resolutions from 2012 to July 16, 2020, none of which involved corruption<sup>26</sup>. Among them, a total of 17 cases were forwarded to the Control Yuan; while a total of 7 cases were handled by the Judicial Personnel Review Committee. After the implementation of the new evaluation system, a total of 361 cases of evaluation on

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<sup>25</sup> Relevant resolutions are available on the official site of the Judges Evaluation Committee (<https://www.judicial.gov.tw/tw/lp-1724-1.html>).

<sup>26</sup> Relevant resolutions are available on the official site of the Prosecutors Evaluation Committee Official site (<https://www.moj.gov.tw/2204/2645/2721/2726/>).

prosecutors had been accepted, and 235 cases had been settled, and none of which involved corruption till December 2021. (§11 I and II)

(3) Citizen Judges System/The system of civil participation in criminal trials

- A. In order to facilitate the participation in the criminal trial by both citizens and judges, enhance the transparency of the judiciary, account for the public's opinions towards the law, and protect the rights and interests of the people, the “Citizen Judges Act” was announced on August 12, 2020. This system allows non-legal expertise citizens from all walks of life to participate in the trial procedures of major criminal cases through random selection on a case-by-case basis, and to discuss and make decisions together with the judges. Both citizen judges and judges perform their authority independently pursuant to the laws without any interference. Moreover, they shall perform their duties fairly and honestly in accordance with the law, and shall not conduct any act that is harmful to the independence and integrity of the judiciary, nor disclose any secrets revealed in the course of deliberation nor any other secrets that they came to know during the course of executing their duties. Any offense of bribery or other improper benefits of a citizen judge and any act that is harmful to the independence and integrity of the judiciary lead to penalties according to the Citizen Judges Act.
- B. The “Citizen Judges Act” stipulates that, except for juvenile criminal cases and cases involving offenses provided in the Narcotics Hazard Prevention Act, a case of the first instance in the following categories that is designated to the jurisdiction of the district court in which a prosecutor has initiated a public prosecution shall undergo the trial by the Tribunal consisting of 6 citizen judges and 3 judges from the year of 2023: “where the accused has intentionally committed an offense that caused death ” and “where the accused has committed an offense punishable with a minimum punishment of imprisonment for not less than 10 years.” The Tribunal with citizen judges and judges shall jointly adjudicate criminal cases, so that the randomly-selected citizen judges make judgments by personally witnessing the trial process and discussing with the judges. It is expected to enhance the transparency of the judiciary, account for the public's opinions towards the law, promote the public’s confidence in the judiciary, and provide the public with a better understanding of the judiciary, so as to honor the ideal of popular sovereignty.

(4) Nationals Participation to Review of Non-prosecutorial Disposition

The Ministry of Justice plans to formulate the draft of the “Nationals Participation in Review of Non-prosecution Disposition Act” to establish “National Prosecution Review Council,” a set of external independent supervision mechanism composed of general nationals other than prosecutors to review the “non-prosecution” made by prosecutors to cases of severe crimes which have no complaints (such as corruption cases) and assess the legitimacy and appropriateness of the non-prosecution, so as to enhance judicial transparency and trust as well as evaluating the feasibility of the set up of the National Prosecution Review Council within a prosecution agency.

(5) Restriction on Judges involved in Corruption to be Transferred to Work as Lawyers

Lawyers are related to the overall image of the judiciary and the general public’s trust in the judiciary. The effective performance of the judicial function of lawyers is also a concrete manifestation of the protection of human rights in Taiwan. Therefore, in order to implement the resolution of the 2017 National Conference on Judicial Reform, the “Attorney Regulation Act” was amended and promulgated on January 15, 2020. The key points of the amendment include eliminating transference from major criminals to become lawyers, and revising the requirements for issuing attorneys’ certificates. The Ministry of Justice can also revoke the certificates for those who have been transferred within the recent 2 years so as to maintain judicial impartiality.

(6) Include the factors of ethics in the review of issuing professional certificate of judges

In view of the general public’s high moral expectations towards judges, besides having professional capacities, the personality of judges shall also be unquestionable in order to achieve the image of fairness and objectivity. The Judicial Yuan amended the “Guidelines for Review of Issuance of Professional Judges’ Certificates by the Judicial Yuan,” which stipulates that when reviewing professional certificates, the Judicial Personnel Review Committee shall consider both expertise and work ethics. On September 30, 2021, the “Guidelines for the Establishment of Taxation Special Tribunals and the Issuance of Certificates for Professional Judges” was amended and promulgated to include provisions stating that when the Judicial Yuan reviews the application for renewal of the certificate, it shall consider the character, integrity and work ethics of the judge.

(7) Improve Specific Preventive Measures

- A. The integrity and credibility of the judiciary are the basis for the trust of the general public. For cases of wrongdoings by judges affiliated to the Judicial Yuan, most of the known improper interactions between judges and the general people were conducted over 10 or even 20 years ago, which however, are still damaging the images of the judiciary and resulting in poor social perception. Compared with the past poor disciplinary records, the vast majority of judges currently have high requirements for their own integrity with the establishment and development of democracy and legislation. Furthermore, due to the judicial reform in recent years and the improvement of the internal prevention mechanism of the agency, the establishment of a case assignment system and diversified remedy channels has gradually enhanced the transparency of the judicial environment.
- B. In the event that the statute of limitations on the enforcement of disciplinary action has elapsed, the Judicial Yuan shall deal with it by revoking the judicial medal and recovering the monetary reward.
- C. The “Judges Act” was amended and promulgated on July 17, 2019. During the enforcement of disciplinary action, the disciplinary disposition such as removal, dismissal, as well as the transference, deprivation of pensions or retirement benefits shall all not be subject to limitations on the term of enforcement. For those who have retired, the disciplinary disposition of “deprivation and reduction of retirement benefits” is newly added. The judge who commits corruption and is rendered a guilty verdict which has become final and binding, or is adjudicated by the Disciplinary Chamber of the Judiciary which has become final and binding and is subject to the disciplinary sanctions such as removal, dismissal, or transference shall return the basic salary already received during the period of suspension of duty, so as to achieve the actual effect of punishment and to respond to the society’s expectations toward judicial credibility.

## Article 12 Private Sector

### Concluding observations of the international review committee of the first national report:

***Measure 5: As the preventive measures have focused mainly on the public sector, Taiwan shall devote more attention to preventive measures in the private sector to meet the growing threat of private sector corruption.***

In order to improve the legal system of the private sectors, the “Foundations Act” was formulated, which clearly defines the recusal of conflicts of interest, financial management and information disclosure systems, and we have also discussed the corporate bribery prevention legislation (amendment). In addition, by promoting the information system for reporting responsible persons of corporations and major shareholders, we can expand the substantive review and internal control system audit of public companies, and the financial transparency of small and medium-sized enterprises, enhance preventive measures in private sectors, and encourage the preparation of corporate social responsibility reports, and emphasize on business integrity management and anti-corruption education and training. Please refer to page 4 of the Report on Responses to Conclusive Observations.

***Measure 17: The Taiwanese chambers of commerce, Federation of (sectoral) Industries, Small and Medium Enterprises (SMEs), among others, should participate more actively to combat corruption and promote good governance and combat corruption in the private sector.***

Taiwan’s banking, securities, futures, property and life insurance, real estate brokerage, agency and sales associations currently have relevant self-discipline regulations to promote self-discipline and integrity, and prevent conflicts of interest. In addition, relevant government agencies also actively encourage and assist the associations in anti-corruption education and training. For example, in recent years, the Ministry of Justice has continued to organize a series of corporate integrity forums and large-scale manufacturers’ symposiums to actively promote the participation of enterprises and NGO groups, and expand the momentum of social participation. Please refer to page 13 of the Report on Responses to Conclusive Observations.

### **21. Regulations related to the prevention of corruption in private sectors (§12 I)**

- (1) For regulations on bribery and embezzlement in private sectors, please refer to the section on Articles 21 and 22 of UNCAC.
- (2) For the protection of whistleblowers of private sectors, please refer to the section on Article 33 of UNCAC and II, 1 (5) “Protection of Whistleblowers of Private Sectors” in the Report on Responses to Concluding Observations.

### **22. Enhancing accounting and auditing standards in private sectors (§12 I-III)**

- (1) The “Business Entity Accounting Act” and “Regulations on Business Entity Accounting Handling” are the basic laws and regulations for the accounting affairs of all profit-making institutions in Taiwan.

In order to be geared to international standards, it is required to gradually encourage Taiwanese enterprises to directly adopt International Financial Reporting Standards (IFRSs) to prepare financial reports.

- (2) According to the Paragraph 2 of Article 20 of the “Company Act,” where a company’s equity capital does not exceed a certain amount but the company is with a certain scale (a company with the paid-in capital less than TWD 30 million at the end of the financial reporting period and with either of the following situations: net operating revenue reaching TWD 100 million; or at least 100 employees covered by the labor insurance), the company shall first have its annual financial statements audited and certified by a certified public accountant since the fiscal year 2019, and then submitted to its shareholders for approval or to the shareholders’ meeting for ratification.
- (3) According to the “Regulations Governing the Preparation of Financial Reports by Securities Issuers” formulated based on the authorization from provisions of Paragraph 2 of Article 14 of the “Securities and Exchange Act,” the preparation of financial reports by public companies shall comply with the scope of “Generally Accepted Accounting Principles,” which shall mean the following, as endorsed by the FSC: International Financial Reporting Standards, International Accounting Standards, and Interpretations developed by the International Financial Reporting Interpretations Committee or the former Standing Interpretations Committee by the FSC. The scope of non-public companies shall comply with the “Generally Accepted Accounting Principles,” which shall be mainly based on the “Enterprise Accounting Standards and Interpretation” published by the Accounting Research and Development Foundation (hereinafter referred to as the Foundation). Since 2017, the FSC has adopted a IFRSs. In addition to adopting IFRS 9 “Financial Instruments” and IFRS 15 “Revenue from Contracts with Customers” on January 1, 2018, and IFRS 16 “Lease” on January 1, 2019, we will continue to evaluate and approve the new or revised IFRSs issued by the International Accounting Standards Board (IASB) in order to improve the quality of financial reporting and continue to be geared to international standards in the future.



- (4) According to Article 24 of the “Foundations Act,” a foundation shall set up its accounting system, which shall be formulated in accordance with the generally accepted accounting principle. Each competent authority is authorized to stipulate the accounting principle and principle on the preparation of financial report. If the total property registered with the court or annual income of a foundation reaches a specified amount, its financial statements shall be certified by an accountant.
- (5) According to Paragraph 1 of Article 52 and Paragraph 1 of Article 53 of the “Private School Law,” the Ministry of Education has formulated the “Guidelines for Implementation of the Establishment of Accounting Systems for School Legal Person and their Schools,” “General Provisions on Accounting Systems for School Legal Person and their Schools,” and “Principles of Operation of Financial Statements Announcement of Public and Private Schools and Other Educational Institutions.” The school legal persons and their schools shall set up an accounting system to handle accounting matters, finish preparing reports comparing budget and actual revenues and expenditures in four months after the end of the fiscal year, and have them certified by legal person authority-approved CPAs along with the financial statements,.
- (6) The “Regulations on Disposal of the Financial Affairs of Social Associations” formulated based on the authorization from the provisions of Article 66 of the “Civil Associations Act” is the legal basis for financial affairs of social organizations, which refers to accounting, budgets, final accounts, real estate and other financial management affairs.
- (7) The “Certified Public Accountant Act” and the “Regulations Governing Auditing and Attestation of Financial Statements by Certified Public Accountants” are the basic legal basis for the engagement of a certified public accountant to audit and attest financial statements subject to the generally accepted auditing standards issued by the Accounting Research and Development Foundation with reference to the International Standards on Auditing (ISAs). On August 13, 2019 and September 29, 2020, the Foundation issued the “Statement of Auditing Standards” No. 72, “Consideration of Legal Compliance in Auditing Financial Statements” and “Responsibility of Fraud in Auditing Financial Statements” No. 74 respectively, which have been successively implemented since 2020 and 2021.

(8) The “Securities and Exchange Act” and the “Certified Public Accountant Act” provide relevant regulations on the preparation of false financial reports and the civil, criminal and administrative responsibilities of certified public accountants. In addition, there are also relevant penalties for violations of relevant financial reporting standards in the securities and futures sectors. According to Article 28 of the Securities Investor and Futures Trader Protection Act,” the protection institution may submit a matter to arbitration or institute an action in the name of the investors protection center to claim civil damages, with respect to a securities or futures matter arising from a single cause that is injurious to multiple securities investors or futures traders (such as cases of false financial reports or public statements), after having been so empowered by not less than 20 securities investors or futures traders.

**23. Other measures to prevent corruption in private sectors (§12 II-III)**

- (1) For details on the promotion of cooperation between public agencies and private sectors, please refer to the section on Article 39 of UNCAC.
- (2) Self-discipline Code of Conduct (§12 II)
  - A. For the self-discipline code of conduct for finance and real estate brokerage, please refer to I, 1, (3), “Encouraging Each and All Chambers of Commerce to Formulate Relevant Self-discipline Norms to Participate in the Promotion of Anti-corruption” of the Report on Responses to Concluding Observations.
  - B. In view of the fact that attorneys’ legal practice concerns the rights and interests of clients and the operation of national judicial procedures, which is of great public interest, the Taiwan Bar Association has formulated the “Code of Conduct for Attorneys,” which clearly indicates that with the spirit of self-regulation and self-governance, attorneys should strive to execute their professional responsibilities with integrity and in good faith, contribute to the preservation of social justice, and work towards the improvement of the legal system. The CPA Association has issued the Bulletin No. 1 on the Code of Professional Ethics for CPA (including the content of the Professional Code of Conduct) as a reference for the practice of CPAs in Taiwan.
  - C. In 2019, the Ministry of Education formulated the “Ethical Corporate Management Specifications Guidelines for National Education Foundations,” requesting all educational foundations administered by the Ministry of Education to abide by which.

D. Protecting public interests, fairness and reasonableness are the basic contents of civil contracts. The GP Act establishes common norms for the contractual relationships between suppliers and public entities. For example, an entity shall not accord differential treatment to suppliers without due cause in the conducting any procurement, and shall establish a database to achieve the transparency and openness of procurement market information, so as to mitigate the disadvantages caused by insufficient information, maintain fair transaction order and create a positive competitive environment. For more information, please refer to the section on Article 9 of UNCAC.

(3) Enhancing Transparency in Private Sectors (§12 II)

- A. The Ministry of Economic Affairs has established the “Inquiry Service for Information of Companies or Businesses in Taiwan” to provide the general public with necessary and real-time industrial and commercial registration information, thereby promoting the transparency of relevant information to maintain the fairness and safety of transactions. In addition, the Taiwan Depository & Clearing Corporation shall be designated to establish a “Company Transparency Platform” in accordance with Article 22-1 of the “Company Act” concerning the report of company information.
- B. In order to implement information disclosure and enhance information transparency, the Taiwan Stock Exchange (hereinafter referred to as the TWSE) established the “Market Observatory Post System” in response to the international development trend of online single-window reporting of public information and the internationalization of the securities market. All regular and irregular information of all listed companies, emerging companies and public companies can be inquired on this website.
- C. By taking reference to the “Regulations Governing Anti-Money Laundering of Financial Institutions” on the identification of the beneficial owner of customers and other norms, the FSC has incorporated the equity supervision of financial institutions into the concept of beneficial owner. On December 25, 2019, amendments were issued to “Instructions for Reporting Voting Shares in Accordance with Paragraph 2, Article 16 of Financial Holding Company Act” and “Instructions for Reporting Voting Shares in Accordance with Paragraph 2, Article 25 of Banking Act.” The foundation shareholders of financial holding companies and banks are requested to

include the relevant beneficial owner or controlling ownership into the scope of declaration. With such amendment, the FSC, as well as financial holding companies and banks themselves, can further understand the identity of the beneficial owner or controlling ownership of the controlling foundation shareholders in terms of supervision, which will be helpful for the management and corporate governance of financial holdings and bank stakeholders' credit or transactions, and for financial institutions to apply for set up of overseas branches and development of business due to its consistency with the requirements of international supervision.

- D. Taiwan's "Securities and Exchange Act" has established relevant regulations, such as Subparagraph 2, Paragraph 3, Article 36 of the Act indicating that a public company shall make an announcement on any event which has a material impact on shareholders' rights and interests or securities prices.
- E. The "Foundations Act" stipulates the principles for the disclosure of financial information of foundations. A foundation's the work plans, financial statements and work reports shall be passed to the competent authority for record and voluntary disclosure (Articles 25 and 26). The competent authorities may also set up websites or publish information on their respective official sites. For example, the Ministry of Education has established the "Information Disclosure Platform for Colleges and Universities," "Education Foundation Information Network," "Youth Development Administration Online Management System," "National Sports Foundations Information Network" and "Sports Information Cloud Pilot System," and published information on its official site under the "Public Information Related to Government-empowered Foundations Administered by the Ministry of Education." The Ministry of Health and Welfare publishes information on the website sections "Medical Foundations Management" and "Government-empowered Foundations Administered by the Ministry of Health and Welfare." The Ministry also established a "National Health Foundations Information Management System" to manage related documents and strengthen the information disclosure of foundations for public overseeing.
- F. According to Paragraph 3, Article 52 and Paragraph 4, Article 53 of the "Private School Act," the budget, actual revenues and expenditures and financial statements of a school legal persons and their schools shall be made known to the publication accordance with applicable laws. In

addition, in accordance with Article 57 of the “Private School Act” and Paragraph 2 of Article 11 of the “Senior High School Education Act,” the Ministry of Education shall periodically evaluate the private schools and announce evaluation results.

(4) Prevention of Conflicts of Interests

- A. According to Article 14-1 of the “Civil Servant Work Act,” a civil servant shall not serve as a director, supervisor, manager, business-running shareholder or consultant of any profit-seeking enterprise directly related to his duties within 5 years and until three years after his resignation. Any violator shall be penalized with imprisonment of up to 2 years and a fine of up to TWD 1 million, to prevent public officials from abusing their relationship with the original agency after resignation to seek personal gain due to improper contacts, or using the knowledge from their civil service position to assist profit-seeking enterprises to engage in unfair competition. It also aims to prevent civil servants from seeking a way out after resignation for their own personal interests planned during their tenure, and to prevent forming close personal relationships with profit-seeking enterprises, which would result in conflicts of interests.
- B. The “Public Servant” referred to in the “Act on Recusal of Public Servants Due to Conflicts of Interest” shall include chairmen of the board, CEOs, secretary-general and equivalents of the juristic entities donated by governments, all subject to the self-recusal obligation stated in Article 6 of the Act. They shall have none of the behaviors abusing the authority for profits prohibited by Article 7, and of the transactions or grants, stated in Article 14, which are conducted by the public servants themselves or their related persons with the agencies or organizations that the public servants affiliate to.
- C. According to Article 41 of “Attorney Regulation Act,” an attorney shall not be concurrently employed by the government. Article 42 of the Act states that an attorney may not perform his/her duties when acting as elected representatives of the central government or any local government of any level. In addition, Article 28 of the Act also states that an attorney shall not practice in the same court jurisdiction in which they served as a judicial officer for a period of three years after resigning their judicial post. The legislative purposes of these Articles are to prevent judicial staff from being transferred to work as lawyers after leaving office and abusing the interpersonal relationships to engage in illegal acts.

- D. According to Article 45 of the “Certified Public Accountant Act,” for two years after separation from a civil service position in which the work involved any of the matters set out in Subparagraphs 1 (attestation of financial reports or other financial information), 4 (to serve as an agent in cases involving taxation, or to perform attestation on income tax returns filed by profit-seeking enterprises), or 5 (to serve as an agent in cases involving registrations of companies or trademarks, and in other cases relevant to such registrations) of Article 39 during the two years prior to separation from service, a civil servant may not provide services relating to any such matter when practicing as a CPA in the district where he or she previously served as a civil servant. In addition, according to Article 3 “Integrity, Impartiality, Objectivity and Independence” of Bulletin No. 10 on the “Code of Professional Ethics for Certified Public Accountants,” when the accountant has a direct or significant indirect interest in the entrusted matters that affects its impartiality and independence, it shall refrain from undertaking such matters.
- E. According to Articles 14 to 16 of the “Foundations Act,” a foundation shall not transfer to, or use its property via coalition, fraud or other improper means. Directors or supervisors shall not abuse the power, opportunities or methods in execution of their duties to seek profits, and shall recuse themselves when conflict of interests occurs. In addition, Article 27 of the Act stipulates that the competent authority, as it deems necessary, may inspect a foundation’s financial status and ascertain whether there is any violation of the conditions on its establishment approval or other legal requirement. (§12 III)
- F. According to Article 81 of the “Private School Act,” school legal persons and their schools’ founders, board members, supervisors, liquidators, presidents, staff members and teachers holding concurrent administrative positions shall avoid conflicts of interest and are forbidden to abuse their power to make personal gains or those of a third party. The legal person authority or school authority, prosecutors, school legal persons’ board members, supervisors or interested parties may request the court to order the return of above ill-gotten gains.
- (5) Establishing an Internal Control System (§12 II)
- A. According to Article 14-1 of the “Securities and Exchange Act,” public companies, securities exchanges, securities firms, and securities finance enterprises, securities central depository

enterprises, or other securities-related service enterprises shall establish financial and operational control systems to ensure the corporates' independent directors and the board of directors to be responsible for the effectiveness of internal control. Based on Articles 14-3 and 14-5 of the Act, when a company has selected independent directors, the adoption or amendment of an internal control system shall be submitted to the board of directors for approval by resolution unless approval has been obtained from the competent authority. If any of the independent directors has dissenting opinion or qualified opinion, it shall be noted in the minutes of the directors meeting. For a company that has issued stock in accordance with this Act and established an audit committee, the assessment of the effectiveness of the internal control system shall subject to the consent of one-half or more of all audit committee members and be submitted to the board of directors for a resolution.

- B. According to Article 11 of “Regulations Governing Establishment of Internal Control Systems by Public Companies,” a public company shall establish an internal audit unit under the board of directors to assist the board of directors and managers to examine and review the insufficiency of internal control, assess the operational efficiency and provide suggestions in a timely manner to ensure the continuous and effective implementation of the internal control system.
- C. The “Implementation Rules of Internal Audit and Internal Control System of Financial Holding Companies and Banking Industries” state that a financial holding company and a banking business should establish the self-inspection system. The “Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets” and the “Regulations Governing Implementation of Internal Control and Auditing System of Insurance Enterprises” respectively state that the securities and futures sectors and the insurance sectors shall establish certain internal control and auditing systems. Table 14 shows the statistics of penalties for violations of internal control and audit systems in the financial sectors.

**Table 14 Statistics on Penalties for Violation of Internal Control and Audit System in the Financial Sectors**

Year	Number of Cases Fined	Amount Fined
2017	74	TWD 149,130,000

2018	57	TWD 79,620,000
2019	78	TWD 178,120,000
2020	61	TWD 156,260,000
2021	96	TWD 165,640,000

Data source: FSC

- D. According to Article 24 of the “Foundations Act,” a foundation shall establish its internal control and audit system and submit to the competent authority for record if its total property registered with the court or annual income reaches a specified amount. After the implementation of the Act, the foundations shall follow the relevant regulations, and the competent authority will continue to conduct inspections. From the effective date of the Act to December 2021, take the 588 medical, health and social welfare foundations administered by the Ministry of Health and Welfare for example, 218 of which have established internal control systems in accordance with regulations, and 312 have been inspected. As for the 960 educational foundations administered by the Ministry of Education, 424 of which have established internal control systems in accordance with regulations, and 420 companies have been inspected.
- E. According to Paragraph 1, Article 51 of the “Private School Act,” an internal control system shall be set up for school legal persons and their schools to oversee them. The Ministry of Education has also formulated the “Implementation Regulations for the Internal Control System of School Foundations and their Schools” to achieve the goal of compliance with relevant laws and regulations.
- (6) Strengthening compliance with laws and regulations on industrial activities (§12II)
- A. At present, various competent authorities have formulated a number of laws and regulations for the management, licensing, subsidies and development of various industrial activities. In order to make the public company's internal control system cover all operating activities, the “Regulations Governing Establishment of Internal Control Systems by Public Companies” set clear specifications for a company to formulate internal control systems complying with the laws and regulations governing the industry to which the company belongs, and to perform self-assessment operations and internal audits, so as to assist in the achievement of compliance with laws and regulations. The Regulations specify that the internal control system shall comply with the laws and regulations governing the industry to which the company belongs (Article 7), and



require the internal audit unit to include legal compliance in the annual audit plan for review (Article 13). The FSC also continues to supervise TWSE and Taipei Exchange (hereinafter referred to as TPEX) to strengthen the inspection of companies' compliance with laws and regulations when performing internal control inspections of TWSE/GTSM-listed companies. In addition, in according to the format of the internal control system statement prescribed in Article 46 of the Regulations, the FSC specifies that the scope of its internal control effectiveness shall cover the legal compliance system.

- B. On February 13, 2020, TWSE revised the “Corporate Governance Best Practice Principles for TWSE/GTSM Listed Companies,” Article 3-1 of which clearly stipulates that one qualified staff shall be appointed as the chief corporate governance officer serving as the most senior officer to be in charge of corporate governance affairs. The above-mentioned affairs include assisting directors and supervisors with legal compliance, enabling the chief corporate governance officer to assist directors to perform their duties as a good administrator and legal compliance obligations, and effectively avoiding the occurrence of corporate corruption. As of December 2021, 848 TWSE/GTSM-listed companies have appointed chief corporate governance officer (including companies that voluntarily set up such positions). According to Article 20 of the “Taiwan Stock Exchange Corporation Operation Directions for Compliance with the Establishment of Board of Directors by TWSE Listed Companies and the Board's Exercise of Powers,” all listed companies shall appoint the chief corporate governance officer by June 2023, and it is expected that other 899 companies will follow.
- C. In order to optimize the corporate governance of the financial sectors (financial holding companies, banking sectors, securities traders and insurance sectors) and improve their compliance with relevant laws and regulations, the FSC has formulated regulations such as the “Implementation Rules of Internal Audit and Internal Control System of Financial Holding Companies and Banking Industries,” the “Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets” and the “Regulations Governing Implementation of Internal Control and Auditing System of Insurance Enterprises,” to require the financial industry to, based on the size of the organizations, the nature and characteristics of the business, set up the legal compliance units and supervisors within the

organizations to be charged with the planning, management and execution of the compliance system.

#### **24. Strengthening corporate governance (§12 I and II)**

- (1) For information on the roadmap for corporate governance, please refer to essay on Article 5 of UNCAC.
- (2) Code of Practice and Legal Regulations
  - A. The “Company Act,” “Securities and Exchange Act” and “Securities Investor and Futures Trader Protection Act” are the relevant legal norms for promoting corporate governance in Taiwan, all of which would be gradually revised to be in line with the development process of corporate governance. For example, the “Company Act” was amended on August 1, 2018 to impose substantive accountability on directors and strengthen shareholders’ rights and interests. Paragraph 3, Article 8 of the Act was revised to extend the applicability of provision of substantive directors to companies that issue stocks privately, which is no longer limited to companies that issue stocks publicly. In addition, under the consideration that the shareholders of a limited companies and a company limited by shares bear the same limited liability, Paragraph 2, Article 99 of the Act was amended to extend the applicability of “Piercing the Corporate Veil” (previously only applicable to a company limited by shares) to limited companies, so as to prevent shareholders from avoiding their liabilities through using the separate legal personhood of their companies or their limited liability. Paragraph 1, Article 245 of the Act stipulates that the inspection scope of the inspectors shall be expanded to specific transaction documents within the companies, so as to strengthen the investor protection mechanism and improve the shareholders’ ability to collect evidence indicating related parties’ play-to-play actions.
  - B. In order to assist TWSE/GTSM-listed companies to establish a good corporate governance system, TWSE and the TPEX have formulated a number of relevant regulations, codes and guidelines, such as the “Corporate Governance Best Practice Principles for TWSE/TPEX Listed Companies” amended by TWSE on February 13, 2020, for compliance.
  - C. In order to promote the “New Version of Corporate Governance Roadmap (2018-2020),” the FSC urges finance associations to revise the “Corporate Governance Best-Practice Principles for Banking Sectors,” “Corporate Governance Best-Practice Principles for Financial Holding

Companies” and “Corporate Governance Best-Practice Principles for Securities Finance Companies,” “Corporate Governance Best-Practice Principles for Securities Firms,” “Corporate Governance Best-Practice Principles for SITES/SICEs,” “Corporate Governance Best-Practice Principles for Futures Commission Merchants” and “Corporate Governance Best-Practice Principles for Insurance Sectors,” all of which require the organizations to set up appropriate and adequate number of corporate governance staff and supervisors according to the size, business situation and management needs, and clearly stipulate that relevant laws and regulations shall be followed and internal management shall be improved, the rights and interests of shareholders shall be protected, the functions of the board of directors shall be strengthened, the function of supervisors shall be exerted, interested parties’ rights shall be respected, and information transparency shall be enhanced. (§12 II)

- D. In 2016, TWSE issued the “Stewardship Principles for Institutional Investors,” stating that when an institutional investor makes an investment or carries out its fiduciary duties, he shall monitor the operation of an investee company and participate in corporate governance through attendance at shareholders' meetings, exercise of voting rights, engagement in appropriate dialogue and interact with management of the investee company. As of 2021, 153 institutional investors have signed the Principles.
- E. In the aspect of strengthening the management of public enterprises, we aim to “enable each enterprise to comply with laws and regulations, establish and implement internal control and internal audit systems,” “emphasize the rights of shareholders and interest parties,” “strengthen the functions of the board of directors,” “exert supervisors (audit committees) functions” and “promote information disclosure and transparency.” (§12 II)

### (3) Corporate Governance Assessment

In order to accelerate the promotion of corporate governance of TWSE/GTSM-listed companies in Taiwan, assist companies in their sound development, enhance market confidence, and cooperate with the FSC’s “2013 Roadmap for Enhancing Taiwan Corporate Governance” to promote the relevant works, TWSE the TPEX jointly promote the “Corporate Governance Assessment System.” Under the guidance of FSC, the Corporate Governance Center is in charge of sorting and drafting assessment indicators and the Securities and Futures Institute is responsible

for the implementation of the assessment work. In 2021, TWSE has completed the 2020 corporate governance assessment results for a total of 1,617 TWSE/GTSM-listed companies<sup>27</sup>.

## **25. Promotion of corporate integrity and social responsibility (§12 I and II)**

- (1) The “Company Act” was amended and promulgated on August 1, 2018, stipulating that a company’s business operations shall abide by laws and business ethics norms, and may adopt behaviors that advance public welfare to fulfill its social responsibilities. In addition, Article 24 of the “Foundation Act,” which came into effect on February 1, 2019, stipulates that if a foundation’s total property registered with the court or annual income reaches a specified amount, it shall formulate a code of ethics, and authorizes each competent authority to formulate the guidance on the code of ethics.
- (2) TWSE/GTSM-listed companies shall refer to the “Ethical Corporate Management Best Practice Principles for TWSE/GTSM-Listed Companies” amended on May 23, 2019 and the “Sample Template for XXX Co., Ltd. Procedures for Ethical Management and Guidelines for Conduct”<sup>28</sup> to formulate the policy of ethical management for the approval by the board of directors, and put forward specific implementation measures and plans for preventing unethical conduct, such as the ethical management education and training (including the subjects of the courses, the number of hours and the number of participants at least) or the signing of the annual ethical management statement (including the content of the statement, the number of signatories and the ratio at least). Such items have also been listed as the 2020 Corporate Governance Assessment Indicators (4.15) “Does the company’s official site or annual report disclose the ethical management policies approved by the board of directors, and provides specific measures as well as the plan of prevention of unethical conduct?” TWSE has completed the 2020 corporate governance assessment for a total of 1,617 TWSE/GTSM-listed companies. According to the assessment results, there are 745 companies with a score of 4.15, accounting for 46% of all assessed companies.

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<sup>27</sup> For corporate governance assessment results, please visit the “Corporate Governance Assessment” section on the official website of the Securities & Futures Institute (<http://www.sfi.org.tw/cga/cga1>) and the website of the Corporate Governance Center (<http://cgc.twse.com.tw/evaluationCorp/listCh>).

<sup>28</sup> For “Sample Template for XXX Co., Ltd. Procedures for Ethical Management and Guidelines for Conduct,” please go to: <http://eng.selow.com.tw/LawArticle.aspx?LawID=FL061646&ModifyDate=1090213>.

- (3) In order to maintain a fair and reasonable competitive environment and operational competitiveness of SMEs, the Small and Medium Enterprise Administration, MOEA has compiled the “Handbook of Business Principles of Integrity for Small and Medium Enterprise” to strengthen the promotion and implementation of the integrity concept of SMEs’ ethical management, and to remind SMEs of the risks of violating corporate ethical management as well as relevant precautions.
- (4) In order to strengthen the awareness of foreign companies, corporate integrity governance and compliance with laws and regulations, AAC had cooperated with the Ministry of Economic Affairs, the Ministry of Finance, the Ministry of Science and Technology, the Ministry of Communications, and the Taipei City Government from 2019 to 2021 to establish a mode for public-private cooperation and interdisciplinary integration, and had successfully organized 5 seminars on corporate integrity for foreign companies (please refer to the Report on Responses to the Concluding Observations for details). In addition, there had been 3 seminars on corporate integrity for financial sectors, construction enterprises, state-owned enterprise jointly organized by AAC with the FSC, the Ministry of Labor, and the Ministry of Economic Affairs from 2020 to 2021.
- (5) Relevant agencies and institutes hold corporate integrity ethics forums, symposiums, professional sessions or compiled integrity publicity manuals to promote corporate integrity and ethical concepts, instruct business owners to attach importance to corporate governance risk control issues, encourage enterprises to formulate appropriate ethical norms and supervision mechanisms, and deepen the concepts of overseas prohibition of bribing foreign government personnel. There had been 1,965 corporate integrity promotion sessions held by Government Employee Ethics Units from 2017 to 2021, such as the Financial Forum on “Integrating International Laws and Compliance: Cross-border Anti-Money Laundering” organized by Bank of Taiwan in 2018. the “Corporate Governance and Corporate Integrity Seminar” organized by Land Bank of Taiwan in 2019, and the “Integrity Management” manual compiled by the Ministry of Economic Affairs in 2020.
- (6) According to the specific strategies “Strengthen corporate integrity and build an anti-corruption consensus in the private sector” prescribed in the “National Integrity Building Action Plan,” there

are specific enforcement measures including promoting corporate social responsibility, strengthening the disclosure of information, and supervising and asking listed companies to prepare corporate social responsibility reports, etc. In addition to the requirement promulgated in October 2015 that listed companies with a paid-in capital exceeding TWD 5 billion but less than TWD 10 billion shall prepare the “corporate social responsibility report” (CSR report) since 2017 to strengthen the implementation of corporate social responsibility by listed companies, we actively guide companies to voluntarily prepare and issue CSR reports (please refer to II, 1 (1) 3 “Encouraging Companies to Prepare Corporate Social Responsibility Reports” in the Report on Responses to Concluding Observations), include “ethical management” and “social responsibility” in the evaluation of corporate recognition awards, and regularly organize seminars and training programs on corporate social responsibility to conduct research on relevant international norms, which allows companies to understand the latest domestic and foreign trends and specific practices of corporate social responsibility. (§12 II)

### **Article 13 Participation of Society**

#### **Concluding observations of the international review committee of the first national report:**

***Measure 8: The implementation of the AAC's Anti-Corruption Volunteers Programme has resulted in the recruitment of 8,745 integrity volunteers from 2011 to 2017.***

There are currently 31 teams of integrity volunteers to provide various services such as “Integrity Promotion,” “Integrity and Anti-corruption Education,” “Public Overseeing,” “Integrity Inspection” and “Administrative Transparency Measures Review,” etc. to share with local communities and schools the concepts of clean government. For details, please refer to page 36 of the Report on Responses to Conclusive Observations.

***Measure 18: Taiwanese civil society organizations and academia have played an important role during the previous decade in promoting integrity and combating corruption, and have been a role model in the Asia-Pacific region.***

NGOs such as civil societies and academia in Taiwan continue to actively attach importance to anti-corruption and uphold integrity. For specific activities, please refer to page 45 of the Report on Responses to Conclusive Observations.

***Measure 19: There should be greater recognition of the role played by the media in promoting a corruption-free society, and the media to continue their involvement in anti-corruption efforts (eg***

*investigative journalism) and promotion of integrity.*

***Measure 22: The media should continue their involvement in anti-corruption efforts (investigative journalism) and promotion of integrity.***

The Foundation for Excellence in Journalism Award established the “Investigative News Coverage Award” since 2011. Please refer to page 47 of the Response to Concluding Observations Report.

***Measure 21: The Government considers integrity education in kindergarten and elementary schools should be included as a core task of the education sector in anti-corruption efforts.***

In 2019, the Ministry of Education revised the “Character Education Promotion Program” to incorporate “integrity and self-sustainability” into the core value of character-building, and adds character education into the reference and allocation indicators of the relevant award and subsidy application programs. In addition, diversified teaching materials for integrity education are provided to continue promotion activities at schools. Please refer to page 49 of the Report on Responses to Conclusive Observations.

## **26. Encourage social participation (§13 I)**

- (1) In order to implement the people’s rights protection specified in “Constitution of the Republic of China (Taiwan),” ensure the realization of social fairness and justice, and establish universal human rights values and norms in line with international human rights standards, Taiwan continues to promote the ratification (or accession) and domestic legalization to international human rights instruments to insure domestic laws and regulations and administrative measures are in line with international human rights norms. In addition, for the respect for freedom of speech specified in the “Constitution of the Republic of China (Taiwan)” and the role of the mass media as the “fourth right,” Taiwan imposes no restriction on the content of news coverage, treats diverse opinions and information fairly, protects the independence of public media from the government, and encourages multiculturalism. Taiwan was rated as a “free country” in the “Freedom in the World 2021” released by Freedom House in March 2021, which was a result mainly attributable to the government's successful management and control of the COVID-19 pandemic, leading to a long-term progress in improving transparency and public participation in governance and decision-making.
- (2) The “National Integrity Building Action Plan” provides specific strategies such as “encouraging social participation and facilitating a consensus on transparency and zero tolerance against

corruption,” including five enforcement measures known as “promoting citizen education,” “adopting transparent measures for matters related to people’s rights and interests,” “incorporating integrity, character and anti-corruption materials into the lessons” and “pushing forward law-related education in schools” for promoting social participation.

- (3) The NDC has formulated the “Directions for Implementing Online Participation in Public Policy,” and established the “Public Policy Online Participation Platform”<sup>29</sup> (hereinafter referred to as the Participation Platform) in 2015 to provide the general public through which to offer creative ideas or policy suggestions concerning Taiwan’s public policy, and form consensus by a process allowing registration of support, and to provide government agencies, when formulating important policies or draft laws & regulations, or when implementing important policies, with a means for open discussion of the said policies or laws & regulations, so as to gather opinions from all quarters, unify and amplify capacity for effectual governance, and ensure that the general public has an effective channel to obtain information. As of December 2021, there were 153 policy issues and 5,976 advanced announcements of draft of legal orders for open consultation,” 13,297 proposals (6,523 entered into the support-registering procedure and 267 established as a case requiring response), and 2,143 ongoing major projects and 2,697 completed projects registered at the section for public overseeing.
- (4) For details of Open Government National Action Plan, please refer to essay on Article 5 of UNCAC.
- (5) For details of the Integrity Platform for Institutional Procurement, please refer to the section on Article 5 of UNCAC.
- (6) For details of integrity education, please refer to the section on Article 5 of UNCAC and II, 2, (10) “Integrity Education at Kindergartens and Elementary Schools” in the Report on Responses to the Concluding Observations.
- (7) For details of anti-corruption volunteers, please refer to the section on Article 5 of UNCAC and II, 2, (3) “Promotion of Anti-Corruption Volunteers” in the Report on Responses to the Concluding Observations.
- (8) For details of the mechanism for public overseeing, please refer to section on Article 5 of UNCAC.

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<sup>29</sup> Public Policy Online Participation Platform: <https://join.gov.tw/>.



(9) For details of the Government Open Data Platform, please refer to the section on Article 10 of UNCAC.

(10) Participation of the Private Sectors

A. We continue to encourage government agencies (institutions), profit-seeking and nonprofit organizations, and NGOs to organize anti-corruption seminars, symposiums and other activities to promote social participation in anti-corruption (§13). Please refer to II, 1, (3) “Active Participation of Commercial Chambers, Associations and SMEs” and II, 2, (7) “Civil Societies’ Active Participation in Promotion of Integrity and Anti-Corruption” in the Report on Responses to Concluding Observations.

B. Develop communication with domestic enterprises and professional groups, and combine social resources to have the general public aware of the severity of corruption, to jointly prevent corruption. MJIB has established more than 2,914 points of contact from September 2014 to December 2021. (§13)

C. For details of participation of media, please refer to II, 2, (8) “Participation of Media in Anti-Corruption” in the Report on Responses to Concluding Observations.

**27. Public awareness of anti-corruption agencies and provision of whistleblowing channels ( §13 II )**

The Ministry of Justice’s local prosecutors offices, AAC, the Investigation Bureau, the FSC and other relevant agencies have set up a global information network to disclose agencies information, and provide complaints hotlines, channels for filling of complaints, on-site reporting and other grievance procedure s. (§13 II)

**Article 14 Measures to Prevent Money-laundering**

**Concluding observations of the international review committee of the first national report:**

*Measure 25: Combating money laundering and to identify, trace, freeze and confiscate proceeds of crimes (Article 31). Taiwan promulgated a revised version of the Money Laundering Control Act in December 2016 which aims to bring the legal basis for anti-money laundering in line with FATF standards. In the view of the committee it largely accomplishes that objective, and this will provide a more comprehensive basis for anti-money laundering efforts including dealing with proceeds of crime derived from corruption and the seizure and confiscation of illegally acquired property.*

APG officially released the results of Taiwan's third round of mutual evaluation report in October 2019, and ranked Taiwan at the "regular follow-up" level which was the best achievement in Asia, demonstrating that Taiwan's performance of preventing money-laundering and combatting terrorism financing in terms of aspect of legal, supervision, and law enforcement are all in line with FATF international standards. Please refer to page 66 of the Report on Responses to Conclusive Observations.

## **28. Management and Supervision System for the Prevention of Money Laundering (§14 I-IV)**

### (1) Integration Aspect

- A. In 2018, Taiwan accepted the third round of mutual evaluation by the "Asia/Pacific Group on Money Laundering" (APG). The Executive Yuan thereby established the "Anti-Money Laundering Office" to coordinate and integrate the money laundering prevention policies and action programs to improve the effectiveness of money laundering prevention and combating terrorism financing. As a result, Taiwan reached the best rank "regular follow-up" in 2019. (§14 I)
- B. The AMLD of MJIB serves as Taiwan's national Financial Intelligence Unit (FIU), which analyzes and processes the financial information received, and disseminates it to the domestic law enforcement, judicial and related authorities for participation and handling. For the needs of criminal investigation, relevant domestic authorities may also use secure and confidential connections to access Suspicious Transaction Reports, or request the MJIB to assist in searching the financial information of specific objects, so as to effectively integrate the financial resources of the public and private sectors in Taiwan.

### (2) Legal Aspect

- A. In order to prevent money laundering, combat crimes, stabilize the financial order, promote transparency of financial flows and strengthen international cooperation, the "Money Laundering Control Act" was amended and promulgated on December 28, 2016. In response to the third round of mutual evaluation and suggestions of international experts indicating that there is still insufficient power of the internal audit and internal control system, Taiwan issued the amendments in 2018 to strengthen the compliance of laws and regulations of internal audit and internal control, and improve the legal system to be in line with the international standards. For example, financial institutions and designated nonfinancial businesses or professions shall

establish an internal audit and control system against money laundering based on the risks of money laundering and terrorism financing as well as business scale, authorize the formulation of measures related to the system, and the designated nonfinancial businesses or professions or the central competent authorities shall take relevant preventive measures against countries or regions with high risks of money laundering or terrorism financing. And the conviction of crimes of money laundering does not require the act of specified unlawful activity to be undertaken or take place within the territory of the Republic of China, so as to ensure that even the crime does not take place in Taiwan, the illegal money flow can still be tracked and prosecuted for the crime of money laundering. (§14 I)

- B. In order to make the counter-terrorism financing system more comprehensive, Taiwan promulgated the “Counter-Terrorism Financing Act” on July 27, 2016 to prevent and suppress the financing of terrorist acts, terrorist organizations and individual terrorists, preserve national security, protect fundamental human rights, and strengthen the international cooperation regarding the prevention the prevention of terrorist financing. The Act referred to the “International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation” published by the FATF, the “International Convention for the Suppression of the Financing of Terrorism” and United Nations resolutions regarding AML/CFT and proliferation of weapons. Subsequently, some amendments were made to the “Counter-Terrorism Financing Act” on November 7, 2018 to make the administrative procedures for the initiation and implementation of targeted financial sanctions more timely and effective, and in line with the regulations of the Administrative Procedure Act. (§14I)
- C. For the purpose of strengthening and enhancing the transparency of foundations, echoing the development of international anti-money laundering and the latest anti-money laundering directives of the European Union, the “Company Act” was amended and promulgated on August 1, 2018, including the addition of Article 22-1 of the Act requiring the disclosure of beneficial owner. It is required that a company shall disclose the major shareholders holding more than 10% of the total shares of a company or other capital stock via the electronic information platform for audit and identification, so as to cooperate with the money laundering prevention policies and assist in the establishment and improvement of money laundering prevention system

to strengthen the anti-money laundering measures, and increase the transparency of foundations (corporates). The electronic platform is available for financial and non-financial institutions and other money laundering prevention and control agencies, as well as competent authorities and law enforcement agencies, so that the information of foundations could be more transparent in a timely and accessible way. In addition, the bearer stock system is abolished to avoid the abuse or manipulation of company ownership. (§14 I)

(3) Supervision Aspect

A. Financial Institutions

(A) The “Regulations Governing Anti-Money Laundering of Financial Institutions” amended and promulgated in 2018 and the template for guidelines governing anti-money laundering and countering terrorism financing stipulated by the relevant associations provide clear regulations for financial institutions to undertake customer due diligence measures of customer identity, identify beneficiary owner, keep records, report large-amount car transactions and suspicious transactions and enforce other anti-money laundering and counter-terrorism financing (hereinafter referred to as AML/CFT) operations.

(B) Pursuant to the authorization of Article 6 of the “Money Laundering Control Act,” the “Regulations Governing Internal Audit and Internal Control System of Anti-Money Laundering and Countering Terrorism Financing of Banking Business and Other Financial Institutions Designated by the Financial Supervisory Commission,” the “Regulations Governing Internal Audit and Internal Control System of Anti-Money Laundering and Countering Terrorism Financing of Securities and Futures Business and Other Financial Institutions Designated by the Financial Supervisory Commission” and the “Regulations Governing Implementation of Internal Control and Audit System for Anti-Money Laundering and Countering Terrorism Financing of Insurance Companies, Post Offices Engaging in Simple Life Insurance Business and Other Financial Institutions Designated by the Financial Supervisory Commission” were formulated, which include the provisions as follows: a. internal control and governance stating that the board of directors and senior management should understand the operation of their AML/CFT program and adopt measures to create a culture of AML/CFT compliance; b. The board of directors shall appoint a senior officer to act as the chief AML/CFT compliance officer

and vest the officer full authority in coordinating and supervising AML/CFT implementation, and to report to the board of directors and supervisors at least semiannually; c. Financial institutions with overseas branches shall establish a group-wide AML/CFT program, including policies and procedures for sharing information within the group for AML/CFT purposes; d. Foreign business units shall be staffed with an adequate number of AML/CFT personnel, and appoint 1 person as an AML/CFT compliance officer to take charge of the compliance of AML/CFT. (§14I)

(C) In addition to implementing money laundering prevention measures in accordance with the laws and regulations, financial institutions also adopt digital tools to enhance the efficiency of implementation. Except for the online banking, conventional financial business operators have also accelerated the development and use of digital technology to implement money laundering prevention measures to enhance the efficiency of legal compliance, that is, to utilize information systems to replace manual execution and monitoring, such as introducing automatic transaction monitoring technology to detect suspicious transactions or carry out early warning and investigation. Through the digital innovations, we can improve the legal compliance capability of financial institutions, and implement measures to prevent money laundering with a risk-based approach.

#### B. Non-financial Institutions

(A) In 2018, the “Regulations Governing Anti-Money Laundering and Countering the Financing of Terrorism for Certified Public Accountants” was amended and promulgated, and the association formulated the internal control and audit systems template for anti-money laundering and countering terrorism financing for certified public accountants to carry out risk assessments, establish internal control and audit systems, and undertake customer due diligence measures of customer identity in a risk-based approach pursuant to the “Money Laundering Control Act.” Please refer to II, 4, (2), 2 “Strengthening the Money-Laundering Prevention Skills of Accountants” in the Report on Responses to the Concluding Observations. (§14II)

(B) In 2017, the “Regulations Governing Implementation and Reporting of Anti-Money Laundering and Countering the Financing of Terrorism for Jewelry Businesses” (retitled as the “Regulations Governing Anti-Money Laundering and Countering the Financing of Terrorism for Jewelry

Businesses” on April 26, 2021) were amended and promulgated to require that the jewelry businesses, when engaged in related business operation, shall apply CDD requirements to customers based on regulations, and determine the extent of applying CDD based on the risk degree. For higher risk circumstances, such as customers from high risk countries or regions or with important political positions, jewelry businesses shall perform enhanced CDD. The jewelry businesses shall also report all cash transactions equivalent to or exceeding NTD 500,000 (or its equivalent in foreign currencies) and suspicious money laundering transactions to the Investigation Bureau of the Ministry of Justice. (§ 14I)

- (C) In 2017, the “Anti-Money Laundering Regulations for Cross-border Declaration and Reporting” were amended and promulgated to regulate that the customs shall periodically report to MJIB the information on the declaration and seizure of items related to money laundering carried by any passengers or transported by goods.
- (D) In 2018, the “Regulations Governing Anti-Money Laundering and Counter-Terrorism Financing for Land Administration Agents and Real Estate Brokerages” was amended and promulgated, which state the land administration agents and real estate brokerages shall scrutinize the transactions conducted by customers, and be required to report to MJIB upon detecting any suspicious money laundering or terrorism financing activities. In 2021, in response to the technical compliance rating of the third round of mutual evaluation report of the Asia/Pacific Anti-Money Laundering Group (APG), relevant deficiencies were raised in the sub-regulations of designated nonfinancial institutions or personnel. Therefore, the regulations concerned were amended to clearly state the provisions for cash transactions above a certain amount conducted by land administration agents and real estate brokerages, and for the report of any suspicious money laundering or terrorism financing activities.
- (E) In 2021, in response to the technical compliance rating of the third round of the mutual evaluation report of the Asia/Pacific Group on Money Laundering (APG), relevant deficiencies were raised in the sub-regulations of designated nonfinancial institutions or personnel, and the “Regulations Governing Anti-Money Laundering and Counter-Terrorist Financing for Certified Public Bookkeepers and Bookkeeping and Tax Return Filing Agents” was therefore amended to clearly regulate the scope of money laundering prevention applicable to bookkeeping businesses and to

enhance the specification of matters related to customer due diligence measures of customer identity, record keeping, verification of beneficiary owner, reporting of suspicious money laundering transactions, and internal audit and control procedures. The National Taxation Bureau shall be authorized to carry out the off-site and on-site inspection of bookkeeping businesses to prevent money laundering and terrorism financing, and the deficiencies found in the inspection shall be listed one by one for the business operators to make improvements within specific time limit. According to statistics, the National Taxation Bureau conducted 34 off-site and 9 on-site inspections of bookkeepers in 2021. (§14 II)

(4) Enhanced review of remittance

- A. The “Directions for Confirming Customer Identity in Domestic Remittance Operations and Deposit Without Passbook of Financial Institutions” states relevant customer due diligence measures for any domestic remittance of TWD 30,000 or more. (§14 III)
- B. Point 4 of the “Directions Governing Banking Enterprises for Operating Foreign Exchange Business” stipulates that: (§14 III)
  - (A) The wire transfer delivered by the outward remittance business agency shall include required and correct information of the originator as well as the required beneficiary information.
  - (B) The following risk control measures shall be formulated for inward remittance business and the severe review shall be required: reasonable measures shall be taken, including feasible ex post or immediate monitoring to identify remittances with a lack of required originator or beneficiary information; and risk-based policies and procedures shall be established to determine when to execute, reject or suspend remittances with a lack of required originator or beneficiary information, and what appropriate follow-up actions to be taken.
  - (C) The intermediary financial institution shall retain all the wire transfer originator and beneficiary information accompanying the wire transfer. Where technical limitations prevent the required information accompanying a cross-border wire transfer from being imported to the corresponding domestic wire transfer, according to the “Money Laundering Control Act” and relevant regulations, the receiving intermediary financial institution shall retain the records of all the information received from the ordering financial institution or another intermediary financial

institution for at least 5 years; the risk management procedures for the above-mentioned inward remittance business shall be applicable mutatis mutandis.

- (D) The originator and beneficiary information of the above-mentioned outward and inward remittance business and the intermediary financial institution are as follows: originator information including “name,” “originator account number (In the absence of an originator account, a unique transaction reference number shall be included to facilitate the traceability of the transaction)” and “address(the ordering bank could decide whether to replace address with unified business number, national identification number, passport number, resident certificate number, or date and place of birth),” as well as beneficiary information including “name” and “beneficiary account number (In the absence of a beneficiary account, a unique transaction reference number shall be included to facilitate the traceability of the transaction).”

(5) Compliance with Anti-Money Laundering Initiative Guidelines

In accordance with the “International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation” issued by the FATF for the Prevention of Money Laundering, financial institutions are required to undertake customer due diligence measures of customer identity (including beneficiary owner), keep transaction records, and incorporate anti-money laundering measures into risk control mechanisms or internal control systems to assess money laundering and terrorism financing risks, amend and issue relevant laws and template for money laundering prevention, so as to strengthen the supervision measures of AML/CFT of financial institutions. (§14 IV)

**29. Domestic and international cooperation in the prevention of money laundering (§14 I , II and V)**

(1) Domestic Cooperation

The AMLD of MJIB accepts the reports of suspicious money laundering or terrorism financing transactions submitted by financial institutions and designated nonfinancial businesses or professions, and disseminates the aforementioned financial information to the domestic law enforcement, judicial and relevant authorities for participation, assisting the public and private sectors in communication and coordination. For the needs of criminal investigation, relevant domestic authorities may also use secure and confidential connections to submit Suspicious



Transaction Reports, or request the MJIB to assist in searching the financial information of specific objects, so as to effectively integrate financial resources of the public and private sectors in Taiwan.

- A. According to Paragraph 1, Article 9 of the “Money Laundering Control Act,” financial institutions and designated nonfinancial businesses or professions shall report currency transactions equal to or above the applicable designated threshold to the Investigation Bureau, unless otherwise prescribed in this Act. Paragraph 1, Article 10 of the Act states that financial institutions and designated nonfinancial businesses or professions shall report to the Investigation Bureau all suspicious money laundering transactions.
- B. According to Paragraphs 1 and 2, Article 12 of the “Money Laundering Control Act” and the “Anti-Money Laundering Regulations for Cross-border Declaration and Reporting,” passengers or crew members entering or leaving the country along with the vehicle and carrying cash in foreign currency or currencies issued by Hong Kong, Macau or People’s Republic of China, cash in New Taiwan Dollars, bearer negotiable securities, gold, , and other items that may be used for the purpose of money laundering, respectively totaling over an applicable designated threshold, shall make declarations at customs; the customs should subsequently file a report to the Investigation Bureau. Acts to deliver items by shipment, express delivery, mail, or other similar means, across the border, would also be subject to the preceding provisions. (§14)

(2) International Cooperation

According to the “Money Laundering Control Act,” Taiwan may enter into cooperation treaties or other international written agreements on combating money laundering with foreign governments, institutions or international organizations, on the principle of reciprocity. As of December 2021, Taiwan has signed anti-money laundering and counter-terrorism financing cooperation agreements/memorandums with 51 countries or regions, as shown in Table 15. (§14V)

**Table 15 List of countries (regions) that have signed the anti-money laundering and counter-terrorism financing cooperation agreements/memorandum**

Europe	America	Asia	Oceania	Africa
Finland	Canada	Saint Vincent	Japan	Palau
Poland	USA	Saint Christopher	Korea	Fiji

Hungary	Nicaragua	Aruba	Aruba	Mongolia	Solomon Islands
Macedonia	Panama	Saint Lucia	Saint Lucia	Nepal	Marshall Islands
Latvia	Dominican Republic	Trinidad and Tobago	Trinidad and Tobago	Saudi Arabia	Papua New Guinea
Vatican	Paraguay	Bermuda (North Atlantic)	Bermuda (North Atlantic)	Philippines	Cook Islands
Guernsey	Sint Maarten	Guatemala	Guatemala	Israel	
Liechtenstein	Virgin Islands			Afghanistan	
Albania	Antilles			Armenia	
Principality of Andorra	Republic of Ecuador			East Timor	
Republic of Kosovo				Kingdom of Tonga	
				Hashemite Kingdom of Jordan	

Data source: MOJ (MJIB)

### (3) Mutual Legal Assistance

In order to improve the domestic legal system for mutual legal assistance in criminal matters, promote international cooperation, strengthen the ability to fight cross-border crimes, and in response to the third round of mutual evaluation conducted by the APG in 2018, the legislation of the “Mutual Legal Assistance in Criminal Matters Act” shall be the key indicators for determining the degree of compliance of Taiwan in international cooperation, according to the proposal of the FATF. Taiwan promulgated and implemented the “Mutual Legal Assistance in Criminal Matters Act” on May 2, 2018. After the completion of legislation, a complete legal framework for international mutual legal assistance in criminal matters has been established to comprehensively and quickly provide mutual legal assistance to the most extent in money laundering, related investigation on crimes and terrorism financing, prosecutions and related legal proceedings. (§14V)

### 30. Liaison Cooperation between Financial Intelligence Institutions (§14 I, IV and V)

In order to actively carry out international cooperation, the AMLD of MJIB joined the “Egmont Group” in 1998 to exchange information with foreign financial intelligence centers, based on

relevant treaties, agreements or the Egmont Group Charter and information exchange principles, the financial information on predicate crime related to money laundering such as corruption. Egmont Group currently has 167 members, including Financial Crimes Enforcement Network (FinCEN) of the US and Suspicious Transaction Reporting Office (STRO) of Singapore, all of which are equivalent agencies for Taiwan to exchange financial information via the Egmont Group Intelligence Network. Besides using such Network, Taiwan also participates in various meetings of the FATF and the APG. Taiwan is a member of the APG, which allows the participation in the activities of the FATF on Money Laundering with such membership. Since Taiwan is also one of the founding members of the ARIN-AP, and will continue to work closely with the agency to recover the proceeds of crime. The number of cases of information exchange handled by Taiwan via the Egmont Group is shown in Table 16.

**Table 16 Statistics of the number of cases of information exchange handled by Taiwan via the Egmont**

<b>Year</b>	<b>Cases foreign countries require Taiwan for assistance</b>		<b>Cases Taiwan requires foreign countries for assistance</b>	
<b>2017</b>	53 cases	100 pieces	45 cases	94 pieces
<b>2018</b>	98 cases	196 pieces	20 cases	46 pieces
<b>2019</b>	81 cases	198 pieces	17 cases	50 pieces
<b>2020</b>	66 cases	132 pieces	12 cases	23 pieces
<b>2021</b>	49 cases	95 pieces	8 cases	20 pieces
<b>Year</b>	<b>Cases foreign countries require Taiwan for assistance</b>		<b>Cases Taiwan requires foreign countries for assistance</b>	
<b>2017</b>	60 cases	168 pieces	21 cases	87 pieces
<b>2018</b>	48 cases	164 pieces	23 cases	107 pieces
<b>2019</b>	71 cases	279 pieces	38 cases	292 pieces
<b>2020</b>	58 cases	197 pieces	32 cases	110 pieces
<b>2021</b>	56 cases	176 pieces	7 cases	39 pieces

**Data source: MOJ(MJIB)**

### **31. Important Case of Anti-money Laundering**

During L's tenure as Secretary-General of the Legislative Yuan from January 2012 to January 2015, he abused his authority over the procurement of the Legislative Yuan to leak confidential procurement information to M, the person in charge of Company A, which was an act in violation of the "Government Procurement Act" and other relevant regulations. Therefore, Company A was awarded the contracts for

the “Service Integration Project of Legislative Yuan for 2013” and the “Project for Installation Enhancement for the Legislative Yuan,” and L successively received cash rebates of TWD 36.5 million from M. Based on the financial information provided by the Financial Intelligence Center, the Investigation Bureau assembled evidence and discovered that L had deposited the bribes in his personal account, and had deposited or withdrawn the monetary bribes via the accounts of his spouse R, his son S, his subordinate O and the Company B without actual business operation, in order to disguise and conceal his illicit gains during the crime. L had also deposited the monetary bribes in different accounts of the third-parties, which had mixed up the legitimate money originally deposited in these accounts, to achieve money laundering and to conceal and disguise the illicit gains. Moreover, the Investigation Bureau further found that L’s property from unknown sources was worth TWD 243,783,620. (§14)

## **Chapter III Conviction and Law Enforcement**

### **Article 15 Bribery of National Public Officials**

#### **32. Legal Regulations (§15)**

The “Anti-Corruption Act” imposes penalties on both “offenses of bribery in violation of duties” and “offenses of bribery not in violation of duties.”

The “Anti-Corruption Act” and the chapter on Offenses of Malfeasance in Office of the “Criminal Code” also explicitly stipulate penalties for public officials who demands, agrees to accept, or accepts a bribe or other improper benefits for an official act or for a breach of his official duties. (§15)

#### **33. Implementation (§15)**

Since 2013, the Judicial Yuan has added the offenses against the “Anti-Corruption Act” to the “Information Inquiry System for Offenses with Similar Convicted Sentences.” For cases related to the “Anti-Corruption Act,” after the user inputs the relevant Articles of the Act, the system will automatically retrieve relevant judgments, and provide the distribution of sentencing from the highest to the lowest in the past judgments that meet the inquiry conditions and a full picture of the types of sentences. The System was made open to prosecutors, lawyers and parties concerned for reference in June 2014, and became accessible since 2016 to the general public. It is currently available for the inquiry of Articles 4, 5, 6, 6-1, 11, 13, 14, 15, and 16 of the Act. (§15)

### 34. Statistics (§15)

- A. According to the resolution of “Conference on the Research and Discussion on the Statistical Methods for Conviction Rates of Corruption Cases” held by the Ministry of Justice on October 30, 2019, the statistical method was amended in January 2020 and the conviction rate after the prosecution of corruption cases is based on the verdicts of each defendant in a corruption case up to the time of statistics, in which each verdict refers to one crime, and each crime is included in the annual statistics of the prosecution of the case. Hence, the number of crimes became the statistical basis for relevant statistical data about the verdicts since January 2020; therefore, the conviction rate has accordingly increased due to the above-mentioned changes in the statistical basis. From July 2009 to December 2021, the conviction rate for corruption cases after prosecution was 76.3%. (§15)
- B. For details on the cases in violation of Subparagraph 5 ,Paragraph 1 of Article 4 (offenses of bribery in violation of duties) and Subparagraph 3 ,Paragraph 1(offenses of bribery not in violation of duties) of Article 5 of the “Anti-Corruption Act” handled by local prosecutors’ offices, please refer to Table 17.

**Table 17 Statistics on bribery cases against the “Anti-Corruption Act” handled by local prosecutors’ offices**

Unit: Person

Category	Investigation concluded and prosecuted		Convicted after judgment	
	Demanding, agreeing to accept or accepting a bribe for a breach of official duties	Demanding, agreeing to accept or accepting a bribe for a breach of official duties	Demanding, agreeing to accept or accepting a bribe for a breach of official duties	Demanding, agreeing to accept or accepting a bribe for a breach of official duties
2017	75	32	33	48
2018	67	69	46	80
2019	72	69	48	49
2020	67	105	39	48
2021	48	32	41	57
Total	329	307	207	282

Data source: Department of Statistics (MOJ)

### 35. Promotion Strategies (§15)

- (1) In response to the integration and incorporation of the offenses of malfeasance in office of the “Criminal Code” and the “Anti-Corruption Act,” Taiwan has developed a draft amendment to the aforesaid chapter concerning crimes of corruption of the “Criminal Code,” which includes amendments of the elements of bribery to Articles 121 and 122 of the Code to resolve the difficulties faced by courts caused by the current different standards and criteria for the determination of “consideration.” In addition, the offense of trading in influence (Article 123-1 of the draft amendment of the “Criminal Code”) and gratuities crime (Article 121-1 of the draft amendment of the “Criminal Code”) were added to punish those who have accepted bribery for an official act, which is hard to deemed as a considerable reciprocation. The above-mentioned draft amendments are currently under review by the Executive Yuan. (§15)
- (2) To improve the sentencing reform and the appropriateness, transparency, fairness and reasonable predictability of sentencing, and to ensure the trials independently of judges without any interference stated in Article 80 of the “Constitution of the Republic of China (Taiwan),” the “Preparatory Consultation Meeting for Sentencing Commission” was organized in June 2019, and a total of 19 meetings were held to promote the draft and legislation of the “Appropriate Sentencing of Criminal Cases” (tentative) from 2020 to 2021. The “Sentencing Guidelines Council” is planed to be set up after the legislation is completed, so as to improve the legal system for sentencing of criminal cases. (§15)
- (3) For details on the protection of whistleblowers, please refer to the section on Article 33 of the UNCAC.
- (4) For the regulations on the prevention of the provision and acceptance of bribery stipulated in sunshine laws such as the “Act on Property-Declaration by Public Servants,” the “Act on Recusal of Public Servants Due to Conflicts of Interest,” the “Political Donations Act” and the “Lobbying Act,” please refer to the section on Article 5 of the UNCAC.

## **Article 16 Bribery of Foreign Public Officials and Officials of Public International Organizations**

### **Concluding observations of the international review committee of the first national report:**

#### ***Measure 37: Criminalise the solicitation or acceptance of bribes by foreign public officials (Article 16).***

In October 2020, the AAC commissioned Professor Hsu Heng-ta to prepare an article on “Reasons and Amendment Directions for the Punishment of the Crime of Bribery of Foreign Public Servants” which was submitted to the Ministry of Justice for discussion and reference. In addition, the opinions of experts and scholars will be integrated, and the legislative direction of the bribery of foreign

public servants or personnel of international organizations will continue to be discussed. Please refer to page 64 of the Report on Responses to the Concluding Observations.

**36. Legal Regulations (§16 I)**

According to Paragraphs 1 and 2 of Article 11 of the “Anti-Corruption Act,” a public servant, making unlawful demands, promising or taking bribes or engaging in other malpractices for unjust gains, for an official act or for a breach of his official duties shall be penalized. Paragraph 3 of the same Article states that if a public servant dealing with a foreign nation, Chinese mainland, Hong Kong or Macao has committed the acts mentioned above in trade, investment or other business activities, he shall be punished in accordance with the same provisions.

**37. Implementation of Paragraph 2 of the Article (§16 II)**

Upon review of the rules on jurisdiction in Articles 3 to 7 of the “Criminal Code,” the acts of soliciting or accepting a bribe by foreign public servants are still not covered by the jurisdiction of Taiwan (except for bribes that are given to any foreign public servants within the territory of the Republic of China, to which the above-mentioned regulations of the “Anti-Corruption Act” may apply). Therefore, further discussion of the legislations shall be continued to seek domestic legislative consensus. Please refer to II, 4, (1), 6 “Provision or Acceptance of Bribery by Foreign Public Servants” in the Report on Responses to the Concluding Observations. (§16 II)

**Article 17 Embezzlement, Misappropriation or Other Diversion of Property by a Public Official**

**38. Legal Regulations (§17)**

- (1) For the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position, relevant punishments have already been stipulated in Subparagraph 1, Paragraph 1, Article 4 of the “Anti-Corruption Act” stating that “any person who has committed any of the following acts shall be punished by imprisonment for life or a term of no less than ten years and may also be punished by a fine not to exceed NT\$100,000,000: 1. Stealing or misappropriating public equipment or properties...” and Subparagraph 3, Paragraph 1, Article 6 stating that “any person who has committed any of the following acts shall be punished by imprisonment for a term not

less than five years and may also be punished by a fine not to exceed NT\$30 million: ... 3. Stealing or misappropriating private property or equipment that is in his or her possession due to official position but not for official use.” (§17)

(2) Article 71 of the “National Property Act” states that “person in charge of National Property violates Article 21, i.e. he fails to record accrued account, and conducts concealing or misappropriation of property, his penalty shall be sharpened till 1/2” and Paragraphs 1 and 2 of Article 31 of the Act state that “the administrators of the national property shall not purchase or rent national property, or conduct disposition and profit acts that are favorable for administrators themselves. Acts violating the preceding paragraph are invalid.” The registration of national property, penalties for violations, and recusal regulations have already been stipulated. Article 61 of the Act also stipulates that relevant agencies shall regularly and irregularly inspect national property to implement management. (§17)

### 39. Statistics (§17)

Details on cases of in violations of Subparagraph 1, Paragraph 1, Article 4 (stealing or misappropriating public equipment or properties) and Subparagraph 3, Paragraph 1, Article 6 (stealing or misappropriating private property or equipment that is in his or her possession due to official position but not for official use) of the “Anti-Corruption Act” handled by local prosecutors’ offices are shown in Table 18.

**Table 18 Statistics on cases of stealing or embezzling of property against the “Anti-Corruption Act” handled by local prosecutors’ offices**

Unit: Person

Category	Investigation concluded and prosecuted		Convicted after judgment	
	Stealing or misappropriating public equipment or properties	Stealing or misappropriating private property or equipment abusing one’s legal authority	Stealing or misappropriating public equipment or properties	Stealing or misappropriating private property or equipment abusing one’s legal authority
2017	19	7	18	3
2018	20	7	18	6
2019	19	8	7	3
2020	23	12	8	3



2021	20	44	10	6
total	101	78	61	21

Data source: Department of Statistics (MOJ)

## Article 18 Trading in Influence

### Concluding observations of the international review committee of the first national report:

*Measure 34: Clarifying, regarding trading in influence (Article 8), whether Articles 4, 5 and 6 of the “Anti-Corruption Act” shall be applicable to a person acting as a “middle broker” who has real or supposed influence over a public official who carries out the actual administrative act, or failure to act.*

The Ministry of Justice has started to study the formulation of the offense of trading in influence (Article 123-1 of the amendment draft of the “Criminal Code”), where a person who has influence on any public servant or government agency abuses its influence to receive unjust valuables resulting in unjust outcomes due to the exercise of public authority would constitute a crime. Please refer to page 63 of the Report on Responses to the Concluding Observations.

### 40. Legal Regulations (§18)

Articles 4 to 6 of the “Anti-Corruption Act” have provisions with similar, but not completely consistent, normative purposes as those of Article 18 of the UNCAC, the latter of which regulates that the scope of subsumption shall cover public servants who abuse their real or supposed influence to obtain undue advantage for any third parties from an administration or public institutions. The most prominent feature of the offense against trading in influence is the existence of the “intermediary” B. The “intermediary” B has “real influence” or “supposed influence” over the public servant C who actually takes the administrative actions. Such influence is the key for the undue advantage provider A, who is willing to provide such advantage in exchange for the “intermediary” B to use its influence to obtain the undue advantage from the public sector. There is still debate on whether the “intermediary” B who has “real influence” or “supposed influence” should be subject to Articles 4, 5 and 6 of the “Anti-Corruption Act.” In practice, there are the “legal authority theory” and the “substantial influence theory,” while a general consensus has not yet been reached. (§18)

### 41. Promotion Strategies (§18)

- (1) To comply with the principle of legality, the integration and consolidation of the Chapter on Offenses of Malfeasance in Office of the “Criminal Code” and the “Anti-Corruption Act” will lead the direction of amendment in the future based on the resolution of the 2017 National Conference on Judicial Reform, and Article 123-1 of the “Criminal Code” will be added to punish the offense against trading in influence conducted by public servants or a person with real influence in government agencies abusing their authority to receive unjust valuables resulting in unjust outcomes. The main point of the provisions of this draft is that the behaviors of abusing inappropriate influence on national acts to perform certain transactions shall be punishable, and the subjects shall include public servants and non-public servant staff. The above-mentioned draft amendment was submitted to the Executive Yuan on July 18, 2018, and the Ministry of Justice was thereby required to further discuss whether it is necessary to punish the influence in trading conducted by non-public servant staff, whether the sentence shall be aggravated if a public servant conducts such crime, whether it is necessary to regulate those with “supposed influence,” and to clear up elements such as “unlawful profits,” “abuse of influence,” and After reviewing, the Executive Yuan. Please refer to II, 4, (1), 5 “Regulations on Trading in Influence” in the Report on Responses to the Concluding Observations. (§18)
- (2) According to Paragraph 3, Article 8 of the “Company Act,” a non-director of a company who de facto conducts business of a director or de facto controls over the management of the personnel, financial or business operations of the company and de facto instructs a director to conduct business shall be liable for the civil, criminal and administrative liabilities as a director in this act. (§18)
- (3) Article 14 of the “Act on Recusal of Public Servants Due to Conflicts of Interest” stipulates that public servants or their relevant parties shall not conduct transactions with the organs with which the public servant serves or the organs under their supervision. However, the general public often considers that such prohibition inadequately restricts the working rights and property rights of public servants and their relevant parties. Therefore, the regulation was amended in accordance with the “Government Procurement Act” in 2018, so that the procurement carried out by public notice may not be subject to the prohibition. In this way, the restrictions on the prohibition of

current transaction acts have been loosen moderately to comply with the principle of proportionality. (§18)

## **Article 19 Abuse of Functions**

### **42. Legal Regulations (§19)**

- (1) According to Article 131 of the “Criminal Code,” a public official who directly or indirectly seeks to gain illegal benefits from a function under his control or supervision for himself or others and gains benefits shall be sentenced to certain punishment. Such offense of abuse of power for private profit applies to public officials who are in charge or acting as supervisors. Article 134 of the Code also provides more severe punishments against the public officials servants conducting the offenses. (§19)
- (2) Subparagraph 2, Paragraph 1, Article 4 of the “Anti-Corruption Act” punishes those acquiring valuables or property through the use of undue influence, blackmail, forced acquisition, forced seizure, or forced collection; Subparagraph 3, Paragraph 1, Article 4 of the Act punishes those inflating the prices and quantities of, or taking kickbacks from, public works or procurements under their charge; Subparagraph 4, Paragraph 1, Article 4 of the Act punishes those using government vehicles to transport contraband or carry goods for tax evasion; Subparagraph 1, Paragraph 1, Article 5 of the Act punishes those withdrawing or withholding public funds without authorization with an intent to profit, or unlawfully collecting taxes or floating government bonds; Subparagraph 2, Paragraph 1, Article 5 of the Act punishes those fraudulently making others deliver personal property or a third person’s property under cover of legal authority; Subparagraph 1, Paragraph 1, Article 6 of the Act punishes those with the intent to profit by withholding public funds or public property which should be lawfully distributed; Subparagraph 2, Paragraph 1, Article 6 of the Act punishes those committing malfeasance while raising funds or requisitioning land or other properties; Subparagraph 4, Paragraph 1, Article 6 of the Act punishes those directly or indirectly seeking unlawful gains for themselves or for others in matters under their charge or supervision; Subparagraph 5, Paragraph 1, Article 6 of the Act punishes those using the opportunity provided by one’s position or status for unlawful gains for themselves or for others in matters not under their charge or supervision; all of the above are penalties for public servants

who abuse their power or authority in the performance of their duties to act or omit to act in violation of the laws and regulations to obtain unjust valuables for themselves or others. (§19)

- (3) Article 6 of the “Civil Servant Work Act” states that “civil servants shall not abuse their authority to seek or gain interest for themselves or others, and shall not take advantage of their job positions to inflict harm on others.” (§19)

#### **43. Statistics (§19)**

Details on cases in violations of Subparagraphs 2 to 4, Paragraph 1, Article 4, Subparagraph 2, Paragraph 1, Article 5, Subparagraphs 4 to 5, Paragraph 1, Article 6 of the “Anti-Corruption Act” handled by local prosecutors’ offices are shown in Table 19.

**Table 19 Statistics on cases of abusing authority against the “Anti-Corruption Act” handled by local prosecutors’ offices**

Unit: Person

Category	Investigation concluded and prosecuted			Convicted after judgments		
Type of crime	Acquiring valuables or property through the use of undue influence, blackmail, forced acquisition, forced seizure, or forced collection	Inflating the prices and quantities of, or taking kickbacks from, public works or procurements	Using government vehicles to transport contraband or carry goods for tax evasion	Acquiring valuables or property through the use of undue influence, blackmail, forced acquisition, forced seizure, or forced	Inflating the prices and quantities of, or taking kickbacks from, public works or procurements	Using government vehicles to transport contraband or carry goods for tax evasion
Year						
2017	1	5	-	2	27	-
2018	10	17	-	2	29	-
2019	3	37	-	1	6	-
2020	16	26	-	3	17	-
2021	2	-	8	1	17	-
Total	32	85	8	9	96	-
Category	Investigation concluded and prosecuted			Convicted after judgments		
Type of crime	Fraudulently obtaining property under cover of legal authority	Abusing opportunities provided by one's position or status for unlawful gains in matters under one's charge or supervision	Abusing opportunities provided by one's position or status for unlawful gains in matters not under one's charge or supervision	Fraudulently obtaining property under cover of legal authority	Abusing opportunities provided by one's position or status for unlawful gains in matters under one's charge or supervision	Abusing opportunities provided by one's position or status for unlawful gains in matters not under one's charge or supervision
Year						
2017	202	59	2	63	33	1
2018	173	62	-	57	17	4
2019	100	37	3	58	21	9
2020	139	36	4	48	31	1
2021	180	45	5	56	25	1
Total	794	239	14	282	127	16

Data source: Department of Statistics, MOJ

#### 44. Promotion Strategies (§19)

Regarding Article 19 of the UNCAC, Taiwan's relevant regulations are already strict, and the punishment for the abuse of power has been prescribed above. However, due to the gap between punishments stipulated in the chapter "Offenses of Malfeasance in Office" of the "Criminal Code"

and the “Anti-Corruption Act,” the National Conference on Judicial Reform in 2017 proposed to consolidate the regulations of the aforesaid chapter of the “Criminal Code” and those of the “Anti-Corruption Act.” The Ministry of Justice also took suggestions from scholars to adjust the contents of punishments and the amounts of fines. In the long run, our criminal legislation aims to effectively achieve the purpose of punishment through appropriate regulations, and to improve crime prevention under the principle of the constitutional state. If, after the amendment, the penalties specified by the “Criminal Code” for punishment of corruption in the public sectors are more complete than those of the “Anti-Corruption Act,” it may be possible to further discuss whether the latter shall be fully integrated into the former, so as to avoid excessive and redundant regulations from special criminal laws. (§19)

## **Article 20 Illicit Enrichment (unjust gain of assets or property of unknown origins)**

### **45. Legal Regulations (§20)**

- (1) According to Article 6-1 of the “Anti-Corruption Act,” in cases during the investigation, a civil servant may be ordered to make an account to the prosecutor of any abnormal increase in their properties or those of their spouse or minor children. In the event of any increase in properties with unreasonable reasons or if the source of such increase cannot be explained reasonably, fixed-term imprisonment will be imposed on them. (§20)
- (2) According to Article 15 of the “Money Laundering Control Act,” for anyone accepts, possesses, or uses the property or the benefits of the property in the event of opening accounts at financial institutions in other people's names or under a false name, getting hold of accounts opened by others at financial institutions, via improper means, or a voiding anti-money laundering procedures, if there is not a reasonable account of the origin of such assets, and if his or her income is obviously disproportionate to the size of such assets, an imprisonment of not less than six months and not more than five years shall be imposed, and a fine of not more than NT\$ 5 million may also be imposed. (§20)
- (3) Paragraph 2, Article 12 of the “Act on Property-Declaration by Public Servants” states that a public servant, obliged to declare properties, has an abnormal increase in properties without a reasonable account shall be imposed of a fine ranging from NT\$150,000 to NT\$3 million, and shall be listed as a civil servant with integrity risks that needs reinforced assessment, to check if there is any

abnormality for the business they are in charge of, so as to effectively prevent any corruption risk of such person. (§20)

#### 46. Statistics (§20)

- (1) Since the implementation of Article 6-1 of the “Anti-Corruption Act,” from 2017 to 2021, there have been a total of two people prosecuted by local prosecutors’ offices after the closure of investigation for cases of unknown origin of property for corruption crimes, and a total of 3 people have been convicted by executing judgments (please refer to Table 20 for details).

**Table 20 Statistics on cases of unknown origin of property against the “Anti-Corruption Act” handled by local prosecutors’ offices**

Unit: Person

Category		Investigation concluded and prosecuted	Convicted after judgments
Year	Type of crime	Unreasonable increases of property and sources of income and failure to provide reasonable explanations	
2017		1	-
2018		-	1
2019		-	1
2020		1	1
2021		-	-
Total		2	3

Data source: Department of Statistics, Ministry of Justice

- (2) As for the determination of whether the increase in property is an “obviously inconsistent” increase, the current judgments by courts state that the so-called “obviously inconsistent” is a normative element without any specific amount and scope, which shall be judged on a case-by-case basis to determine whether the increase of property and income is obviously inconsistent; that is, the income from wages of public servants shall be adopted as the benchmark for the amount of property increase to check whether there is any inconsistent increase in financial resources or property. The required legal duty is to make a reasonable and credible account when the prosecutor orders anyone to explain the source of the suspicious property during the investigation. Failure to satisfy such obligation to make an account with reasonable excuse shall constitute an offense. The Ministry of Justice will continue to publicize relevant opinions to its subordinate prosecutors

agencies and actively collect evidence to facilitate the application of this Article, and judges will make judgments based on the specific circumstances of each case. (§20)

## **Article 21 Bribery in the Private Sector**

### **Concluding observations of the international review committee of the first national report:**

*Measure 26: To combat corruption practices in the private sector (Article 21), the Ministry of Justice Investigation Bureau established the Enterprise Anti-Corruption Section in 2014 to investigate corporate corruption cases, such as bribery, manipulation of stock price, insider trading, kickbacks, and asset draining. This work is supported by outposts around the country staffed with specialized personnel to investigate corporate corruption.*

The Corporate Corruption Prevention Section of the Investigation Bureau investigates and refers corporate corruption cases, and invites relevant agencies to hold “Executive Briefing on Economic Crime Prevention” meetings to review the effectiveness of combating corruption in the private sector and the focus of investigation. Please refer to page 23 of the Report on Responses to the Concluding Observations.

### **47. Legal Regulations (§21)**

- (1) Articles 335 (general offenses of embezzlement), 336 (offenses of embezzlement of public fiduciary duty or for public interest), 339 (offenses of fraudulence) and 342 (breach of trust) of the “Criminal Code” provide relevant punishments. (§21)
- (2) Article 125-2 of the “Banking Act” stipulates a more severe punishment for breach of trust by a bank's responsible person or staff member, and Article 127 of the act also stipulates punishment for those who accept illegitimate benefits. (§21)
- (3) Article 59 of the “Financial Holding Company Act” punishes the responsible person or employee of a financial holding company who violates Paragraph 4 of Article 17 of the Act by accepting commissions, rebates or other unwarranted benefits. Article 62 of the “Act Governing Bills Finance Business” also stipulates punishment for the responsible person or staff members of a Bills House, against Paragraph 2, Article 11 of the Act, accepting, commissions, rebates or any other unwarranted benefit from customers, buyers/sellers, guarantors or others. (§21)
- (4) Article 171 of the “Securities and Exchange Act” stipulates punishment for irregular transactions, breach of trust or embezzlement by a director, supervisor, managerial officer or employee of a company; Article 172 of the Act stipulates punishment for the acceptance of bribes by any director,



supervisor or employee of a stock exchange; and Article 173 of the Act stipulates punishment for the offering of bribes to any director, supervisor or employee of a stock exchange. (§21)

- (5) Articles 108 and 109 of the “Securities Investment Trust and Consulting Act” stipulate punishment for any director, supervisor, manager or employee of a securities investment trust enterprise and securities investment consulting enterprise who solicit, agrees to accept, or accept any property or other improper benefit in connection with the performance of his or her duties. (§21)
- (6) Articles 113 and 114 of the “Futures Trading Act” stipulate punishment for any director, supervisor, manager, mandatary or employee of a futures exchange, futures clearing house and futures trust enterprise who demands, agrees to accept or receives any property or other illegitimate profit in connection with the performance of his duty, or acting in contradiction to his duty . (§21)
- (7) Article 168-2 of the “Insurance Act” stipulates punishment for a responsible person or employee of an insurance enterprise, or any person using another person's name to make investments through which he or she is able to directly or indirectly control the personnel, financial or business operations of an insurance enterprise, operates the insurance enterprise improperly with intent to reap illegal gains for himself/herself or a third party, or to harm the interests of the insurance enterprise, and by such action harms property and interests of the insurance enterprise. (§21)
- (8) Article 38-2 of the “Credit Cooperatives Act of The Republic Of China” stipulates more severe punishment for not less than two responsible persons or staff members of a credit cooperative, causing any damage to the property or other interests owned by the credit cooperative by jointly committing any conduct in violation of their job responsibilities with the intent of receiving illegal gains for the interest of themselves or any third party, or to cause any damage to the credit cooperative. (§21)

#### **48. Promotion Strategies (§21)**

- (1) In order to study and propose legal norms related to bribery in the private sector and in response to social and international concerns about bribery in the private sector, we extensively took reference of foreign legislation and examples while soliciting opinions from representatives of judges, prosecutors, lawyers, scholars and relevant ministries and agencies to develop the legal regulations for bribery in the private sector, and gathering opinions from various circles to reach a consensus on topics such as “Whether the current legal system has any gaps in the punishable

behaviors of corporate bribery,” “Regulating the subject and behavioral patterns of corporate bribery prevention,” “Regulating the impact of corporate bribery on enterprises and risk assessment” and “Regulating the legislative model of corporate bribery prevention” to develop a feasible plan for enacting (amending) laws and regulations. Please refer to II, 4, (1), 1 of the “Recognizing the Responsibilities of Various Organizations such as Foundations and Non-foundation Entities” in the Report on Responses to the Concluding Observations. (§21)

- (2) In the context of the diverse and complex disclosure of abuses and corruption in the private sector, it is necessary to establish a sound system of whistleblower protection, remedy, and exemption from liability to eliminate their fear and provide support for whistle-blowing. We have developed a public-private-merged draft of “Whistleblower Protection Act,” whereby the identity, personal safety and right of work for whistleblowers will be protected. The draft is currently being reviewed by the Executive Yuan, and the legislative work will be put into action as soon as possible after soliciting suggestions from the general public and reaching a consensus. For details on further implementation, please refer to II, 1, (5) of “Protection of Whistleblowers in the Private Sector” in the Report on Responses to the Concluding Observations. (§21)
- (3) In order to combat bribery and other acts of corruption in the private sector, the Enterprise Anti-Corruption Section of the Investigation Bureau is responsible for the investigation of enterprise corruption cases such as accepting kickbacks, tunneling assets, financial corruption and infringement of trade secrets. It maintains outposts around the country staffed with specialized personnel, who investigate enterprise corruption cases. The section boasts a specialized team, superior technology know-how, and comprehensive capabilities in cash flow analyses. It replaces the original hierarchical operating approach with a centralized-team-operating model, which makes for swift communication, evidence gathering, and investigation in order to mitigate corporate losses and protect general investors, thereby establishing a fair competitive environment and nipping crime in the bud. Please refer to II, 1, (4) of “Combating Corruption in the Private Sector” in the Report on Responses to the Concluding Observations. (§21)

#### **49. Statistics**

The Enterprise Anti-Corruption Section of the Investigation Bureau investigated and referred 191 enterprise corruption cases from July 2014 to 2017; therefore, it investigated and referred 259 cases from 2018 to 2021. The statistics are shown in Table 21.

**Table 21 Statistics on numbers and amounts of enterprise corruption cases investigated and referred**

Year	Category	Cases	No. of People	Fine Amount
June 2014 to 2017	Financial corruption	13	82	NT\$7,486,242,116
	Tunneling assets	115	333	NT\$23,570,407,170
	Infringing trade secrets	63	149	NT\$82,985,191,186
2018 to 2021	Financial corruption	30	139	NT\$12,735,456,082
	Tunneling assets	110	317	NT\$25,674,102,492
	Infringing trade secrets	119	294	NT\$483,969,862,720

Data Source: MOJ(MJIB)

## Article 22 Embezzlement of Property in the Private Sector

### 50. Legal Regulations (§22)

- (1) Articles 336 (offenses of embezzlement of public fiduciary duty or for public interest) and 342 (breach of trust) of the “Criminal Code” provide relevant punishments.
- (2) Article 125-2 of the “Banking Act” stipulates a more severe punishment for breach of trust by a bank’s responsible person or staff member.
- (3) Article 57 of the “Financial Holding Company Act,” Article 38-2 of the “Credit Cooperatives Act of The Republic of China” and Article 48-1 of the “Trust Enterprise Act” respectively stipulate punishments for breach of trust by the responsible person or staff of a financial holding company, a credit cooperative and a trust enterprise.
- (4) Subparagraph 3, Paragraph 1, Article 171 of the “Securities and Exchange Act” stipulates punishment for breach of trust or embezzlement by a director, supervisor or managerial officer of a company.

- (5) Articles 58 and 58-1 of the “Act Governing Bills Finance Business” stipulate punishment for breach of trust, embezzlement or fraud by the responsible person or staff of a Bills Finance Company.
- (6) Article 105-1 of the “Securities Investment Trust and Consulting Act” stipulates punishment for breach of trust by a director, supervisor, manager or employee of a securities investment trust enterprise and securities investment consulting enterprise.
- (7) Article 168- 2 of the “Insurance Act” stipulates punishment for a responsible person or employee of enterprise, or any person using another person's name to make investments through which he or she is able to directly or indirectly control the personnel, financial, or business operations of an insurance enterprise, operates the insurance enterprise improperly with intent to reap illegal gains for himself/herself or a third party or to harm the interests of the insurance enterprise, and by such action harms property or interests of the insurance enterprise.
- (8) Article 13-1 of the “Trade Secrets Act” stipulates punishment for the infringement of trade secrets; Article 13-2 of the Act stipulates a more severe punishment for the intention to use trade secrets in foreign jurisdictions in violation of Paragraph 1 of Article 13-1; According to Article 13-4 of the Act, where the representative of a juristic person, the agent or employee of a juristic person or natural person committing any of the crimes prescribed in Article 13-1 or 13-2 in the course of business, not only the actor, but the juristic person shall be punished.
- (9) In view of the current international and cross-strait situation, the theft of industrial trade secrets in Taiwan would severely harm the competitiveness of the industry, which has become a national security issue of great importance to both the Government and enterprises. In order to strengthen the investigation of trade secret infringement cases, enhance the function of companies’ contact windows, achieve the goal of the rapid handling of cases, and curb the expansion of damage, the Investigation Bureau has formulated the “Project Plan for Strengthening the Investigation and Handling of Cases in Violation of the Trade Secrets Act” (the project period was from July 2020 to November 2021) to safeguard national security and interests and protect the lifeline of Taiwan’s economy.
- (10) According to Article 10-1 of the “Securities Investor and Futures Trader Protection Act,” when the investors protection center discovers on the part of a director or supervisor of an exchange-

listed, OTC-listed, or emerging stock company who violates Articles 155 or 157-1 of the “Securities and Exchange Act” or Articles 106 to 108 of the “Futures Trading Act,” or has any conduct in the course of performing his or her duties that is materially injurious to the company or is in violation of laws, regulations or provisions of the company’s articles of incorporation, an action against the director or supervisor on behalf of the company, or an action petitioning a court for a judgment or ruling dismissing the given director or supervisor may be instituted.

#### **51. Statistics (§22)**

- (1) The statistics show that from 2017 to 2021, there have been a total of 5,905 people prosecuted by local prosecutors’ offices after the closure of investigation for 5,850 cases in violation of the “Banking Act,” and a total of 1,379 people were convicted by executing judgments. In addition, there have been a total of 1,592 people prosecuted by local prosecutors’ offices after the closure of investigation for 1,499 cases in violation of the “Securities and Exchange Act,” and a total of 869 people were convicted by executing judgments.
- (2) The statistics show that from 2017 to 2021, there have been a total of 393 people prosecuted by local prosecutors’ offices after the closure of investigation for 1,558 cases in violation of the “Trade Secrets Act,” and a total of 56 people were convicted by executing judgments.
- (3) According to statistics, by 2021, the investors protection center has instituted 70 actions against the director or supervisor on behalf of the company and 71 actions petitioning a court for a judgment or ruling dismissing the given director or supervisor.

### **Article 23 Laundering of Proceeds of Crime**

#### **52. Legal Regulations (§23)**

The “Money Laundering Control Act,” amended and promulgated on December 28, 2016, complies with the relevant regulations of Article 23 of the UNCAC. Article 2 of the Act stipulates relevant punishment for money laundering crimes such as disguising or concealing property or property interests arising from serious crimes of one’s own. Article 3 of the Act also stipulates that related specific crimes involving money laundering are all related to the crime of money laundering in this act, which is in line with the international standards recommended by FATF.  
(§23 I)

#### **53. Promotion Strategies (§23)**

(1) In 2018, Taiwan accepted the third round of mutual evaluation by the “Asia/Pacific Group on Money Laundering” (APG). The Executive Yuan thereby established the “Anti-Money Laundering Office” to coordinate and integrate the money laundering prevention policies and action programs, improve the effectiveness of money laundering prevention. In 2019, Taiwan reached the level of “regular follow-up” which was the best ranking among Asian countries. After the assessment, the Anti-Money Laundering Office of the Executive Yuan continued to promote meetings on the improvement of deficiencies across all agencies, and all agencies in the AML/CFT system continued to improve the deficiencies in the aspects of legislation, supervision and law enforcement. The statistics of prosecuted cases of money laundering from 2017 to 2021 are shown in Table 22.

**Table 22 Statistics on cases handled by local prosecutors’ offices against the “Money Laundering Control Act”**

Year	Number of cases with investigation concluded	Number of individuals of cases with investigation concluded	Number of individuals prosecuted	Prosecution rate (%)	Number of cases executed Individuals subject to a final and binding judgment	Individuals convicted	Conviction rate (%)
2017	61	166	28	16.9%	21	3	16.7%
2018	2,311	2,747	1,977	72.0%	185	162	91.0%
2019	4,094	4,790	3,152	65.8%	375	281	84.4%
2020	4,749	6,465	2,988	46.2%	558	442	83.7%
2021	16,971	19,321	12,913	66.8%	2,749	2,573	96.0%

Data Source: Department of Statistics, Ministry of Justice

(2) In respond to the practical dispute over whether the confiscation of the proceeds of money laundering crimes is limited to the actor, the Ministry of Justice will continue to discuss and revise the relevant laws and regulations.

## **Article 24 Concealment**

### **54. Legal Regulations (§24)**

- (1) Articles 4 to 6 of the “Anti-Corruption Act” stipulate a punishment of imprisonment for a term not less than five years. Article 15 of the Act states that any person subject to the Act who intentionally accepts, transports, conceals, stores or knowingly purchases property which is known to be the proceeds of any the offenses listed in Articles 4 through 6 shall be punished by imprisonment for a term of no more than seven years and no less than one year and may also be punished by a fine of for a term not less than NT\$3,000,000. (§24)
- (2) According to Article 349 of the “Criminal Code,” anyone who receives, transports, accepts for storage, knowingly purchases, or acts as an intermediary for stolen property shall be sentenced to imprisonment for not more than five years or short-term imprisonment; in lieu thereof, or in addition thereto, a fine of not more than NT\$500,000 may be imposed. (§24)
- (3) According to Paragraph 2, Article 38-1 of the “Criminal Code,” if knowingly obtaining the illegal proceeds from the offender, obtaining the illegal proceeds from the offender for free or at a cost that is considerably not reciprocal, and the party being benefited from illegal act committed by the offender for the said party, proceeds of the crime obtained by natural persons, legal persons or an unincorporated body other than the offender shall be confiscated. For criminals who transfer the proceeds of crime to a third party to conceal the properties of the proceeds of crime, there have been provisions for confiscation. (§24)
- (4) According to Paragraph 2, Article 2 of the “Money Laundering Control Act,” disguising or concealing the true nature, source, the movement, the location, the ownership and the disposition or other rights of the proceeds of specified unlawful activity shall also be deemed as money laundering. Article 18 of the Act has expanded the provisions for confiscation. In the event that an offence under Article 14 is committed, the property or the benefits of the property that is transferred, converted, concealed, obscured, accepted, obtained, possessed or used in the offence shall be confiscated. In the event that an offence under Article 15 is committed, the property or the benefits of the property that is accepted, possessed or used in the offence shall also be confiscated. The expanded scope of confiscation of Article 18 of the “Money Laundering Control Act” is more in line with the relevant norms of this article. (§24)

## 55. Important Measures and Practices (§24)

The AMLD of MJIB has established a financial information reporting and feedback mechanism on the basis of the “Money Laundering Control Act” for preventing money laundering, assisting the public and private sector in communication and coordination, and facilitating the tracking and seizing of illegal gains. When a financial institution learns of media coverage on transactions and asset transfers of persons involved in special and major cases, after contacting the AMLD of MJIB and obtaining initial judgment suggests that the cases are related to any of the cases investigated and handled by domestic law enforcement agencies, the financial institution may declare and distribute financial information to effectively assist law enforcement agencies in seizing the illegal gains or developing the investigation. (§24)

## Article 25 Obstruction of Justice

**Concluding observations of the international review committee of the first national report:**

***Measure 30: Strengthen measures against obstruction of justice (A. 25) through The Criminal Law Amendment Taskforce of the Ministry of Justice, which is soliciting opinions from academia and the field of law enforcement and adjudication regarding academia and the field of law enforcement and adjudication.***

After reviewing the existing regulations, the Ministry of Justice plans to submit a draft amendment of the “Criminal Code” to the Executive Yuan to review the crime of destruction of criminal evidence and the addition of the crime of interfering with and retaliating against informants and witnesses. Please refer to page 61 of the Report on Responses to the Concluding Observations.

## 56. Legal Regulations (§25)

- (1) Articles 277 (offenses of causing injury), 302 (offenses of depriving the freedom of movement), 304 (offenses of coercion), and 305 (offenses of extortion) of the “Criminal Code” provide general provisions to protect witnesses. (§25)
- (2) Articles 135 (offenses of obstructing an officer in discharge of duties), 140 (contempt of public servants or agencies), 277 (offenses of causing injury), 302 (offenses of depriving the freedom of movement), 304 (offenses of coercion), and 305 (offenses of extortion ) of the “Criminal Code” provide general provisions to protect the court and law enforcement staff. (§25)
- (3) According to Article 4 of the “Witness Protection Act,” if the life, body, freedom or property of a witness or a person who is closely related to such witness is in jeopardy due to his or her testifying



in court, the court could issue a protective order by a petitioned. The judge may take necessary preliminary measures to protect the witness if the protective order is unable to be issued in time in emergency circumstances. Please refer to the section on Article 32 of the UNCAC. (§25)

- (4) According to Article 95 of the “Court Organization Act,” anyone, who violates orders, issued by the presiding judge, commissioned judge or assigned judge, to maintain courtroom order, which lead to obstructing courtroom proceedings, and refuses to comply after being warned, shall receive a maximum penalty of imprisonment, detention or a maximum fine of NT\$30,000. (§25)
- (5) According to Article 95, 96 and 98 of the “National Judges Act,” there are provisions of imprisonment penalty and monetary fine for national judges, secondary national judges who make unlawful demands, promise or take bribes or engage in other malpractices for unjust gains for refraining from exercising their rights or for exercising such right in a particular manner, or with purpose to refrain from exercising their rights or to exercise such right in a particular manner, or for imposing a criminal offense on those judges and their relatives to purposely take revenge on their exercise of rights, or for prying about statutorily-confidential matters or leaking secrets known for their duties to purposely affect the trial.

#### **57. Promotion Strategies (§25)**

- (1) In order to implement the resolutions of National Conference on Judicial Reform in 2017, ensure the correct exercise of the national judicial power, and discover the truth, the Ministry of Justice has drafted amendments to the “Criminal Code” concerning the crime of destruction of criminal evidence and the addition of the crime of interference and retaliation against informants and witnesses. The draft amendment was submitted to the Executive Yuan on September 17, 2019, and it is currently under review by the Executive Yuan (which has already undergone 4 reviews conducted on November 26, 2019, March 24, August 24, and September 13, 2021, respectively).
  - A. The amendment states that the forgery, alteration, destruction or concealment of evidence by the accused for its own criminal case shall also be punished, and it is expressly stipulated that if the accused confesses before judgment on the criminal case has become final, provisions on reducing or remitting punishment shall also apply. (Amended Articles 165 and 166)
  - B. Chapter 10-1 was added to include the offenses of obstructing the course of justice (Articles 172-1 to 172-8 of the amendment). It includes the crime of absconding, contempt of court, judicial

lobbying, and harassment, bribery and improper measures against witnesses, expert witnesses, interpreters or those with close interests.

- (A) A person harassing a witness with the intent to obstruct testimony shall be sentenced to imprisonment for no more than three years, detention, or a fine of no more than NT\$100,000. In addition, there is another discussion on whether to formulate crimes such as those of obstruction of court, obstruction of justice, and obstruction of Congress in the United States, with reference to the suggestions of scholars and experts, so as to gradually meet the requirements of Article 25 of the UNCAC.
- (B) In order to reflect the meaning of “interference” as stipulated in the provisions of this Convention and maintain the proper exercise of judicial power, in the event of inappropriate words or deeds during the trial or investigation, or resisting the orders or commands of a judge or prosecutor, or obstructing the course of justice, provisions on appropriate punishment shall be added.
- (C) The current law does not punish anyone who “bribes witnesses;” hence, the provisions were amended to state that instigating witnesses to commit perjury, forge, alter or destroy evidence shall be punished.
- (2) For details on the reinforcement of the judicial evaluation mechanism and improvement of specific preventive measures, please refer to the section on Article 11 of the UNCAC.

## **Article 26 Liability of Legal Persons**

### **Concluding observations of the international review committee of the first national report:**

#### ***Measure 27: Establishing the liability of legal persons (Article 26) for participation in corruption and bribery offenses including civil and administrative sanctions.***

The Ministry of Justice will continue to study and promote the corporate bribery prevention and control legislation (amendment), and discuss aspects such as “Whether the current legal system has any gaps in the punishable behaviors of corporate bribery,” “Regulating the subject and behavioral patterns of corporate bribery prevention,” “Regulating the impact of corporate bribery on enterprises and risk assessment,” and “Regulating the legislative model of corporate bribery prevention and control,” and solicit opinions from scholars and practitioners to reach a consensus and develop a feasible plan for enacting (amending) laws and regulations. Please refer to page 59 of the Report on Responses to the Concluding Observations.

## **58. Legal Regulations (§26)**

Article 26 of the UNCAC stipulates that each state party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offenses established in accordance with this Convention. The types of liability of legal persons may be civil, criminal or administrative, subject to the legal principles of the State Party. In Taiwan's legal system, a legal person's liabilities include civil, criminal or administrative liabilities, which meet the above requirements of the UNCAC. The details are as follows:

(1) Civil Liability (§26 I and II)

- A. Articles 26 and 28 of the "Civil Code" stipulate that juridical persons who violate obligations under the Code shall bear civil liability. (§26 I and II)
- B. The GP Act was amended and promulgated on May 22, 2019, and Article 59 of which stipulates the increased civil liabilities of a supplier for giving improper benefits. The procuring entity may terminate or rescind the contract, and deduct two times improper benefits from the contract amount. In the event of failure to deduct from the contract amount, the entity shall notify the supplier to pay it within a time-limit. (§26 I and II)

(2) Administrative Liability (§26 I and II)

- A. The "Administrative Penalty Act" is a general regulation concerning administrative penalties in various administrative laws. The liability requirements for juristic persons to be punished by administrative penalties for violation of their obligations in administrative laws shall be subject to other individual administrative laws and regulations. The administrative agency imposing sanctions shall abide by the principle of proportionality and exercise the principle of discretion (referred to Articles 7 and 10 of the "Administrative Procedure Act"). Where juristic persons are subject to punishment under an administrative act, the intention or negligence of its representatives or managers, or any other person with the authority to represent it, or any of its staff members, employees or workers who commits the act, as the case may be, shall be deemed to be an intention or negligence of such organization, as stipulated in Paragraph 2, Article 7 of the "Administrative Penalty Act."
- B. The GP Act was amended and promulgated on May 22, 2019. Where the tender offered, promised, or delivered improper benefits to the personnel in relation to procurement, the deposited bid bond

shall not be refined or returned, or the refunded or returned bid bond shall be recovered (Article 31), and a suspension for three years shall be applied (Articles 101 and 103).

(3) Criminal Liability (§26 I, II and IV)

Taiwan has inherited the criminal law theory of the criminal law system from mainland Europe. Therefore, although there is no provision for criminal responsibility of legal persons in Taiwan's "Criminal Code," the insufficiency of the Code will be supplemented with the norms in the subsidiary criminal laws in legislative practice. The details are as follows:

- A. Article 127-4 of the "Banking Act" stating that "Although punishment is to be imposed on the responsible person(s) in accordance with other provisions, in the event that the responsible person(s), agent, employee(s) or a staff member(s) of a legal entity commit any of the punishable acts under Article 125 through Article 127-2 of this Act, the legal entity shall also be punished by the administrative fine or criminal fine described in each such article. The preceding Paragraph shall apply to Foreign Banks" is the provisions regarding the liabilities of legal persons. (§26 I, II and IV)
- B. Paragraph 1, Article 16 of the "Money Laundering Control Act" stating that "When a representative, agent, employee or other employed personnel of a legal person commits an offense specified in the preceding two Articles when performing his or her duties of business, the offender shall be punished and the legal person shall be also charged with a fine in accordance with the provisions of the respective applicable article" is provisions on the criminal liabilities of legal persons for the act of money laundering in Taiwan. As for Taiwanese public servants' offenses of accepting bribes, embezzling public or non-public property, and obstructing the course of justice, although there are no provisions on criminal liabilities of legal persons, relevant civil remedies may be adopted. (§26 I, II and IV)
- C. Article 13-4 of the "Trade Secrets Act" stipulates relevant punishment of legal persons and proof of exemption, so that an enterprise takes the responsibility to supervise its employees and prevent them from illegally infringing upon others' trade secrets. In other words, when any employee of the enterprise illegally infringes upon others' trade secrets in the performance of their duties, the enterprise not able to provide evidence to prove that it has fulfilled its obligation of supervision and prevention may be subject to a fine in accordance with the preceding provision.

- D. According to Paragraph 5, Article 49 of the “Act Governing Food Safety and Sanitation,” where the representative of a legal entity or the agent, employees or other practitioners of a legal entity or natural person that commit the offenses from Paragraphs 1 to 3 during the performance of duties, not only shall the wrongdoer be punished but the legal entity or natural person shall also be fined not more than ten times of the fine stipulated in the respective preceding paragraphs. The “Act Governing Food Safety and Sanitation” in Taiwan has provisions on the criminal liabilities of legal persons. (§26 I, II and IV)
- E. Chapter VII of the “Government Procurement Act” stipulates criminal penalties for crimes involving government procurement. Where a representative, agent, employee, or any other staff of a supplier who, in performing his/her duty, commits an offense specified in this Act, the wrongdoer shall be subject to the punishment prescribed in the relevant Articles; in addition thereto, the supplier shall also be subject to the fine prescribed therein (Article 92).
- (4) Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences. (§26 III)
- Taiwan’s current law can punish legal persons, and there is no provision that the liabilities of the legal persons can be exempted because the natural persons who commit the crimes are punished.
- (5) Ensuring that Juristic Persons Held Liable in Accordance with this Article Are Subject to Effective, Proportionate and Dissuasive Criminal or Non-criminal Sanctions (§26 IV)
- A. With the addition of the chapter “Confiscation” to the “Criminal Code,” thereby amended and implemented since July 1, 2016, Article 38-1 of the Code stating that “proceeds of the crime that belong to the offender shall be confiscated. ... proceeds of the crime obtained by natural persons, legal persons or an unincorporated body other than the offender under one of the following conditions shall be confiscated: ...” is a newly-added provision on the confiscation of proceeds of third parties, including natural persons, legal persons or unincorporated organizations, which can fully resolve the deficiencies during the period of the old law. The confiscated proceeds during the period of the old law were limited to those owned by natural persons, which made it impossible to confiscate criminal gains of legal persons, such as the Datong case Tai-Fei-Zi No. 269 of 2015. After the amendment, the legal effect of legal persons’ liabilities under the Code has been standardized. (§26 IV)

- B. There are other relevant regulations such as Article 127-4 of the “Banking Act” which states that “although punishment is to be imposed on the responsible person(s) in accordance with other provisions, in the event that the responsible person(s), agent, employee(s) or a staff member(s) of a legal entity violates any of provisions..., the legal entity shall also be punished by the administrative fine or criminal fine described in each such article. The preceding Paragraph shall apply to Foreign Banks.” (§26 IV)

### **59. Promotion Strategies (§26)**

- (1) For other measures to prevent corruption of juristic persons, please refer to the section on Article 12 of the UNCAC.
- (2) In order to strengthen corporate governance, the “Company Act” has been amended to include the requirement that non-public companies shall also apply the regulations of substantive directors, to include the limited company in the scope of application of the “Principle of Piercing the Corporate Veil,” to simplify the procedures for convening the board of directors, to expand the scope of inspection by inspectors to specific transaction documents within the companies, to aggravate the administrative sanctions to the responsible person of the public companies, and to comply with relevant norms such as international money laundering prevention and control, so as to respond to the rise of new economic development models, the vigorous development of innovative businesses and the challenging needs of economic transformation. (§26)
- (3) National Action Plan on Business and Human Rights

On December 10, 2020, Taiwan announced the “National Action Plan on Business and Human Rights” for the first time based on the norms and spirit of the “United Nations Guiding Principles on Business and Human Rights” to propose future key directions and measures for human rights protection related to business operations, which made Taiwan the second country in Asia to propose such national action plan. This National Action Plan aims to provide a platform to highlight good practices across sectors and businesses, create opportunities for public-private partnerships, and better respond to complex challenges in business and human rights. In the future, a feasibility assessment will be conducted on a number of issues, including whether the legal person’s criminal liability of Taiwanese enterprises or multinational enterprises shall include any other types of punishments in addition to fines.

- (4) In response to the provisions on fines of Taiwan’s current special penalties for legal persons, a comprehensive cross-ministerial review was conducted to examine whether the provisions of the current special criminal law on legal persons’ fines are complete and whether the severities are appropriate, so as to mature the legal framework of criminal liability of legal persons in Taiwan and comply with the regulations of the Convention.

## **Article 27 Participation and Attempt**

### **60. Legal Regulations (§27)**

Taiwan’s laws and regulations contain relevant provisions on participation, attempted offenses and the preparation of offenses. The details are as follows:

- (1) Article 28 of the “Criminal Code” states that “each of the two or more persons acting jointly in the commission of an offense is a principal offender.” Article 29 of the Code states that “a person who solicits another to commit an offense is a solicitor.” Article 30 of the Code states that “a person who aids another in the commission of a crime is an accessory notwithstanding that the person aided does not know of the assistance.” Hence, the requirement of Article 27 of the UNCAC has been fulfilled, which requires to deem anyone participating in an offense determined by the UNCAC in any capacity as co-conspirator, aider or abettor. (§27 I)
- (2) There are also clear punishments on attempted offenses in the “Criminal Code,” including Article 25 (provision on penalties on attempted crimes) and Article 27 (reduced or remitted punishment for renouncing attempted crimes), as well as Paragraph 2 of Article 4, Paragraph 2 of Article 5 and Paragraph 2 of Article 6 of the “Anti-Corruption Act.” (§27 II)
- (3) Articles 87 to 91 of the GP Act stipulate punishments for attempts at bid collusion, bid rigging, and disclosure of confidential information. (§27 II)
- (4) According to Paragraphs 1 and 2, Article 14 and Article 15 of the “Money Laundering Control Act,” anyone involved in money laundering activities prescribed in paragraphs in Article 2 shall be sentenced to imprisonment of not more than seven years; in addition, a fine of not more than NT\$ 5 million shall be imposed. An attempt to commit an offense specified in the preceding paragraph is punishable. In the event of the following circumstances, if anyone accepts, possesses, or uses the property or the benefits of the property without a reasonable account of the origin of such assets, and if his or her income is obviously disproportionate to the size of such assets, an

imprisonment of not less than six months and not more than five years shall be imposed, and a fine of not more than NT\$ 5 million may also be imposed: 1. opening accounts at financial institutions in other people's names or under a false name. 2. getting hold of accounts opened by others at financial institutions, via improper means. 3. avoiding anti-money laundering procedures described in Articles 7-10. An attempt to commit an offense specified in the preceding paragraph is punishable. The above-mentioned provisions provide clear punishments for attempted money laundering crimes. (§27 II)

- (5) According to Articles 121 and 122 of the “Criminal Code” and Articles 4 and 5 of the “Anti-Corruption Act,” it shall be regarded as a crime when “demanding” or “agreeing to accept” bribes for an official act in office or for a breach of duties. The element “demanding” will be satisfied when a unilateral statement of intent by the actor is expressed to demand the delivery of bribes or improper benefits from the counterparty, regardless of whether it is explicit or implicit, direct or indirect. Once the solicitation is made, a crime will be established, regardless of whether the counterparty makes a commitment or not. The element “agreeing to accept” is a situation in which both parties have expressed their intentions to reach an agreement, but the delivery is still pending. Therefore, the current legal system in Taiwan already includes criminal penalties for the preparatory phase of offenses of corruption. (§27 III)

#### **61. Promotion Strategies (§27)**

Article 27 of the UNCAC requires regulations on penalties for participation and attempt. In Taiwan, the provisions of the “Criminal Code” are sufficiently complete and sound, and will still be carefully discussed with reference to the standards of Article 27 of UNCAC in the future.

### **Article 28 Knowledge, Intent and Purpose as Elements of an Offense**

#### **62. Legal Regulations (§28)**

Taiwan's laws and regulations comply with the knowledge, intent and purpose of the criminal elements specified in the UNCAC. The vast majority of the criminal acts punished in accordance with the “Criminal Code” are intentional crimes. Hence, in criminal legislation, for such criminal acts constituted of subjective unlawfulness and intent, the General Provisions of the “Criminal Code” stipulate the definition of intent which could be divided into direct intent (definitely intentional) and indirect intention (not necessarily intentional or not clearly intentional) according



to the subjective mentality of the actor. Referred to Paragraph 1, Article 13 of the Code, a conduct is committed intentionally if the actor knowingly and intentionally causes the accomplishment of the elements of an offense, which is the legal regulation on direct intent. As to Paragraph 2, the same Article, a conduct is considered an intentional commission of an offense if the actor is aware that the act will accomplish the elements of the offense and if such accomplishment is not against his will, which is the legal regulation on recklessness. If the offender is an intentional actor, in addition to the element of intentionality, the other elements of subjective wrongfulness include statutory intention. Since the intention embodies a specific criminal purpose to intentionally realize the elements of wrongdoing, the actor must take an action out of positive direct intent for it to constitute a crime. In addition, according to the rule of evidence in the “Code of Criminal Procedure,” the subjective criminal intent may be inferred from objective circumstances. (§28)

### **63. Major Cases (§28)**

- (1) The judgement of 2017 Tai-Shang-Zi No. 1628 by the Supreme Court provides an explanation for inferring the subjective criminal intent based on objective circumstances, “... Judgments based on the selection of evidence and the degree of proof are all within the discretion and power of the courts for trial on matters of fact. If such discretion and judgment does not violate the rules of ordinary people’s daily life experience or the rules of reasoning, and the reasons for making the determination have been sufficiently discussed in the judgment, it cannot arbitrarily be accused of being illegal and hence serve as the grounds for filing an appeal to the court of the third instance. Further, the distinction between attempted homicide and offenses of causing injury is determined by whether there is homicidal intent when the infringer acts. The existence of such subjective criminal intent shall be based on the overall observation and judgment of relevant factors, such as the motivation of the behavior, the type of weapon used, the part of the victim where the injury is inflicted and the circumstances of the attack, the severity of the victim’s injury, the situation of both parties at the time and their behavior and reactions, to discover the truth.” (§28)
- (2) The judgment of 2019 Tai-Shang-Zi No. 2959 by the Supreme Court provides an explanation for inferring the subjective criminal intent based on objective circumstances, “... the subjective elements of a crime, such as intent, negligence, knowledge, and the subjective intention of the intended crime, all exist in the actor’s mind. Unless the actor makes a confession, the discovery

of the truth usually relies on the cross-reference to external and objective correlative evidence, the comprehensive observation on all the evidence, and trade-offs based on empirical and logical rules.” (§28)

## **Article 29 Statute of Limitations**

**Concluding observations of the international review committee of the first national report:**

***Measure 31: Undertake further consideration of time limits for the right to prosecute corruption and bribery offences (i.e. the statute of limitations, Article 29), ideally to arrive at consensus on the appropriate length of limitations periods, or the suspension of limitations in some circumstances.***

The Ministry of Justice has invited field experts to write a research paper titled “Review of the Statute of Limitation of Criminal Prosecution – The Case of Offense of Bribery of Public Servants” by means of comparative law. Please refer to page 62 of the Report on Responses to the Concluding Observations.

### **64. Legal Regulations (§29)**

- (1) The length of the statute of limitations specified in the “Criminal Code” is determined on the basis of the length of the principal punishment. Hence, Paragraph 1, Article 80 of the Code states that “Prosecution is barred by limitation if not exercised within the following periods: 1. Thirty years for an offense that carries the maximum principal punishment of death or imprisonment for life or for not less than ten years, except for such offense that results in death. 2. Twenty years for an offense that carries the maximum principal punishment of imprisonment for not less than three years and the maximum punishment for less than ten years. 3. Ten years for an offense that carries the maximum principal punishment of imprisonment for not less than one year but not more than three years. 4. Five years for an offense that carries the maximum principal punishment of imprisonment for less than a year, short-term imprisonment, or a fine.” The nature of the power to prosecute is the power of the prosecutor or the victim of a crime to file a complaint with the court to confirm the existence and scope of the national power of criminal punishment. Therefore, the requirements for the extinction of the power to prosecute shall be that the prosecutor or the victim of the crime fails to make prosecution within the certain time limit. Before the prosecution, the court, based on the principle of no trial without complaint, has no way of confirming the existence and scope of the state’s power of criminal punishment. On the other hand, upon prosecution, the

power to prosecute is already exercised, and in principle, there is no problem regarding the statute of limitations. According to the current laws and regulations, the statute of limitations for prosecution is up to 30 years, except for crimes resulting in death, where the limitation does not apply. In addition, Article 83 of the Code stipulates that the period of limitation of prosecution shall be terminated due to the initiation of prosecution, the suspension of investigation by law (such as Article 261 of the “Code of Criminal Procedure”) or a case that the offender has escaped and has been put on the wanted list (referring to Articles 84 to 87 of the “Code of Criminal Procedure”). Regarding a case that “the offender has escaped and has been put on the wanted list” as a reason for termination of the statute of limitations of prosecution is in line with the “suspension of the statute of limitations” stipulated by the UNCAC in the event “where the alleged offender has evaded the administration of justice.” (§29)

- (2) Paragraphs 2 to 4 of Article 40-2 of the “Criminal Code” stating “Confiscation exceeding the statute of limitations specified in Article 80 shall not be executed, except for contraband or unless otherwise specified. This also applies to subjects of confiscation outside the territory of the Republic of China and 5 years after the statute of limitations specified in the preceding paragraph has expired. If confiscation has not been executed or punctually executed over 10 years upon the date judgment is finalized, it shall not be executed.” are the provisions of the statute of limitations for the new legal system of confiscation. (§29)

#### **65. Promotion Strategies (§29)**

At present, there are relevant provisions for the statute of limitations, but the consensus has yet to be reached by judges, prosecutors, lawyers, academics and the general public on how to extend the right of prosecution and the relevant statute of limitations for major acts of corruption in the future. In addition, with regard to crimes that severely infringe upon humans, the “Criminal Code” stipulating “Thirty years for an offense that carries the maximum principal punishment of death or imprisonment for life or for not less than ten years, except for such offense that results in death.” has been implemented since May 31, 2019. (§29)

### **Article 30 Prosecution, Adjudication and Sanctions**

#### **66. Legal Regulations (§30)**

- (1) In order to achieve multiple goals or functions such as protecting legal interests, countering and preventing crimes, safeguarding human rights, and correcting actors, the “Criminal Code” stipulates that the basic principles must be abided by, including the principle of no penalty without a law, the rule of law, the principle of culpability, the principle of proportionality, the principle of cautious penalty, and the principle of humanity. Prosecutors investigating and prosecuting crimes in accordance with the law shall comply with the basic principles mentioned above. Article 2 of the Code states that a public official who conducts proceedings in a criminal case shall give equal attention to circumstances both favorable and unfavorable to the accused. When investigating and prosecuting any crimes, the prosecutor shall fully comply with the due process of law. (§30) Furnished a promissory note or paid the bail amount a person who may act as his assistant or another suitable person within the judicial district. The court may summon the accused to appear in court testify in court.
- (2) The “Code of Criminal Procedure” stipulates alternative methods of detention such as bail, the custody of another and the restriction of residence. In this way, the appearance of the defendant in court for a trial shall be assured by furnishing a promissory note or paying the bail amount, by committing the defendant to the custody of a person who may act as his assistant or another suitable person within the judicial district to urge him to appear in court on time upon summoned, or by restricting his residence. In addition, Article 116-2 of the Code stipulates that the court or prosecutor may, after considering the protection of human rights and public interests and deeming it necessary, designate a considerable period of time and order the defendant to comply with substitute penalties instead of custody, such as reporting to designated authorities, being monitored by technological equipment, being subject to the restriction of the area of activity, being ordered to present a passport or travel document, being prohibited from the disposal of properties, so that the court can effectively grasp the whereabouts of the defendant. Furthermore, the court may order the defendant to appear in court on the date of announcing the judgment during the trial, to prevent him from escaping. A person who has been released from detention may be detained again if he fails to appear without proper reasons after having been legally summoned, or he violates the limitation placed upon his domicile or residence, or a case that he has absconded, or there are sufficient facts to support the concern of his absconding has newly occurred, or he violates the

order to report to the court, the prosecutor or the designated authority periodically (referred to Articles 101-2, 108 through 111, 113 through 116, 116-2, 117, 117-1, etc.). In addition, the “Code of Criminal Procedure” added Chapter 8-1 on restrictions on border and island exit. If a defendant is strongly suspected of having committed an offense as stipulated by law, the prosecutor or the judge may, if necessary, impose restrictions without notice on the exit from the border or the island, which is also one of the independent alternatives to detention and can prevent the defendant from escaping abroad and hindering the exercise of the state’s power of criminal punishment. (§30)

- (3) The parole case of prisoners shall be handled according to Paragraph 1, Article 77 of the “Criminal Code” and Paragraph 1, Article 115 of the “Prison Act.” In accordance with Paragraph 1, Article 116 of the “Prison Act,” a comprehensive judgment on whether or not to grant parole shall include the review of the “criminal offense, behavior in prison, criminal records, effectiveness of education or correction treatment, after-care plan” and other relevant matters. (§30 V)
- (4) According to Subparagraph 4, Paragraph 3, Article 12 of the “Civil Service Performance Evaluation Act,” “being involved in corruption cases which would result in severe administrative liabilities, and there is solid evidence” is one of the conditions for Specific Performance Evaluation for removal due to obtaining two major demerits at one time. Article 18 of the act and Article 24 of its Enforcement Rules stipulate that the civil servant shall be suspended from duty when the removal is still pending, and shall be dismissed only upon conformation. (§30 VI)
- (5) According to Subparagraph 4, Paragraph 1, Article 28 of the “Civil Service Employment Act,” those who have served as civil servants before and committed crimes of corruption, shall not be appointed as civil servants if they have been convicted, or are awaiting judicial procedures. Subparagraph 4, Paragraph 1, Article 9 of the “Regulation Governing the Appointment of Personnel of Agencies under the Ministry of Economic Affairs” also states that those who have served as civil servants before and committed crimes of corruption or embezzlement, shall not be appointed or employed if they have been convicted, or are awaiting judicial procedures. (§30 VII)
- (6) The “Civil Servants Election and Recall Act” stipulates that if a public servant is involved in election bribery and other crimes after being elected, the election commission, prosecutor or the candidates in the same electoral district may, within 30 days commencing from the day when the list of electees is announced, file a lawsuit in the governing court against an electee, claiming the

electee's being elected is invalid. An electee who commits bribery and other crimes is thus sentenced to fixed-term imprisonment without probation shall be suspended from the position or powers on the day of the determined judgment certes. (§30 VII)

- (7) According to the “Local Government Act,” in the event that the court has declared the election winner to be invalid, or that the local administrative chief and local elected representative have committed the crime of bribery and has been convicted and sentenced to imprisonment without probation, if a fine or community service is not imposed in lieu of imprisonment, or that the local administrative chief and local elected representative is accused and convicted of corruption, their duties or posts shall be relieved by their superior self-government supervisory agency. (§30 VII)
- (8) If public servants violate criminal laws and regulations, they will be punished according to the corresponding laws and regulations. If other violations are involved, in addition to reviewing the attribution of responsibilities in accordance with the “Civil Service Performance Evaluation Act,” “Judges Act” and other relevant regulations to impose appropriate punishments, the suspension from their duties and submission to disciplinary proceedings may be exercised in accordance with the provisions of the “Public Functionary Discipline Act” and the “Judges Act.” None of the relevant provisions will prevent the competent authority from exercising disciplinary power over public servants. (§30 VIII)
- (9) Article 1 of the “Prison Act” stipulates that this Act is enacted to assist inmates to reform, cultivate their skills for adapting to social life and achieve correctional goals of prisons. (§30 X)
- (10) The “Rehabilitation Protection Act” was litigated to protect the prisoners discharged from prisons or other individuals protected by this act, to help their self-sustaining, to reintegrate them back into the community, to prevent them from recommitment of crime and to maintain social security. Article 2 of the act stipulates the types of individuals who may be protected, such as the prisoners released from prison after serving the full term of a sentence or absolved, the prisoners released after serving the full term of correctional punishment or being absolved from correctional punishment, the defendants whose sentence has been suspended, the juvenile serving juvenile probation service, and the juvenile under protective restraining. In addition, in order to help those who have been sentenced, sent to prison and subject to other judicial punishments to return to society, those protected according to Article 2 of the “Rehabilitation Protection Act” will be

provided with employment counseling, medical assistance, placement and sheltering, schooling assistance, skill training, emergency assistance, travel expenses, lodgment and the meal expenses, escorting home, household registration assistance, business loans, community visit tracking, family support and other services in accordance with their actual situations and needs, or be referred to relevant agencies (institutions), and will obtain assistance to return to the society and to avoid re-offending through living with relatives, home visits, autonomous external work in correction agencies , or serving a sentence in minimum-security prison. (§30 X)

(11) For details on the “National Judges Act,” please refer to the section on Article 11 of the UNCAC.

### **67. Major Cases (§30)**

- (1) The former Deputy County Magistrate of Taoyuan County and the former Head of Construction and Planning Agency XX, YEH was accused of accepting bribes amounting to NT\$4 million from XX CHAO for the Linkou A7 public housing construction project in 2011 when he was in charge of the Agency. In April 2016, the Supreme Court sentenced him to imprisonment for seven years for offenses of bribery not in violation of the official duties. (§30)
- (2) XX CHUANG, the former vice chairman of Central Motion Co., was accused of misappropriating nearly NT\$750 million from the company on the grounds of land development funds and the purchase of office buildings when the company’s chairperson XX TSAI was abroad. The Supreme Court sentenced XX CHUANG to imprisonment for 8 years and 6 months for the crime of counterfeiting securities and documents. (§30)
- (3) XX YOU, head of the Domestic Investment Division of the Bureau of Labor Funds of the Ministry of Labor, and related parties abused their authority supervising the investment of stocks in listed companies using the labor funds to conspire with XX TANG, CEO of the investment company affiliated to Bao X Group and the investment directors, operating labor funds on behalf of them, of three investment trust companies including Fu X, Tong X, and Chyun X . In August and September 2020, XX YOU purchased a large number of shares from the listed company Yuan X at a high price to the extent of manipulating its stock price, so that the investment companies affiliated to Bao X Group could sell the shares held by Yuan X at a high price, and gained a profit of more than NT\$184.49 million. XX YOU himself accepted luxury banquets and other improper benefits from the investment company affiliated to the Bao X Group as consideration for the

above breach of duty. After the case was concluded by the prosecutor on February 8, 2021, XX YOU and related parties were thereby accused by the prosecutor for their involvement in the offense of bribery for a breach of duties and the offense of gaining unjust benefits under the “Anti-Corruption Act,” as well as the offenses against the “Securities and Exchange Act” and the “Securities Investment Trust and the Consultancy Act.” (§30)

- (4) XX BAI, District Chief of Namasia District of Kaohsiung City, was in charge of general administration of the District and directed and supervised the construction procurement of the affiliated offices. XX BAI asked for bribes from the winning tenderers and thereby obtained a total of NT\$20,484,390 in criminal proceeds. After the investigation was concluded on August 25, 2020, the prosecutor concluded that XX BAI was in violation of the “Anti-Corruption Act” for accepting bribes for an official act and for a breach of his duties, and that the supplier concerned violated the “Anti-Corruption Act” for giving anything of value to the public servant against his official duties and in an act belonging to his duties. Hence, both XX BAI and the supplier concerned were thereby accused by the prosecutor.

#### **68. Promotion Strategies (§30)**

- (1) For the practical operation of parole, it is necessary to review the matters listed in Article 3 of the “Implementation Regulations for the Parole of Prisoners” and consider “the nature and circumstances of the crimes committed,” “performance after offence” and “recidivist risk” as set forth in the “Reference Standards for the Assessment of Parole Cases.” If the criminal proceeds have already been restituted, or there is no possibility of recidivist due to loss of eligibility or qualification, the “performance after offence” and “recidivist risk” will be reviewed in a lenient manner. If the restitutions of the criminal proceeds are not smooth or there are no specific plans of restitutions, the application of parole will be reviewed in a strict manner. (§30 V)
- (2) For details on the “Strengthening Confiscation Policy,” please refer to the section on Article 31 of the UNCAC.
- (3) In accordance with the authorization of the “National Judges Act,” 14 sub-laws shall be formulated to serve as the basis for the practical operation of matters such as the payment of fees for national judges and the compilation of a list of secondary national judges. The Judicial Yuan has studied and formulated various sub-laws in batches in chronological order and accordance



with complexity, and has now issued the “Guidelines for the Preparation and Management of the Primary Selection List of Alternative National Judges,” “Guidelines for the Exercise of the Powers of the Alternative National Judge Review Team,” “Guidelines for the Oath of National Judges and Secondary National Judges,” “Guidelines for Payment of National Judges’ Fees,” “Instructions for the Outline of the Citizens’ Participation in the Judicial Trial System and the Guidelines for Items to be Recorded in the Questionnaire for Candidates for National Judges,” and “Guidelines for the Planning of Citizens’ Participation in Cases under Judicial Trial.” The Judicial Yuan also expects to release the “Guidelines for the Protection of Personal Data of National Judges, Stand-by National Judges and Candidates of National Judges” (tentative title), and will continue to hold relevant consultation meetings for the “Guidelines for the Selection and Appointment of National Judges” (all titles are tentative) to consult experts, scholars, and representatives of central and local administrative agencies, NGO groups and local courts to formulate draft provisions. The notice, title and release of the follow-up regulations will be handled in accordance with the procedures. (§30)

## Article 31 Freezing, Seizure and Confiscation

**Concluding observations of the international review committee of the first national report:**

*Measure 32: Strengthen the fight against money laundering and recover proceeds of crime. The committee notes that Taiwan is currently amending the Company Act to regulate and identify the beneficial ownership of companies and the issuing of bearer shares. The committee encourages Taiwan in this effort including the need to consider prohibiting nominee shares and nominee directors, or to provide other mechanisms to ensure they are not misused for money laundering purposes.*

*Taiwan is also implementing new rules (announced in 2016) for confiscation of proceeds of crime (Article 31) and to improve the management system for frozen and confiscated property.*

Taiwan's "Company Act" has been amended to add the provision requiring that a company shall report the information about its responsible person and major shareholders, and the Company Transparency Platform has been established in response to the amendment. Meanwhile, the "Money Laundering Control Act" has also been amended to prescribe that financial institutions and designated non-financial businesses or staff shall also verify the identity of the ultimate beneficial owner when verifying the identity of the customer. In response to the amendments to Article 473 of the "Code of Criminal Procedure," the amendments to the requirements about confiscation provided under the 8 financial laws are under research in a timely manner. Concerning the results of the implementation of the new confiscation system and for confiscation of proceeds of crime, please refer to Page 25 of the Report on Responses to the Concluding Observations.

*Measure 45: Taiwan has implemented a new system of non-conviction-based asset confiscation. Taiwan is now able to confiscate assets that have been converted to cash.*

The Ministry of Justice will continue to supervise the prosecutorial agencies' establishment of the dedicated mechanisms for confiscating illegal proceeds, strengthen investigation on realization of goods under seizure, and create exclusive accounts dedicated to pursuing the assets gained from any high-profile major cases. Please refer to page 73 of the Report on Responses to the Concluding Observations.

### 69. Legal Regulations (§31)

- (1) Taiwan established "Money Laundering Control Act" in 1996, which is the first special law against money laundering in Asia. The Act was amended significantly in 2016, to expand the definition of specific crimes, relax the criteria for identification of the proceeds of specific crime, and expressly define the punishment for money laundering in three steps, placement, layering and integration. The amendments is aimed to re-build the order of money flows, particularly to

demand that the public and private sectors should practice money-laundering controls, so as to improve Taiwan's money-laundering constitution and connect with international norms.

- (2) According to Article 38 and Article 38-1 of the "Criminal Code," any criminal object (including a thing used in the commission of or preparation for the commission of an offense or a thing derived from the commission of an offense) and proceeds of crime shall be confiscated, as shall the criminal tools. Article 133 of the "Code of Criminal Procedure" provides that an item which can be used as evidence, or that is subject to confiscation, may be seized. Article 13 of the "Money Laundering Control Act" provides that a prosecutor may request a court order to freeze specific transactions involving money laundering under investigation to ensure confiscation of the proceeds of crime in the future. Additionally, specific requirements about the proceeds of crime are also provided in Article 10 of the "Anti-Corruption Act." The "Human Trafficking Prevention Act" sets forth the requirements for preserving seizure to ensure a forced collection. The "Regulations Governing Management, Delivery and Use of the Confiscated Property of Money Laundering Offenses" also provides the requirements for the confiscation of property. (§31 I-VI)
- (3) Article 10 of the "Anti-Corruption Act," Article 18 of the "Money Laundering Control Act," Paragraph 7, Article 171 of the "Securities and Exchange Act" and Article 71-1 of the "Act Governing Bills Finance Business" all stipulate provisions related to the confiscation of proceeds of crime. Among them, Article 10 of the "Anti-Corruption Act" specifies that for offenses prescribed in Articles 4-6, suspicious property and valuables of the offender, his/her spouse and their minor children acquired within three years of the offense shall be regarded as criminal gains if the defendant cannot prove the legality of their sources upon the request of the prosecutor during investigation or under the order of the court during the judiciary proceedings." (§31 I-VI)
- (4) According to Paragraph 3, Article 133 of the "Code of Criminal Procedure," a court or prosecutor may order a financial institution to present any banking, financial or business record. (§30 VII)
- (5) According to Paragraph 2, Article 48 of the "Banking Act" and FSC's letter Jin-Guan-Yin (1)-Zi No. 09510002020 dated May 23, 2006, the judicial, military law, taxation, supervision and audit agencies and other agencies holding the investigation power pursuant to laws may be exempted from the confidentiality obligation to be borne by a bank according to laws. For example, the judicial agency may ask the related banks in official letter for access to the information about the

bank's customer deposits, loans and safes, in accordance with the "Code of Criminal Procedure," "Code of Civil Procedure" and the "Compulsory Enforcement Act." (§30 VII)

- (6) Article 6-1 of the "Anti-Corruption Act" imposes on public servants, suspect of violating specific crimes such as corruption, the obligation to explain abnormal increases in their property from unknown sources, and adequately expands the scope of subjects of offense, relaxes the criteria for the identification of abnormal increases in property and slightly raises the penalty. (§31 VIII-X)

## **70. Major Cases (§31)**

- (1) Since the implementation of Taiwan's new confiscation system as of July 1, 2016, the amount which the prosecutorial agency requested courts to confiscate has amounted to more than NT\$61.7 billion. Among them, the case about the proceeds of crime gained by defendant Wang X flowing to third parties including Yeh X and others, which was pronounced in a separate case, has been thoroughly tried by the Taiwan Taipei District Court upon request of the Taiwan Taipei District Prosecutors Office. As a result, the court ruled to confiscate the proceeds of crime totaling US\$900,146,887.18 (equivalent to approximately NT\$27,355,000,000) plus interest accrued thereon, reflecting the core spirit of the new confiscation system. (§31 I-VI)
- (2) In 2007, the Chairman and Vice Chairman of Happy Life Insurance Company, Ltd. pledged the company's overseas investment assets to the bank as security for a bank loan borrowed by a company established by them in the British Virgin Islands. Upon receipt of the loan, i.e. illegal gains, the company engaged in money laundering via multiple offshore companies' accounts, and eventually remitted a part of the proceeds of crime, US\$36,750,200, to Taiwan from abroad through multi-layer transnational fund transfer, as the source of capital for the acquisition of two parcels of vacant lands beside Taipei 101 (the market value of the which currently reaches more than US\$400 million). The former Special Investigation Division of the Supreme Prosecutors Office petitioned the court to seize the said two parcels of vacant lands under the new confiscation system defined by the "Criminal Code." The Taiwan High Court ruled that the seizure should sustain.

## **71. Statistics**

The amount which has been pronounced to be confiscated by various district courts for defendants' violations of the "Anti-Corruption Act" upon implementation of Taiwan's new confiscation system is shown in Table 23.

**Table 23 Statistics of amounts pronounced by various district courts for confiscation under the "Anti-Corruption Act"**

Year	Monetary amount confiscated (NT\$)
July-December 2016	TWD\$151,124,801
2017	TWD \$555,604,767
2018	TWD \$146,822,983
2019	TWD \$1,080,559,766
2020	TWD \$132,842,216
2021	TWD \$161,375,726

Data source: Judicial Yuan

Explanation of statistics:

1. The statistical data covers the monetary amount pronounced to be confiscated after defendants in the criminal cases concluded by district courts in the first instance were found to have committed any offense against the "Anti-Corruption Act." Nevertheless, it is impossible to confirm whether the same is physically confiscated for violation of the said Act.
2. Data on the amount pronounced to be confiscated has been collected since July 2016.
3. Confiscated foreign currency, if any, is converted at the foreign exchange rate of TWD\$ to the foreign currency.

## 72. Promotion Strategies (§31)

- (1) The Part I, Chapter 5-1 "Confiscation" of the "Criminal Code," the general provisions about seizure for forced collections referred to in Article 133 and subsequent articles of the "Code of Criminal Procedure" and the "Special Proceeding of Confiscation" identified in Part VII-II of the "Code of Criminal Procedure" were implemented on July 1, 2016. Accordingly, other regulations of confiscation, collection, recovery and compensation, enacted before July 1, 2016, will no longer apply. The reversion back to the new confiscation system already satisfies Article 31 of UNCAC requiring that "[e]ach State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation." In order to take a victim's right into account concurrently, Paragraph 5, Article 38-1 of the "Criminal Code" provides that the proceeds of crime having been legally returned to the victim shall not be confiscated, and Article 473 of the "Code of Criminal Procedure" also provides that the rights holders are allowed to claim return of confiscated items or force-collected property within a year

after the judgment is finalized, in an effort to balance the performance of confiscation and protection of victims' rights. At the same time, amendments to certain laws have been successively discussed. For example, the Judicial Yuan has been researching the draft of amendments to Article 473 of the "Code of Criminal Procedure" to adjust the time limits and priority applicable to right holders' or victims' petitions for restitution or transfer of confiscated items. The FSC also discussed the amendments to the 8 financial laws, the "Securities and Exchange Act," "Banking Act," "Financial Holding Company Act," "Credit Cooperatives Act Of The Republic Of China," "Trust Enterprise Act," "Act Governing Bills Finance Business," "Securities Investment Trust and Consulting Act" and "Insurance Act," in a timely manner in response to the said amendments, in order to protect the right to claim damages of a victim in financial crime. Meanwhile, Article 34 of the "Mutual Legal Assistance in Criminal Matters Act," promulgated and enforced on May 2, 2018, stipulates the prerequisites and time limit for restitution or transfer of assets seized or confiscated, or the proceeds value collected to the foreign right-holder via the foreign government. All of these signify Taiwan's efforts in handling confiscation and protecting victims' rights concurrently. (§31)

- (2) The "Mutual Legal Assistance in Criminal Matters Act" also expressly defines, with respect to the seized illegally-obtained property, the method by which the confiscated assets or proceeds value collection shall be shared under the multinational cooperative model in the case that the assistance provided by a foreign government results in Taiwan's successful confiscation of assets or collection of the property related to the crime (Article 33). In case a foreign country has already pronounced a ruling to confiscate, the Act also expressly defines the assistance procedures for the enforcement of the irrevocable and final judgment for confiscation related to the crime rendered by the foreign country, and the process through which the foreign country must petition with Taiwan's court for permission of execution of the confiscation before asking Taiwan for assistance in the enforcement the confiscation (Articles 23-28). With respect to the restitution of illegally-obtained property, in response to the amendments to the Act, the Act stipulates that where there are substantial grounds for believing that a foreign right-holder is entitled to the restitution or transfer of the assets seized, or confiscated, or the proceeds value collected, yet difficult to be restituted or transferred due to reasons, upon the request of the foreign national's government, all

or part of the assets or value shall be transferred to the said foreign government for a further restitution or transfer, insofar as specific conditions are met (Article 34). Further, the Act also expressly states that any request for mutual legal assistance in criminal matters between ROC (Taiwan) and Mainland China, Hong Kong or Macao may apply the Act mutatis mutandis (Article 35 and Article 36). (§31)

### **Article 32 Protection of Witnesses, Experts and Victims**

#### **Concluding observations of the international review committee of the first national report:**

#### ***Measure 33: To examine potential future measures to protect experts (Article 32) from retaliation for giving testimony regarding corruption or bribery offenses.***

The Ministry of Justice has prepared a draft of amendments to the “Criminal Code” to add penalty provisions on harassment, bribery and improper measures against witnesses, expert witnesses, interpreters or those with close interests. The Ministry of Justice also proactively discussed with the Judicial Yuan whether the “Witness Protection Act” shall be amended to have Article 15 of the Act (that the provisions set forth in this Act shall apply to the informant, reporter, complainant or victim) also apply mutatis mutandis to expert witnesses. Please refer to page 62 of the Report on Responses to the Concluding Observations.

### **73. Legal Regulations (§52 I, II and III)**

- (1) According to Paragraph 4 of Article 11, Paragraph 1 and Paragraph 2 of Article 12, and Paragraph 1 of Article 13 of the “Witness Protection Act,” when a witness needs to be protected during investigation or trial, or the life, body or freedom of the witness or a person who is closely related to such witness is in jeopardy, and it is necessary to protect them, or to alternate their life and the place of their work, the judge or prosecutor may immediately order the judicial police agency to assign a police officer to personally protect the witness or the person who is closely related to such witness, or designate an agency to fully assist the witness or the person in getting a relocation. The criminal offenses referred to in Article 2 of this Act also include those prescribed in the “Anti-Corruption Act,” in line with Article 32 of the UNCAC; meanwhile, Paragraph 1, Article 15 provides that the provisions set forth in this Act shall apply to the informant, reporter, complainant or victim. (§32 I and II)
- (2) Related requirements are also provided under the “Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Representative Office and the

American Institute in Taiwan” (hereinafter referred to as the “AIT-TECRO Mutual Legal Assistance Agreement”), “Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Office in the Philippines and the Manila Economic and Cultural Office in Taiwan” (hereinafter referred to as the “Taiwan-Philippines Mutual Legal Assistance Agreement”), “Agreement between the Taipei Economic and Cultural Office in Vietnam and the Vietnam Economic and Cultural Office in Taipei on Judicial Assistance in Civil Matters” (hereinafter referred to as the “Taiwan-Vietnam Agreement on Judicial Assistance in Civil Matters”), “Arrangement between the Taipei Liaison Office in the Republic of South Africa and the South African Liaison Office in Taipei on Mutual Legal Assistance in Criminal Matters” (hereinafter referred to as the “Taiwan-South Africa Mutual Legal Assistance Agreement”), “Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru” (hereinafter referred to as “Taiwan-Nauru Mutual Legal Assistance Agreement”), and “Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize” (hereinafter referred to as the “Taiwan-Belize Mutual Legal Assistance Agreement”). Taiwan will keep making every effort to execute the relevant mutual legal assistance agreements with other countries, and perform them pursuant to Taiwan’s laws on a case-by-case basis. (§32 III)

- (3) According to Paragraph 2, Article 271 and Article 271-1 of the “Code of Criminal Procedure,” the complainant, victim or his family members shall be provided the opportunity to state their opinions. Paragraph 3 of Article 344 of the Code provides that where a complainant or a victim disagrees with the judgment of a lower court, he/she may state the reasons and request the public prosecutor to file an appeal. Article 253-2 of the Code stipulates the requirements for deferred prosecution, Article 255 of the Code is about the ruling not to prosecute rendered ex officio, Article 451-1 of the Code is about a sentence by summary judgment, and Article 455-2 of the Code is about judgment rendered through bargaining procedures. The said provisions are all enacted in order to enable a victim’s opinions and concerns to be expressed and considered. In order to strengthen a victim’s subjectivity in the legal proceedings and maintain the victim’s dignity and needs, provisions about victims’ protection and participation in legal actions have



been added to the “Code of Criminal Procedure” and implemented on January 10, 2020. The general protection measures applicable to victims include the protection of the victims’ and their family members’ privacy; the appropriate isolation and protection between the victims and the accused, attendees or third parties; upon the victim’s agreement, persons who accompany the participants may be present on the site; a case may be transferred for mediation, or referred to another organization to undergo a restorative justice program. Under the system allowing a victim to participate in the legal proceedings, the victim is granted the rights including those to retain, or be appointed by a court, an agent; to access case files and evidence; to receive the notice of hearings and attend the hearings; to appoint the person participating in the legal proceedings on behalf of them; to comment on the preliminary proceedings, investigation of evidence and sentence. (Please refer to the regulations in Articles 248-1 to 248-3, 271-2 to 271-4, and 455-38 to 455-47 of the “Code of Criminal Procedure”). (§32 IV-V)

- (4) The medical assessment conducted by the Medical Review Committee of the Ministry of Health and Welfare in accordance with the Subparagraph 4, Paragraph 1, Article 98 of the “Medical Care Act” refers to that commissioned by the judiciary authority, namely an expert testimony by authorities. Such testimony shall be issued in the name of the Committee without specifying any member’s opinions individually. Given this, no specific natural persons will be asked to serve as expert witness. There have been 1,464 cases accepted for medical assessment commissioned by the judiciary or prosecutorial authority from 2017 to 2020. (§32)

#### **74. Promotion Methods (§32 II, III and IV)**

- (1) Taiwan has already researched and prepared a draft for the public-private-merged version of the “Whistleblower Protection Act,” providing that the relevant requirements under the “Witness Protection Act” apply *mutatis mutandis* to the protection of the whistleblower’s personal safety. For the legislation progress, please refer to the section on Article 33 of the UNCAC.
- (2) Considering that no relevant regulations are enacted for the expert witness, a draft of additions to the “Criminal Code” has been prepared in order to provide the protection of expert witnesses. In order to enable an expert witness to state their opinion thoroughly and free from any external influence lest they should provide an expert testimony different from facts, and to duly exercise the judicial power to access correct litigation information and verify the truth, penalty provisions

on harassment, bribery and improper measures against the expert witness or those with close interests are added accordingly. Please refer to II, 4, (1), 4 “Protection of Expert Witness” in the Report on Responses to the Concluding Observations. The statistics of the protective orders issued to expert witnesses from 2017 to 2021 are shown in Table 24 (§32 I and II).

**Table 24 Statistics of the protective orders issued to expert witnesses from 2017 to 2021**

Year	Category	Approved number of cases	Approved number of persons
2017		23	32
2018		31	58
2019		11	11
2020		16	44
2021		6	16
Total		87	161

Data source: Department of Statistics, MOJ; Judicial Yuan

- (3) Considering that sometimes it is necessary for the requesting states to provide any assurance or an undertaking of reciprocity or the fitness for the scope of the use as stated for mutual legal assistance in criminal cases, in order to urge the requested party to arrange for the personnel to give testimony, statement, expert opinion, or other forms of assistance in Taiwan successfully, such person shall not be subjected to punishment, personal liberty restriction or ban for leaving ROC (Taiwan) territory if the person refuses or fails to appear, testify, or state opinions. Those persons shall also be immune from being compelled to give testimony, statement, expert opinion, or other form of assistance, or shall not be prosecuted, detained, punished, banned to leave ROC (Taiwan) territory or subject to other measure disadvantage to them due to their prior criminal offense before entering ROC (Taiwan). Therefore, where the requested party requests Taiwan to immune the said person from the obligations, duties or liabilities, the Ministry of Justice shall do so in the adequate manner. Article 32 of the “Mutual Legal Assistance in Criminal Matters Act” expressly states that all relevant government agencies of ROC (Taiwan) shall be bound by the undertakings extended by the Ministry of Justice as referred to in the preceding paragraph. Article 31 of the Act also provides that when requesting an assistance from the requested party for interviewing or hearing the accused, witness, expert witness, or any other related persons of the

criminal case, ROC (Taiwan) may, in compliance with the law of the requested party, transmit the interview or hearing to ROC (Taiwan) through a simultaneous audio-video link. (§32 II, III and IV)

### **Article 33 Protection of Reporting Persons**

**Concluding observations of the international review committee of the first national report:**

***Measure 28: Providing rewards, under the “Anti-Corruption Act,” for people who help to expose cases of corruption.***

The Ministry of Justice convenes the “Corruption Reporting Rewards Review Commission Meeting” to review and grant rewards for reporting corruption every year. Please refer to Page 71 of the Report on Responses to the Concluding Observations.

***Measure 29: Prepare and implement private sector whistleblower protections (whether through a new Act or through amendments to existing legislation).***

Taiwan has already discussed and prepared a draft of the “Whistleblower Protection Act” for the protection of whistleblowers in the public and private sectors, and also amended the regulations governing the internal control and internal audit of the financial industry and public companies by including the whistleblowing/complaint channels and related protection mechanisms. Please refer to Page 24 of the Report on Responses to the Concluding Observations.

***Measure 35: Consider incorporating whistleblowing/complaint channels and related protection mechanisms into the norms for internal control measures for the banking, financial holding, securities, and insurance industries, as well as into future inspection items; and to ensure the financial services industry to treat whistleblowers and complaints properly, protect whistleblowers’ rights and interests, and promote enhanced corporate governance in the financial industry.***

The whistleblowing system is identified as the focus of the 2021 financial inspection of financial holding companies, local banks, securities firms, bills finance businesses and insurance companies, in order to conduct the audit on the independence and validity of the whistleblowing system (including internal and external whistleblower channels, whistleblower protection and other internal operating procedures and internal control mechanisms). Meanwhile, the amendments to the regulations governing the internal control and internal audit of the financial industry and public companies by including the whistleblowing/complaint channels and related protection mechanisms are also completed. Please refer to Page 29 of the Report on Responses to the Concluding Observations.

### **75. Legal Regulations (§33)**

- (1) Paragraph 1 of Article 15 of the “Witness Protection Act” provides that the provisions set forth in this Act shall apply to informants, reporters, complainants and victims. (§33)
- (2) Article 18 of the “Anti-Corruption Act” expressly states that any person who exposes the corruption of a public servant to the competent authorities should be awarded and protected. The “Anti-Corruption Informant Rewards and Protection Regulation” provides the legal system dedicated to rewarding and protecting the persons who expose the corruption of public servants to the competent authorities. (§33)
- (3) Point 18 of the “Directions for Handling People’s Cases by Organs under the Executive Yuan” provides that where it is necessary to keep the petition of any citizen in confidence, the authority accepting and handling the petition shall keep it in confidence to uniformly implement the basic protection policy for the protection of the identity of the petitioner or whistleblower in Taiwan. (§33)
- (4) Point 12 of the “Directions for Encouraging the Public to Report Illegal Financial Activities by the Financial Supervisory Commission” provides that the authority responsible for processing financial law violation report shall maintain the confidentiality of the information sufficient to identify the whistleblower, and may request police authorities to take necessary actions in accordance with laws, if necessary, in order to protect the safety of the whistleblower. (§33)
- (5) Amendments to the “Toxic and Concerned Chemical Substances Control Act” were made and promulgated on January 16, 2019. According to Article 67 of the Act, the confidentiality of informant identities shall be maintained, and if a report is verified and a fine assessed, when the amount of the fine reaches a certain threshold, a certain percentage of total collected fine amount shall be provided as a reward to the informant. The special municipality, county or city competent authority shall determine regulations governing the qualifications of informants making reports and receiving rewards, reward percentage, allocation method, and other relevant matters in the preceding paragraph. (§33)
- (6) The “Regulated Recyclable Waste Auditing and Certification Regulations Implementation Directions Regarding the Rewards for Regulated Recyclable Waste Auditing and Certification Groups Reported by the People to the Environmental Protection Administration, Executive Yuan” was enacted on May 27, 2021. Point 6 of the Directions provides requirements for the

confidentiality of the informant's identity. Article 7 of the Directions provides that the accused auditing and certification group shall not adopt unfavorable personnel treatment when establishing the employees' whistleblower protection mechanism. (§33)

## **76. Promotion Strategies (§33)**

- (1) Continue to boost the legislation of the "Whistleblower Protection Act"
  - A. The existing whistleblower protection system is applicable to both internal and external personnel. Nevertheless, criminal acts of corruption are in nature stealthy. In order to encourage the insiders who acknowledge any illegal acts to speak up for reporting, given that the internal staff knows about the malpractice and controls the creditability of valid facts and evidence to a higher degree than external staff, while being very likely to suffer infringement upon their right to work, Taiwan discussed and prepared the draft of the public-private-merged version of the "Whistleblower Protection Act," which is applicable to internal personnel only. It has been formulated in reference to foreign legislation, such as the whistleblower protection acts established by foreign countries such as the UK, Japan and EU countries, which all provide internal staff with protection, so as to get in line with international norms.
  - B. The draft provides the requirements for protection of the identity, personal safety, and the right of work. Meanwhile, provisions on the reduction and exemption of sentences of criminal liability and the inversion of the burden of proof will also be provided, so as to build a better protection mechanism. Among this, the protection of the right to work adopts the "quasi-whistleblowing" concept by including the personnel who cooperate with the investigation, serve as witnesses, refuse to participate in the scandal, and seek remedies pursuant to laws into the protection. Plans about the expansion of the scope of protection are underway.
  - C. The Executive Yuan has submitted the draft to the Legislative Yuan for review on May 3, 2019. Upon review by the Judiciary and Organic Laws and Statutes Committee, Legislative Yuan, in October 2019, it resolved that certain provisions should be retained and subject to negotiation in the Legislative Yuan. Because legislators were re-elected upon expiration of the original term of office on February 1, 2020, the legislation was not completed due to re-election of the legislators. The Ministry of Justice has submitted the draft to the Executive Yuan for review on February 20, 2020, and September 22, 2020, respectively. The Executive Yuan invited various agencies to

convene review meetings on March 11, 2020, and June 5, 2020. Since a lot of the opinions about the details including the legislative model of the draft, scope of malpractice, reporting procedure and corporate governance are provided by various sectors, upon compilation of the opinions from various sectors, the Ministry of Justice again submitted an amended draft to the Executive Yuan for review on December 2, 2021. The Executive Yuan convened the 3rd review meeting on January 4, 2022.

D. In order to push the legislation as quickly as possible, the Executive Yuan promoted the legislation of the “Whistleblower Protection Act” on October 28, 2020, as one of the commitments of Taiwan’s “Open Government Action Program.” The Ministry of Justice has also invited external experts, scholars and non-governmental members on November 16, 2020, to hold work seminars in groups to formulate specific progress measurement indicators. From December 2020 to March 2021, it has successively updated and supplemented amendments to the draft, and the promoted progress in the “Whistleblower Protection Section” on the official website of the AAC to enhance information transparency and implement public participation. Meanwhile, it convened a presentation conference to boost the draft to non-governmental members on August 30, 2021. It hopes to complete the legislative work as soon as possible in order to establish and improve the protection, relief, immunity and right to work system for whistleblowers, so that the general public may proactively disclose any illegal and improper acts without worries.

(2) Corruption Informant Award

The Ministry of Justice convenes the “Corruption Reporting Rewards Review Commission Meeting” to review the applications under the “Anti-Corruption Informant Rewards and Protection Regulation.” Please refer to II, 4, (3) “Corruption Informant Award” in the Report on Responses to the Concluding Observations.

(3) Amend the regulations governing the internal control and internal audit of the financial industry by including the whistleblowing/complaint channels and related protection mechanisms

The FSC has included the whistleblowing/complaint channels and related protection mechanisms into the regulations governing internal control and internal audit of the banking, financial holding, securities and insurance industries, and also into the scope of inspection. As of 2021, there are 16

financial holding companies, 36 banks, 68 securities firms engaged in securities trading business exclusively, and 41 insurance companies adopting the whistleblowing channels and protection system. Please refer to II, 1, (5) “Protection of Whistleblower in the Private Sector” and II, 1, (7) “Whistleblowing/Complaint Channels and Protection Mechanism of the Financial Industry” in the Report on Responses to the Concluding Observations. (§33)

- (4) Amend the regulations governing the internal control and internal audit of public companies by including the whistleblowing/complaint channels and related protection mechanism

The “Ethical Corporate Management Best-Practice Principles for TWSE/GTSM Listed Companies” expressly states that a TWSE/TWSE -listed company shall set forth a specific whistleblowing and protection mechanism. Please refer to II, I, (5) “Protection of Whistleblower in the Private Sector” in the Report on Responses to the Concluding Observations. (§33)

- (5) National Action Plan on Business and Human Rights

The Plan is prepared for multiple issues, including continuously improving related remedy systems and encouraging enterprises to establish its internal complaint channels, and also improve the legislation of whistleblower protection by encouraging and protecting the persons with the bravery to expose infringements upon human rights, strengthening the confidentiality, personal life and right to work of the whistleblower, in order to improve the effective utilization of various remedy and complaint channels.

## **Article 34 Consequences of Acts of Corruption**

### **77. Legal Regulations (§34)**

- (1) According to the GP Act, the measures applied to contractors in breach of laws (including corruption) includes non-refunding or recovery of the bid bond, non-refunding of the guarantee bond, refusal to award, revocation of the award, termination or rescission of the contract, deduction of improper benefits, and publication of suspension for 1 or 3 years on the government gazette (Article 31, Article 32, Article 50, Article 59 and Article 101). The contractor and personnel suspected of bid rigging, procurement fraud and disclosure of secrets shall be sentenced to certain penalty (Articles 87 to 92). In order to take care of bona fide third parties, Article 58 of the “Enforcement Rules of the Government Procurement Act” stipulates the proceeding means

where an entity revoked the award or rescinds the contract pursuant to Article 50 of the “Government Procurement Act.” (§34)

- (2) With respect to acts of corruption by government agencies, if illegalities occur in administrative dispositions, Article 117 and subsequent articles of the “Administrative Procedure Act” provides that unless no withdrawal may be made under certain circumstances, the authority rendering the disposition or its superior authority shall withdraw the unlawful administrative disposition within two years from the date on which it becomes aware of the existence of a reason for withdrawal (see Article 121). Furthermore, where the law or regulation or the facts based on which a lawful administrative disposition is rendered has undergone changes to the extent that the disposition would result in material detriment to the public interest if not revoked, or where revocation is intended to prevent or eliminate material detriment to the public interest, the authority rendering the disposition may revoke the disposition within two years from the date on which it becomes aware of the existence of a reason for revocation (see Article 123 and Article 124). Where an administrative disposition which grants benefits becomes ineffective retroactively in consequence of withdrawal or revocation, the administrative agency is entitled to order beneficiaries to return anything and everything they have received by virtue of the disposition based on a written administrative disposition rendered in accordance with Article 127 of the Act, as the legal reason why the counterpart enjoyed the benefit no longer exists. (§34)
- (3) The relevant requirements about an administrative agency’s execution of administrative contracts are provided in Article 135 and subsequent articles of the “Administrative Procedure Act.” Articles 141 to 143 of the Act also expressly state the circumstances resulting in invalidity of the administrative contract. Article 149 of the Act stipulates: “Matters relating to administrative contracts not provided for in this Act shall be governed by provisions of the Civil Code as applicable *mutatis mutandis*.” Accordingly, when an administrative agency enters into an administrative contract with a citizen, but the validity of which is affected as a result of corruption, the validity of such contract shall be determined in accordance with the “Administrative Procedure Act” or *mutatis mutandis* application of provisions of the “Civil Code.” *mutatis mutandis*, subject to the concrete facts. (§34)



- (4) Article 10 of the “Anti-Corruption Act” provides that “For offenses prescribed in Articles 4-6, suspicious property and valuables of the offender, his/her spouse and their minor children acquired within three years of the offense shall be regarded as criminal gains if the defendant cannot prove the legality of their sources upon the request of the prosecutor during investigation or under the order of the court during the judiciary proceedings.” Meanwhile, according to Paragraph 5 of Article 38-1 of the “Criminal Code”: “The proceeds of crime having been legally returned to the victim shall not be confiscated or collected.” Accordingly, the proceeds of crime in a corruption case, if any, which belong to the victim, shall be returned to the victim. (§34)
- (5) The subject of seizure and confiscation under the new confiscation system of the “Criminal Code” is limited to offenders or mala fide third parties only, excluding bona fide third parties. Adequate protection measures have been stipulated to protect bona fide third parties’ rights. A mala fide third party refers to the natural person, legal person or unincorporated body prescribed in Paragraph 2 of Article 38-1 of the “Criminal Code.” Where a third party disputes that it is not a mala fide third party, Part VII-II (namely Article 455-12 and subsequent articles) of the “Code of Criminal Procedure” stipulates the special proceeding of confiscation which the third party may participate in to ensure the third party’s right to be protected in the legal proceedings. (§34)
- (6) For the mechanism handling restitution of assets seized and confiscated to a victim, please refer to the section on Article 31 of the UNCAC.

#### **78. Promotion Strategies (§34)**

- (1) The 2017 National Conference on Judicial Reform resolved to consolidate the offenses of malfeasance in office under the “Anti-Corruption Act” and “Criminal Code” (elements and sentence of the crime). The Ministry of Justice will thoroughly consider the protection of the rights acquired by a third party bona fide in the process of consolidation. (§34)
- (2) The amendments of the GP Act promulgated under Presidential Decree on May 22, 2019, has increased the punishment on bribery, The prohibition on facilitating the agreement of a contract by giving improper benefits has extended to all tendering procedures, rather than only selective tendering procedures and limited tendering procedures. The fine imposed on giving improper benefits has been increased from one time to two times (Article 59). Provisions that the bid bond shall be non-refundable or subject to recovery where the tenderer offered, promised, or delivered

improper benefits to the personnel in relation to procurement (Article 31), and a suspension of the tenderer for three years shall be applied (Article 101 and Article 103) have been added to the Act. For example, in the contract awarded by X Hospital in Taipei for the “Computer Server and Control Room Peripheral Equipment Maintenance Project,” the tenderer was suspected of offering, promising or delivering improper benefits to the personnel in relation to procurement. Accordingly, the entity published the tenderer on the Government Procurement Gazette pursuant to the Act laws in 2020, and suspended the tenderer for three years. (§34)

79. For details on the related legal regulations and promotion strategies on a legal person’s liability, please refer to the section on Article 26 of the UNCAC.

### **Article 35 Compensation for Damage**

**Concluding observations of the international review committee of the first national report:**

*Measure 36: Strengthen systems for compensation for damage from acts of corruption (Article 35) through a draft amendment to the “State Compensation Law.”*

The draft of amendments to the “State Compensation Law” prepared by the Ministry of Justice is now under examination by the Executive Yuan. Please refer to page 72 of the Report on Responses to the Concluding Observations.

### **80. Legal Regulations (§35)**

- (1) The “State Compensation Law” expressly states that the state shall be liable for any damage arising from the intent or negligent act of any public servant acting within the scope of his or her office or employment which infringes upon the freedom or right of any person. The Law also provides substantive procedures by which the person may claim the state compensation. Upon the state compensation for the damage to the person, where the compensation is found to have resulted from the intention or gross negligence of the public servant, or the defective public construction work results from the corruption of the public servant, the compensating authority shall have the right to reimbursement from the said public servant (Paragraph 3 of Article 2 and Paragraph 5 of Article 3). Furthermore, an executor from an organization or an individual mandated with the function of public office, when exercising public power, shall be deemed to be a public servant of the mandating organization. In case of acts of corruption and the illegal exercise of public authority resulting in state compensation, Paragraph 2 of Article 4 of the Act

stipulates that the compensating agency may reimbursement from the mandated organization or individual exercising public authority. (§35)

- (2) The “Criminal Compensation Act” expressly states that where a citizen suffers special sacrifice due to the power of criminal punishment exercised by the state against their physical freedom or property (e.g. detention, detention for expert examination or civil commitment, the punishment for an offense, or execution of corrections which puts restrictions on personal freedom) under any of the circumstances referred to in Article 1 and Article 2 of the Act, they may claim the state compensation. The compensation agency is entitled to seek indemnification from the public servant under the law who commits malfeasance due to his/her intentional or grossly negligent act, resulting in the claimant’s claim of compensation, after the compensation agency makes compensation, in accordance with the provisions of the “State Compensation Law.” (§35)
- (3) Where any private sector’s acts of corruption causes damage to another person’s rights and interests, the victim may claim damages, subject to the circumstances, under the provisions about tort of the “Civil Code” (Articles 28, 184, 188, and 192-195) or debtor’s non-performance (Articles 224 and 226-227-1) of the Code. (§35)

#### **81. Promotion Strategies (§35)**

- (1) Research on the draft of amendments to the “State Compensation Law”

On September 3, 2021, the Executive Yuan submitted the draft of amendments to the “State Compensation Law” to the Legislative Yuan for review:

- A. In order to strengthen the right to claim state compensation and satisfy the “Agency Compensation System” for the uniformity between power and responsibility, the draft expressly defines the required expenditure for the state compensation of the first-level and second-level central government agencies should be handled through their own budgetary procedures. Meanwhile, Article 7 of the draft expressly states that where any agency omits to exercise the right to claim compensation, the superior agency may order it to exercise the right within a specific time limit; otherwise, the superior agency may exercise the right on behalf of it. Until the draft of amendments has become law, the Ministry of Justice will continue to remind the agencies to carry out compensation obligations through official letters in accordance with laws whenever handling the state compensation allocation.

- B. For the exercise of the public authority against laws, the related provisions about state compensation and claims are stated as follows: “The state or local self-governing body shall be liable for any damage arising from the intent or negligent act of any public servant acting within the scope of his or her office or employment which infringes upon the freedom or rights of any person. The same shall apply when omission to act within the scope of a public servant’s office or employment due to intention or negligence results in damage to the freedom or rights of any person (Paragraph 1 of Article 3 of the draft).” and “Should the damages referred to in Paragraph 1 of Article 3 or Paragraph 1 of the preceding article, in the case of a public servant, or Paragraph 1 of Article 5, in the case of a judge or prosecutor, result from an act committed with intent or gross negligence, the compensating authority shall have the right to reimbursement from the said public servant, judge or prosecutor (Paragraph 1 of Article 7 of the draft).”
- (2) The “Overview of New Compensation Incidents by Central Government Agencies” will be submitted to the Control Yuan for review once per two months. Meanwhile, the Ministry of Justice will also request that the agencies concerned should issue an “Overview of Results of Review and Implementation of Claims” to it semiannually, which it will forward to the Control Yuan for review subsequently. For details, please refer to II, 4, (4) “Improvement of the Corruption Compensation System” in the Report on Responses to the Concluding Observations. (§35)

### **Article 36 Specialized Authorities**

**Concluding observations of the international review committee of the first national report:**

***Measure 6: The establishment of the Ministry of Justice Investigation Bureau (MJIB) in 1949 and the Agency Against Corruption (AAC) in 2011 as the two agencies conducting anti-corruption work.***

***Measure 11: In the meantime, the MJIB and AAC should continue to work closely together in the investigation of corruption cases in both the public and private sectors.***

The AAC is in charge of anti-corruption in the public sector, and applies the one-stop administrative resources from the various administrative agencies subordinated to it. The investigation of corruption and corporate crime in the private sector is handled by the MJIB. Therefore, both can exert their own strengths to prevent corruption in the public and private sectors respectively. The AAC establishes a horizontal communication platform with the MJIB with respect to the anti-corruption work, in order to settle disputes over repeated filing and jurisdiction over cases between both parties. If necessary, prosecutors are allowed to direct the cooperation between both parties or

help investigation with each other, in order to realize the maximum results of “divide and conquer and interlocking fire” and enable both parties to communicate and work with each other at the business liaison meetings convened periodically. Please refer to Page 53 of the Report on Responses to the Concluding Observations.

## **82. Legal Regulations (§36)**

- (1) In terms of the combating of corruption, prosecutors play the leading role in criminal investigation in Taiwan, and various judicial agencies assisting the investigation (e.g. the police, MJIB and AAC, etc.) perform anti-corruption work in various manners under the coordination and direction by the prosecutorial agency. According to the organizational laws and regulations, the AAC handles the investigation of corruption or related crimes, serving as a single specialized agency for the development and enforcement of integrity policy. The MJIB handles the prevention of corruption and investigation of bribery in elections, prevention and control of serious economic crimes (including corporate corruption), and the investigation and prevention of money laundering. The police agency is responsible for performing the police’s job duties. The prosecutor of the prosecutorial agency, based on the “Code of Criminal Procedure,” directs and coordinates the personnel of the AAC, MJIB and police agency to jointly investigate criminal offenses set forth in the UNCAC and file complaints with the court. These agencies are referred to as the “law enforcement agencies” under Article 37 of the UNCAC. (§36)
- (2) Please refer to the General Discussion – I.D Anti-corruption System Division of Duties.

## **83. Important Measures and Practices (§36)**

- (1) Taiwan established the AAC on July 20, 2011, which performs composite functions for the prevention and investigation of corruption. Prior to the establishment of the AAC, all Government Employee Ethics Units would each relay gathered corruption evidence to the MJIB for intensified collection of evidence, following which requests for prosecution would be made to the prosecutorial agency. In response to the set up of the AAC, the “Resident Prosecutor” system was established by combining the current system of criminal investigation, conceived as an innovative model for combating corruption. Under this system, the Ministry of Justice assigns prosecutors to the AAC specifically charged with the investigation of corruption and related crimes. This enables the earlier submission of cases to the prosecutors, who employ a multi-tiered filtering and verification mechanism to develop more accurate and timely criminal evidence. As the

prosecutors direct the investigation from the very beginning, they can have greater autonomy with less interference. (§36)

- (2) The AAC is not the only specialized anti-corruption authority. The MJIB has been in charge of investigating corruption since August 1956, and has also handled the investigation of bribery in elections since 1991. The “Directions for Fighting Corruption and Liaising between the Ministry of Justice Investigation Bureau and the Agency Against Corruption, Ministry of Justice” provide a method of pincer movement to jointly combat corruption. By October 2021, both parties have worked with each other in a total of 180 cases. For details, please refer to II, 3, (2) “Continuing Close Cooperation between the Agency Against Corruption and the Investigation Bureau” in the Report on Responses to the Concluding Observations. (§36)
- (3) In addition to carrying out anti-corruption investigations, the AAC coordinates and supervises Government Employee Ethics Units in charge of the matters concerned with government employee ethics such as prevention and investigation of corruption. It also provides professional competency training to in-service Government Employee Ethics Officers on how to investigate corruption and related crimes (e.g., annual and irregular trainings on documentation of interrogation reports, collection of evidence, practical investigation and prosecution, searches and seizures, and government procurement cases, etc.) in order to get a comprehensive overview of the integrity of the government. The one-stop authority system also helps to maintain the independent position of Government Employee Ethics Officers in the exercise of their duties and powers. (§36)
- (4) Apart from the investigation of cases of corruption, the MJIB directs, during political elections, the “Election Bribery Investigation Task Force” that oversees field offices and stations to support prosecutorial personnel and to strengthen the investigation of bribery. Meanwhile, the “Enterprise Anti-Corruption Section” of the Economic Crime Prevention Division, MJIB, is primarily responsible for the investigation of corporate corruption cases including stock exchange crimes, financial corruption, misappropriation of corporate assets and trade secrets, i.e., the core business affairs handled by the MJIB. It not only works with other government departments over the long term to improve its strengths and performance of investigation, but also provides experience in the investigation of corruption cases in the private sector. Through exchange and promotion with

the private sector, it helps to facilitate the capabilities for countering corruption inside enterprises. (§36)

#### **84. Promotion Strategies (§36)**

The prosecutorial agencies at all levels, the AAC, and the MJIB are all tasked with conducting judicial investigations to fight corruption. The Government Employee Ethics Units at all levels also perform their job duties on administrative investigation of corruption cases. If corruption cases occur, they may render mutual assistance, based on the “Directions for the Exercise of Duties and Liaising between Prosecutors and the Judicial Police Authorities,” “Directions for Fighting Corruption and Liaising between the Ministry of Justice Investigation Bureau and the Agency Against Corruption, Ministry of Justice” and “Directions for Government Employee Ethics Units in Government Organs Regarding Cooperation with Investigations of Corruption Coordinated by the Agency Against Corruption, Ministry of Justice,” in order to raise Taiwan’s capacity to fight against corruption. (§36)

### **Article 37 Cooperation with Law Enforcement Authorities**

#### **85. Legal Regulations (§37)**

- (1) For the “law enforcement agencies” referred to in the UNCAC, please refer to the section on Article 36 of UNCAC.
- (2) Article 14 of the “Witness Protection Act” provides that a defendant or suspect who committed or allegedly committed the criminal offenses may cooperate with the prosecutor for reduction or exemption of the punishment. (§37)
  - A. Paragraph 1 stipulates: “Any defendant or suspect who committed or allegedly committed the criminal offenses set forth in Article 2 helps prosecutor to prosecute other principal offenders or accomplices by providing material testimony or evidence, his or her sentence shall be reduced or exempted with prosecutor’s prior approval.” Paragraph 3 of the same Article stipulates: “If any defendant or suspect, who is not a principal offender or an accomplice in the criminal offenses set forth in Article 2 but helps the prosecutor to prosecute other accomplices committing a more serious offense by providing material testimony regarding the accessory before the fact,

accessory during the fact and accessory after the fact, is prosecuted, his or her sentence may be reduced or exempted with prosecutor's prior approval."

- B. Paragraph 2 stipulates: "After considering each and every relevant matter, the prosecutor may assent to drop the charges against a defendant or suspect who is not a principal offender or an accomplice in the criminal offenses set forth in Article 2 but helps the prosecutor to prosecute other accomplices committing more serious offense by providing material testimony regarding the accessory before the fact, accessory during the fact and accessory after the fact."
- (3) Paragraph 2, Article 8 of the "Anti-Corruption Act" and Paragraph 1, Article 14 of the "Witness Protection Act" specify the sentence reduction/exemption for disclosure of an accomplice in a criminal case, known as one of the "Leniency Policy Clauses" for the so-called white-collar crimes under the law, or planned and strictly organized crimes committed by crime syndicates that are generally hard to uncover and capture. For the effective combating of crimes to protect the country and society, and as encouragement for insiders to turn themselves in by acting as informants to uncover crimes committed by other members, leniency will be granted to these confessors and informants in the legal proceedings in exchange for the eradication and disintegration of the crime syndicates and the offenders in criminal justice. This arrangement is to encourage criminals to surrender themselves to and help uphold criminal justice. This is a typical example of the collaboration between the people and public sector. (§37)
- (4) For details on the protection of witnesses, please refer to the section on Article 32 of the UNCAC.

#### **86. Promotion Strategies (§37)**

Article 2 of the "Mutual Legal Assistance in Criminal Matters Act" expressly states: "To the issues concerning international mutual legal assistance in criminal matters, treaties apply; ..."

Subparagraph 1 of Article 4 of the Act stipulates: "... Providing or accepting legal assistance... regarding criminal procedures in connection with investigation, prosecution..." These form the legal basis of Taiwan's internal system of law to conclude relevant agreements with foreign countries. Furthermore, under the existing legal system of Taiwan, the Mainland China is not included in the said foreign governments, institutions, or international organizations. In order to settle disputes over mutual legal assistance in criminal cases between Taiwan and the Mainland China and in line with actual needs, under the current legal framework for cross-strait relations



and in response to Article 3 (regarding communication bodies) of the “Cross-Strait Joint Crime-Fighting and Judicial Mutual Assistance Agreement,” Article 35 of the “Mutual Legal Assistance in Criminal Matters Act” provides that this Act shall apply mutatis mutandis to any requests for mutual legal assistance in criminal matters between Taiwan and the Mainland China, with the Ministry of Justice of Taiwan and the authorities designated by the Mainland China as the competent authorities respectively. Meanwhile, relations with Hong Kong and Macao are subject to the norms of the “Laws and Regulations Regarding Hong Kong & Macao Affairs.” In respond to actual needs, under the current legal framework for relations with Hong Kong and Macao, Article 36 of the Mutual Legal Assistance in Criminal Matters Act provides that this Act shall apply mutatis mutandis to any request for mutual legal assistance in criminal matters between Taiwan and Hong Kong or Macao, with the Ministry of Justice, via the Mainland Affairs Council, and the authorities designated by Hong Kong or Macao as the competent authorities respectively. (§37)

## **Article 38 Cooperation between National Authorities**

### **87. Legal Regulations (§38)**

- (1) Articles 228 to 231-1 of the “Code of Criminal Procedure” regulate how prosecuting investigators, judicial police officers and judicial police shall assist a prosecutor in investigating an offense, obey the instructions and orders of a prosecutor in investigating an offense and transfer or report their findings to the prosecutor. Article 241 of the Code stipulates that a public official who, in the execution of his official duties, learns that there is suspicion that an offense has been committed must report it. Article 247 provides that a prosecutor may request from a competent public office any report necessary for an investigation. Lastly, Article 249 provides that, if necessary, a prosecutor may also request a nearby military officer to send troops to assist. (§38)
- (2) Articles 9 and 10 of the “Money Laundering Control Act” stipulate that financial institutions (banks, trust and investment corporations, credit cooperative associations, credit departments of farmers’ associations, credit departments of fishermen’s associations, the Agricultural Bank of Taiwan, postal institutions handling postal savings, bills finance businesses, credit card companies, insurance companies, securities companies, securities investment trust enterprises, securities

finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, futures commission merchants and trust enterprises) shall report currency transactions equal to or above the applicable designated threshold or all suspicious transactions which may involve any of the offenses described in Articles 14 and 15 of the Act to the MJIB. (§38)

- (3) Articles 13 and 14 of the “Anti-Corruption Act” also stipulate that the immediate superior and a person responsible for supervision, accounting, auditing, crime investigation, inspection, or government ethics and internal affairs who discover acts of corruption in the performance of their duties have the obligation to report them. (§38)
- (4) “Directions for the Exercise of Duties and Liaising between Prosecutors and the Judicial Police Authorities,” “Directions for Fighting Corruption and Liaising between the Ministry of Justice Investigation Bureau and the Agency Against Corruption, Ministry of Justice” and “Directions for Government Employee Ethics Units in Government Organs Regarding Cooperation with Investigations of Corruption Coordinated by the Agency Against Corruption, Ministry of Justice” all serve to strengthen cooperation among government agencies. (§38)

#### **88. Important Measures and Practices (§36)**

- (1) In order to establish a robust anti-corruption organization for the prosecutorial agency, the Supreme Prosecutors Office sets forth the anti-corruption practices and goals to improve the anti-corruption performance. The “Directions for the Implementation of Anti-Corruption Work by Prosecutorial Agencies” were amended on September 26, 2020, to stipulate that the Supreme Prosecutors Office shall set up an anti-corruption supervision group, and district prosecutors offices shall set up their own anti-corruption execution groups. The Directions also expressly state that various district prosecutors offices shall investigate and pursue corruption crimes under a team-work model in which the chief prosecutor plays the leading role to consolidate and coordinate the division of cooperation among the prosecutors, the AAC, the MJIB, and Government Employee Ethics Officers within their jurisdictions, in order to effectively pursue crimes of corruption, correct government ethics and achieve the goal of a clean government.
- (2) The Executive Yuan convenes the “Economic Crime Prevention Conference” annually, with the MJIB acting as the conference’s secretariat. The interdepartmental conference brings together the Ministry of Justice (Department of Prosecutorial Affairs, Taiwan High Prosecutors Office),

Ministry of the Interior (National Police Agency, National Immigration Agency), Fair Trade Commission, Ministry of Foreign Affairs (Bureau of Consular Affairs), FSC (Banking Bureau, Securities and Futures Bureau, Insurance Bureau, Financial Examination Bureau), Ministry of Economic Affairs (Department of Commerce, Intellectual Property Office) and other units around the theme of current economic crime and corporate corruption and with a focus on the prevention of serious economic crime (including corporate corruption). (§38)

- (3) The AMLD, MJIB, serves as Taiwan's financial intelligence unit (FIU), established according to international anti-money laundering mechanisms, and accepts, analyzes, processes, and uses financial information submitted by financial institutions and designated non-financial businesses or professions. The AMLD also exchanges this information with the FIUs of other countries in accordance with the "Money Laundering Control Act." For analysis of financial information newly received or already in its possession indicates a connection with the investigation of civil service ethics or corporate corruption by prosecutors or other judicial organs, the AMLD will disseminate it to the agencies concerned for reference in pending cases, merely for intelligence purposes and under demand of strict confidentiality. Prosecutors or other judicial agencies may also, for the purposes of investigating civil service ethics or corporate corruption, request that the AMLD provide financial information of specific objects for a specific period of time or request that the AMLD assists with the international transfer and exchange of financial information. (§38)
- (4) In addition to reports made in accordance with Article 241 of the "Code of Criminal Procedure," administrative agencies must, when they develop suspicion of a crime during the exercise of their duties, request that the local judicial agency issue a search warrant in accordance with the law to search and seize information and evidence at the suspected venues. The legal basis is found in Article 31 of the "Tax Collection Act," Article 15 of the "Tobacco and Alcohol Tax Act," Article 16 of the "Labor Inspection Act" and Article 5 of the "Organic Act Governing the Establishment of the Financial Supervisory Commission." (§38)
- (5) The "Regulations Governing the Handling of Cases by Judicial Organs with Assistance from Personnel Seconded by the Financial Examination Bureau, Financial Supervisory Commission" provides that when prosecutorial agencies have a need to examine financial flows, such assistance must be provided based on actual needs and in a timely manner. (§38)

- (6) For the cooperation in the investigation of anti-corruption cases and liaison between the AAC and the MJIB, please refer to II, 3, (2) “Continuing Close Cooperation between the Agency Against Corruption and the Investigation Bureau” in the Report on Responses to the Concluding Observations.

**89. Promotion Strategies (§38)**

Taiwan continues to work on integrating and strengthening cooperation among government agencies. For example:

- (1) The AAC has established the “Resident Prosecutor” system. Please refer to the section on Article 36 of the UNCAC.
- (2) The Taiwan High Prosecutors Office shall set up the “Anti-corruption Supervision Group” to periodically supervise and prosecute corruption cases and to develop strategies for fighting corruption. The Supervision Group also reviews reports from the “Anti-Corruption Execution Group” established by the district prosecutors office and answers the relevant questions raised by the Execution Group. (§38)
- (3) When handling cases involving the “Criminal Code of the Armed Forces” or other military, state and social security, and related cases, the prosecutors offices at all levels may apply for the temporary transfer of any judge advocate with a seniority of more than three years from the Ministry of National Defense to exercise functions of a prosecutor investigator. Considering that the military personnel’s secondment, seniority, treatment, pay, performance appraisal, rewards and penalties and related matters are different from those of public servants, the “Operation Regulations Governing Temporary Transfers of Military Judges Affiliated with the Ministry of National Defense for Dealing with Prosecutor Investigators’ Affairs at the Courts of All Levels and Prosecutors Offices Thereof” (which was renamed as the “Operation Regulations Governing Temporary Transfers of Military Judges Affiliated with the Ministry of National Defense for Dealing with Prosecutor Investigators’ Affairs at the Prosecutors Offices of All Levels and Branches Thereof “ on December 24, 2021) have been formulated to provide guidance for investigations under this model. (§38)
- (4) Joint Audit of Government Procurement

To prohibit corruption in government procurement, the PCC and Ministry of Justice (MOJ) have jointly established the “Joint Audit Platform for Government Procurement” utilizing the information system of the PCC to work with the MOJ units and personnel to manage abnormalities at any stage of government procurement. The platform helps to integrate existing investigation operations, share information and professional advice between the PCC and the MOJ, and prevent any procurement abuses from happening in advance. (§38)

- (5) For details on the Integrity Platform for Institutional Procurement, please refer to the section on Article 5 of the UNCAC.
- (6) In consideration of the Executive Yuan’s policy on large procurement with the most advantageous tender model, the AAC and PCC have established the “Public Construction Integrity Task Force” to serve as a communication channel for the exchange of views on a regular basis to bridge gaps between engineering and judicial knowledge, and to mitigate the legal risks of major public construction projects. (§38)
- (7) The MJIB currently has 27 legal officers expatriated to 20 countries including the United States (five officers, two in Washington, each of the others in Los Angeles, New York, and San Francisco), Canada (two officers in Vancouver and Toronto respectively), Guatemala, Germany, France, the United Kingdom, the Netherlands, Japan (two officers in Tokyo and Osaka respectively), South Korea, the Philippines, Malaysia, Vietnam (two officers in Hanoi and Ho Chi Minh City respectively), Thailand, Indonesia, Myanmar, India, Saudi Arabia, Russia, Australia and South Africa. (§38)

## **Article 39 Cooperation between National Authorities and the Private Sector**

### **90. Legal Regulations (§39)**

Article 18 of the “Anti-Corruption Act” expressly states that any person who exposes the corruption of a public servant to the competent authorities should be awarded and protected. Article 9 of the “Anti-Corruption Informant Rewards and Protection Regulation” expressly provides that a written report shall specify the informant’s “identification card No.” (not limited to the national ID card number). The reward system covers both Taiwanese citizens and any nationals other than Taiwanese citizens. Article 5 of the “Witness Protection Act” provides that the

written petition for the protective order shall include the identification card number or passport number of the petitioner, and of the protected person to encourage both Taiwanese citizens and any nationals other than Taiwanese citizens to report crimes. Meanwhile, the “Directions for Encouraging the Public to Report Illegal Financial Activities by the Financial Supervisory Commission” are also in place to encourage the reporting of financial crimes. (§39 II)

#### **91. Important Corruption Prevention Measures and Practices (§39)**

- (1) For details on the Integrity Platform for Institutional Procurement, please refer to the section on Article 5 of the UNCAC. (§39 I)
- (2) For details on the domestic cooperation in money-laundering control, please refer to the section on Article 14 of the UNCAC.
- (3) The FSC and prosecutorial agency share a communication platform, which is managed by a dedicated team on the prosecutorial side. The platform enables real-time cooperation on crimes as they emerge. The prosecutorial agency may also obtain financial information from the Joint Credit Information Center (JCIC). Furthermore, according to the FSC’s letter Jin-Guan-Yin (1) No. 09510002020 issued May 23, 2006, a court or competent authority may ask the financial institution for access to the information on deposits, loans, remittances and safe deposit boxes (§39 I).
- (4) The Institute of Financial Law and Crime Prevention maintains the databases of claims of insurance companies and compares them to find any anomalies in payments of benefits. It also assists the judicial agency with investigations and collaborates with insurance companies to collect evidence. Collaboration with financial supervision units, judicial agencies, and insurance companies has resulted in the successful crackdown on insurance fraud by crime syndicates. (§39 I)
- (5) For details on the regulations governing internal control and internal audit of the financial industry and public companies including the whistleblowing/complaint channels and related protection mechanism, please refer to the section on Article 33 of the UNCAC. (§39 II)
- (6) The FSC supervises the audit selection by the TWSE and TPEX.

In order to strengthen the supervision of the internal control system of TWSE/TPEX-listed companies or to verify whether the disclosures in financial statements violate the guidelines for

the preparation of financial statements and accounting standards, the FSC supervises the audit selection by TWSE and TPEX. Where the TWSE/TPEX-listed company suffers any event which significantly affects the shareholders' equity or securities price, it will be requested to announce important information instantaneously and activate the management procedures for routine regulation and regulation by exception to conduct the audit, so as to strengthen the market supervision and maintain the investors' interests and rights. Meanwhile, any cases of breach of trust, false financial reports or unconventional transactions are brought to the judicial agency.

- (7) The AAC and Government Employee Ethics Units organize ethical corporate management promotion activities including forums, symposiums and professional seminars for enterprises and manufacturers. The promotion contents focus on the international integrity index analysis, international anti-bribery law developmental trends, the scope of applicability of the domestic "Anti-Corruption Act," the border of interaction between the public and private sectors, and whistleblowers' protection, highlight corporate governance and ethical corporate management, and set forth codes of conduct for enterprises to maintain the effective internal control and prevent bribery. (§39 I)

## **92. Important Anti-corruption Cases Resolved through the Cooperation between the Public and Private Sectors (§39)**

In 2017, the MJIB investigated Wu X, former CLO of the TWSE-listed company ATEN International Co., Ltd., who was suspected of special breach of trust. The company assisted the MJIB in collecting the evidence about the contracted procurement projects handled by Wu X and the whereabouts of capital. Meanwhile, through the long-term cooperation with the National Immigration Agency, Ministry of the Interior, it also perceived the whereabouts of Wu X in a timely manner, arrested him and transferred to the Taiwan Taipei District Prosecutors Office. As a result, the company realized the importance of a sound internal audit/internal control system. Since the APG Third Round Mutual Evaluation Procedure took place at that time, the MJIB focused even more on verifying the illegal money flow during the investigation, in order to cover the damages suffered by the company with the proceeds of crime. It made its best effort to seize the suspect's assets, including the proceeds of crime remitted overseas, to prove its ability to enforce laws on money laundering at the same time as it was trying to eliminate corruption in the private

sector. Additionally, Micron Technology, Inc. (hereinafter referred to as “Micron”) and GMT Global Inc. also voluntarily reported to the MJIB their employees’ infringement upon business secrets following the said cooperative model. Specifically, the enterprises conducted internal investigation, collected evidence, and reported the cases, and then provided witnesses and evidence in response to the needs of the case investigation, to help to control the suspects’ whereabouts, verify the damages, identify the illegal money flows, and seize the illegal benefits gained. Of these cases, Weng X and others of Micron were suspected of violating the “Trade Secrets Act,” and were convicted by the judgment rendered by the Taiwan Taichung District Court in January 2020. The Taiwan Association for Trade Secrets Protection (“TTSP”) organized the filming of the “Public Welfare Promotional Video for the Protection of Trade Secrets and the Maintenance of Industrial Ethics and the Competitive Order” based on the story of this case. The TTSP also provided the video free of charge to the MJIB for the promotion and training of corporate anti-corruption, in order to achieve a win-win situation for the government and enterprises. (§39)

### **93. Promotion Strategies (§39)**

- (1) The FSC has set forth the standards for administrative penalties. Penalties will be imposed depending on the severity of the circumstances on a case-by-case basis. In order to increase the fines, the FSC amended the “Banking Act” on April 17, 2019, raising the fine from NT\$10 million to NT\$50 million to strengthen banks’ compliance with laws. (§39 I)
- (2) When imposing sanctions on financial enterprises, the FSC takes into account the contents of defects, whether internal control mechanisms have been established and implemented, and the outcome of the corrections. (§39 I)
- (3) In the future, consideration will be given to the spirit of the US “Federal Sentencing Guidelines,” using a system of adjustable sanctions to encourage companies concerned to improve. Before administrative agencies impose sanctions or prosecutors file indictments, the actor’s conduct is considered, to encourage it to develop a robust organizational legal compliance system. (§39 I)
- (4) The highlights of the amendments to the “Company Act” on August 1, 2018, include the requirement that non-public companies shall also apply the regulations of substantive directors, the inclusion of limited companies in the scope of application of the “Principle of Piercing the



Corporate Veil,” the simplification of procedures for convening the board of directors, the expansion of the scope of inspection by inspectors to specific transaction documents within the companies, and the aggravation of the administrative sanctions to the responsible person of the public companies. Without increasing the costs for compliance with corporate laws and regulations significantly, an environment continues to be provided that is friendly to innovation and entrepreneurship while enhancing corporate governance, in order to promote Taiwan as a business environment conducive to all sorts of business, attract domestic and foreign entrepreneurs to establish companies in Taiwan, and give small and medium-sized companies more flexibility in running their business. Meanwhile, as part of anti-money Laundering and combating the financing of terrorism efforts, the draft of amendments to the “Company Act” includes AML norms. Except for companies that satisfy exceptional conditions, all companies shall declare the information about beneficial owner (the company’s responsible person and major shareholders). (§39 I)

- (5) In order to build awareness among the general public with regard to fighting corruption and disseminate anti-corruption information such as whistleblower protection mechanisms and incentives, the AAC has created and placed the “Whistleblower’s Reward and Protection Kit” on its website. The AAC has also developed the “Whistle-blowing Brief,” “Whistle-blowing Cartoon,” and “Whistle-blowing Online Card Game” to deepen people’s knowledge about clean government. (§39 II)

## **Article 40 Bank Secrecy**

### **94. Legal Regulations (§40)**

- (1) Paragraph 2, Article 48 of the “Banking Act” and FSC letter Jin-Guan-Yin No. 09510002020 issued on May 23, 2006, provide for the lifting of the limitations on the confidentiality obligation to be borne by banks. For details, please refer to the section on Article 31 of the UNCAC. (§40)
- (2) Article 25 of the “Act Governing Bills Finance Business” provides for the lifting of the obligation to maintain confidentiality if otherwise provided by laws or the competent authority. (§40)
- (3) Paragraph 2, Article 34 of the “Regulations Governing Securities Firms” stipulates that securities firms accepting orders to trade securities shall keep confidential the information on their customers unless being inquired according to law. Paragraph 16 of Article 37 of the Regulations provides that securities firms shall not disclose, not in response to inquiries given in accordance with laws and regulations, the contents of orders placed by customers or other secrets obtained in the course of the operation of business. Paragraph 2, Article 7 of the “Securities Investment Trust and Consulting Act” stipulates that securities investment trust enterprises, securities investment consulting enterprises, fund custody institutions, and full fiduciary custody institutions and their personnel must observe the limitations of their obligations of confidentiality, except where otherwise provided by another act or regulation or the competent authority. Paragraph 2, Article 31 of the “Regulations Governing Futures Commission Merchants” stipulates that a futures commission merchant engaging in futures brokerage trading for a futures trader shall keep confidential the information established to conduct transactions, unless disclosure is required for inquiries made in accordance with acts and regulations. Subparagraph 5, Article 55, the same Regulations stipulates that a futures commission merchant engaging in futures trading shall not disclose either the particulars of orders placed by futures traders, or other secrets obtained in the course of business, unless it is required to do so in response to inquiries made in accordance with laws and regulations. (§40)
- (4) The “Money Laundering Control Act” provides that financial institutions (banks, trust and investment corporations, credit cooperative associations, credit departments of farmers’ associations, credit departments of fishermen’s associations, the Agricultural Bank of Taiwan, postal institutions handling postal savings, bills finance businesses, credit card companies,

insurance companies, securities companies, securities investment trust enterprises, securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, futures commission merchants, and trust enterprises; futures trust enterprise and managed futures enterprise, insurance broker companies and insurance agency companies, electronic stored value card issuers and electronic payment institutions, and financial leasing enterprises) and designated nonfinancial businesses or personnel (jewelry businesses, attorneys, accountants, land administration agents, bookkeepers and tax return filing agents) reporting currency transactions equal to or above the applicable designated threshold by laws and regulations shall be exempted from business confidentiality obligation. (§40)

- (5) Furthermore, Article 14-1 of the “Regulations Governing VAT Refund Claims by Foreign Travelers Purchasing Goods Eligible for VAT Refund” stipulates that private tax refund operators must file reports in the specific formats of cash transactions or suspicious transactions with the Investigation Bureau for tax refund above NT\$500,000, and shall be exempted from their obligations to maintain confidentiality in such cases. Article 11 of the “Regulations Governing the Establishment and Administration of Foreign Currency Exchange Counters” stipulates that foreign currency exchange counters shall also be subject to the aforesaid provisions for money laundering transactions. (§40)

#### **95. Promotion Strategies (§40)**

- (1) In order to prevent and suppress the financing of terrorist acts, terrorist organizations and individual terrorists, and to strengthen the international cooperation regarding the prevention of terrorist financing, Paragraph 3, Article 7 of the “Counter-Terrorism Financing Act” stipulates that an institution prescribed in Paragraph 1 and Paragraph 2 of Article 5 of the “Money Laundering Control Act” which are required to report the information discovered due to business relations in accordance with laws shall be exempted from business of confidentiality obligation. Paragraph 1, Article 133 of the “Code of Criminal Procedure” provides that an item which can be used as evidence, or that is subject to confiscation, may be seized, while Article 138 of the Code provides that if an owner, possessor, or custodian of property which should be seized refuses to surrender or deliver it or resists the seizure without justified cause, such seizure may be effected

by force. Accordingly, Taiwan has proper mechanisms in place to overcome the potential obstacles of bank secrecy laws and regulations during criminal investigations. (§40)

- (2) Paragraph 2, Article 48 of the “Banking Act” stipulates: “A Bank shall keep confidential all related information on deposits, loans or remittances of its customers unless under any of the following circumstances: 1. Otherwise provided for by law. ... 4. Other circumstances as prescribed by the Competent Authority.” The phrase “Otherwise provided for by law” does not include the “Personal Data Protection Act,” whereas the exceptional requirements provided by the “Code of Criminal Procedure” and other laws, if any, shall override this provision of the “Banking Act.” (§40)
- (3) All other customer data held by banks other than the above data (i.e., the data other than the “deposits, loans, or remittances of customers”) shall, subject to the nature of such data, be provided in accordance with Article 6 (special personal data) or Article 20 (general personal data) of the “Personal Data Protection Act.” (§40)

## **Article 41 Criminal Record**

### **96. Legal Regulations (§41)**

- (1) Article 9 of the “Criminal Code” stipulates: “An offense is punishable under this Code despite that a finalized judgment has been rendered by a foreign tribunal; where the punishment has been entirely or partly executed in the foreign country, the execution of the punishment in the Republic of China (Taiwan) may be entirely or partly remitted.” As stated in this provision, the principle of the “second review” (initial stage) is adopted in the trial while the “principle of combination” (exclusion) is adopted in the execution, which is in compliance with the requirements set forth in the first part of Article 41 of the UNCAC. (§41)
- (2) Paragraph 1 of Article 6 of the “Personal Data Protection Act” stipulates: “Data pertaining to a natural person’s medical records, healthcare, genetics, sex life, physical examination and criminal records shall not be collected, processed or used unless on any of the following bases: 1. where it is expressly required by law; 2. where it is within the necessary scope for a government agency to perform its statutory duties...; 3. where the personal data has been disclosed to the public by the data subject or has been made public lawfully; 4. where it is necessary for statistics gathering

or academic research by a government agency or an academic institution for the purpose of healthcare, public health, or crime prevention...; 5. where it is necessary to assist a government agency in performing its statutory duties...; or 6. where the data subject has consented... in writing...” The “data pertaining to a natural person’s criminal records” referred to therein means the records of deferred prosecutions, ex officio non-indictments, or a final guilty verdict rendered by a court and its enforcement according to the Paragraph 6 of Article 4 of the “Enforcement Rules of the Personal Data Protection Act.” Therefore, if any of the exceptions stated in Paragraph 1 of Article 6 of the “Personal Data Protection Act” are applicable, the data pertaining to a natural person’s criminal records may be made available. (§41)

- (3) Article 4 of the “Act Governing Issuance of Police Criminal Record Certificates” stipulates that persons who are domiciled now or have once been domiciled in the Taiwan Area, or have residence or visit records in the Taiwan Area may submit the related documents to municipality or county (city) police bureau (department), to apply for police criminal record certificates.
- (4) The entities using information on criminal cases shall establish respective information security policies in accordance with the “Cyber Security Management Act” and sub-laws thereof for the proper implementation of information security (§41)

#### **97. Important Measures and Practices in Taiwan (§41)**

- (1) In order to disclose the data on judgments on criminal cases, the Judicial Yuan has changed the data to Unicode in its case system in June 2020 to solve the inadequacy of computer characters. (§41)
- (2) The dedicated personnel of the court will set up criminal records according to the severity of the conviction of the case concerned. Where international cooperation is involved, the protocol and practice regarding the provision of criminal records will be determined as dictated by actual needs. (§41)
- (3) Taiwan’s data on criminal records combines criminal investigation records, imprisonment and discharge records of the correctional services, and criminal judgment records of the Judicial Yuan, updated daily whenever there is new data for a complete record at every stage, including criminal investigation, judgment, execution, imprisonment and discharge, wanted list, and observation from various government agencies. This is an essential reference for the prosecutors in criminal

investigation, the exercise of correction by the correctional authorities, and the courts of the Judicial Yuan at all levels in making judgments on the sentencing of convicts. This is also essential for the Ministry of the Interior (including the department of civil affairs and household offices of counties/cities throughout Taiwan, and the National Immigration Agency), National Security Agency, Ministry of National Defense (Military Intelligence Bureau and Political Warfare Bureau), and Coast Guard Administration, Ocean Affairs Council, for the investigation said cases. The information is also essential for the Central Election Commission in matching related criminal cases when cross-referencing. The data exchange adopts encryption, is intended for specific recipients only and subject to a user ID and password log-in mechanism. The audit on transactions is conducted to ensure strict protection and control of the data. (§41)

#### **98. Promotion Strategies (§41)**

All government agencies/entities have, based on the classification of cyber security responsibility levels set forth in accordance with the “Regulations on Classification of Cyber Security Responsibility Levels,” established cyber security protection mechanisms, graded the information system, carried out cyber security protection operations and evaluated risks, set forth operating procedures for responding to risks and related control measures, in order to continue strengthening the information system security protection level and implement the protection of criminal record data. (§41)

### **Article 42 Jurisdiction**

#### **99. Legal Regulations (§42)**

- (1) The “Criminal Code” regulates the penalties on criminal offenses in Taiwan under two fundamental principles, namely the “territoriality” principle claiming that the Code shall have a binding effect on specific territories, and the “nationality” principle claiming that the Code shall have a binding effect on specific persons. Under the territoriality principle, any commitment of a criminal offense within the territory of Taiwan will be punishable under the legal jurisdiction of the Republic of China (Taiwan) in criminal justice regardless of the nationality of the criminals or the victims. Article 3 and Article 4 of the “Criminal Code” embody the territoriality principle. Under the nationality principle, any national of the Republic of China (Taiwan) who violates the

domestic criminal laws is punishable by the laws of the Republic of China (Taiwan), wherever the person is located. In principle, the origin of the nationality principle lies in the basic connection that exists between the state and its people to the extent that it is not necessary to be pursued by a particular law. However, the applicability of the law of criminal justice of the Republic of China (Taiwan) to crimes committed by nationals of the Republic of China (Taiwan) outside of Taiwan is specified in Article 6 and Article 7 of the “Criminal Code” (restrictive condition). The “Criminal Code” also provides that Subparagraphs 1, 2, 3, 5, 6, 7, and 8 of Article 5 are applicable to cases protected under the principle of protection (applied because the nationality principle and the territoriality principle cannot apply when the rights protected under the “Criminal Code” are infringed within the territories of the Republic of China (Taiwan)). Likewise, Subparagraphs 4, 8, 9, and 10 of Article 5 of the “Criminal Code” denote the universality principle (originating from the requirements of the international community in maintaining common order and values for which the joint effort of the states concerned is required in response to particular types of crimes). Taiwan has also made related legislation in response to the legal jurisdiction under Paragraphs 1 and 2 of Article 42 of the UNCAC. (§42)

- (2) The “Law of Extradition” prohibits the extradition of nationals of the Republic of China (Taiwan) to the requesting state party but specifies that if the crime committed is punishable in both states and is subject to imprisonment with a term of at least 1 year under the law of the Republic of China (Taiwan), or if the crime is the willful assassination of a head of state, the national in question shall be tried by the court in Taiwan. (§42 III-IV)

#### **100. Important Measures and Practices in Taiwan (§42)**

With respect to cross-border crimes committed by the nationals of the Republic of China (Taiwan) (e.g. cross-border crimes such as telecommunication fraud), the government of the Republic of China (Taiwan), as always, requests that the suspects for criminal investigation be brought to Taiwan for trial through mutual judicial assistance or collaboration with the given state or territory by requesting that it provides related evidence and case files so that the authorities in Taiwan can proceed with judicial action. This is consistent with Point 2 of Article 42 of the UNCAC. After the return of the suspects to Taiwan, the police and prosecuting apparatus of Taiwan will continue to collaborate with the other country or territory in an attempt to obtain

related supporting evidence to help the investigation. In addition, with respect to the cross-border aggravated fraud, Taiwan's judicial agency is given the jurisdiction on criminal cases as the first priority, in order to meet the public expectation toward justice and enhance the judicial image. Accordingly, Taiwan has included the aggravated fraud into the crimes committed overseas referred to in Article 5 of the "Criminal Code" since 2016. (§42)

#### **101. Promotion Strategies (§42)**

Taiwan and some other countries and international organizations (e.g. the "European Judicial Network") have established channels for routine communications. If the situations stated in this Article occur, Taiwan may find a solution through mutual consultation. Certain action has been taken in response to possible contention over legal jurisdiction or requests for legal jurisdiction between Taiwan and other countries through the enactment and enforcement of the "Mutual Legal Assistance in Criminal Matters Act" on May 2, 2018, which contains requirements corresponding to this Article of the UNCAC. (§42 V)

### **Chapter IV International Cooperation**

#### **Article 43 International Cooperation**

##### **102. Legal Regulations (§43)**

- (1) Taiwan promulgated the implementation of the "Mutual Legal Assistance in Criminal Matters Act" on May 2, 2018, as Taiwan's fundamental act on mutual legal assistance in criminal matters. In addition, Article 1 of the "Law in Supporting Foreign Courts on Consigned Cases" stipulates: "Unless otherwise provided for in laws or pacts, this Law governs courts when they are consigned by a foreign court to help to take charge of civil or criminal cases." Article 2 stipulates: "A court, when consigned by a foreign court to help to take charge of civil or criminal cases, shall not conflict laws of the Republic of China." This legislation is the fundamental principle of mutual international judicial assistance. (§43)
- (2) In addition to the rule of the Law in the "Mutual Legal Assistance in Criminal Matters Act" and "Supporting Foreign Courts on Consigned Cases," Taiwan also provides assistance in investigation, collection of evidence and service of instruments in consigned civil and criminal



cases from foreign courts. Mutual legal assistance is also evidenced by the execution of the relevant treaties (agreements) by Taiwan with the USA, Philippines, South Africa, Poland, Nauru and Belize. Meanwhile, Taiwan has executed the “Agreement on Cross-Strait Mutual Assistance in the Fight Against Crime” with Mainland China to provide the mutual legal assistance. (§43)

- (3) The said mutual legal assistance arrangements (agreements) are bilateral agreements on combating crime, but not limited to specific types or names of crimes. (§43)
- (4) Article 51-2 of the “Banking Act” was amended and promulgated on April 17, 2019, which expressly states that in order to establish further international cooperation between the competent finance authorities of the Republic of China (Taiwan) government and foreign countries, the Republic of China (Taiwan) government and agencies (or institutions) authorized by it may, based on the principle of reciprocity, enter into cooperative treaties, protocols, or agreements with foreign governments or agencies (institutions), or with international organizations, to facilitate matters such as information exchange, technical cooperation, and investigative assistance, as the legal basis for the competent authorities’ engagement in international regulatory cooperation.
- (5) The AMLD of MJIB has signed MOUs or agreements with 51 countries or jurisdictions in the cooperation of information exchange regarding anti-money laundering under the EF framework (please refer to Table 15 in the section on Article 14 of the UNCAC). According to the relevant international standards, the principle of information exchange of EG, and the above-mentioned MOUs or agreements on exchange of financial information, the AMLD of MJIB, may receive the requests of domestic law enforcement agencies and make request for information on their behavior to the financial intelligence unit for intelligence purposes through EG network. Meanwhile, it may also accept the requests of other countries or jurisdictions for the sharing of financial intelligence related to criminal activities in Taiwan on a voluntary basis. (§43)
- (6) Addendum to Article 5-1 of the “Tax Collection Act” was promulgated on June 14, 2017, which expressly states that Taiwan may, based on the principle of reciprocity, conclude conventions or agreements with foreign governments or international organizations to implement exchange of information in tax matters (including financial account information) and to provide other mutual administrative assistance. The “Regulations Governing the Implementation of the Common

Standard on Reporting and Due Diligence for Financial Institutions” promulgated in November 2017, requires that domestic financial institutions in Taiwan shall perform due diligence as from 2019, and report the Reportable Persons’ financial account information in tax matters to tax authorities as from 2020.

**103. Important measures and practices (§43)**

- (1) For the requesting state (party) who is not a contracting party with Taiwan in a mutual legal assistance in criminal matters agreement, Taiwan will observe the principle of reciprocity in accordance with the “Mutual Legal Assistance in Criminal Matters Act,” and follow the international practices or general principles of mutual legal assistance, and not request the same types or names of offenses or crimes in cases of double criminality. (§43)
- (2) The FSC is a member signatory of the International Organization of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS) multilateral memorandums of understanding, and continues to enter into bilateral agreements with other countries on cooperation in financial supervision. Information exchange, technical cooperation, or assistance in investigation under these agreements is conducted in compliance with the domestic laws of the Republic of China (Taiwan) and under the principles of reciprocity and confidentiality. (§43 I)
- (3) In addition to the arrangements (agreements) executed with the USA, the Philippines, South Africa, Poland, Nauru and Belize on mutual legal assistance in criminal matters, Taiwan also participates in multiple important international networks, such as the ARIN-AP, and the Network of Anti-Corruption Authorities and Law Enforcement Agencies (ACT-NET) and APG under the APEC, and became a formal member states thereof. Meanwhile, Taiwan also works and liaises with Eurojust, a prosecutors’ organization of the EU. Taiwan has also successfully used the ARIN-AP platform to provide the intelligence on crimes requested by certain countries, and also received letters of gratitude from these countries. (§43)
- (4) Taiwan has made positive efforts in joining the European Judicial Network (EJN). In addition to setting up a window for communication with other members of the network, Taiwan may also attend the annual conference as an observer to establish channels of communication with other

countries in mutual legal assistance. This will be helpful for requesting mutual legal assistance in the future. (§43)

- (5) Taiwan engages in international cooperation with its treaty partners on exchange of information for tax purposes in accordance with the exchange of information provisions under the effective tax agreements and the “Regulations Governing the Exchange of Tax Information Concerning Agreements on Tax Matters.” Under the principle of reciprocity, Taiwan has implemented automatic exchange of financial account information for tax purposes with Japan and Australia since 2020, and with the United Kingdom since 2021, in order to improve tax information transparency and prevent corruption in the public sector. (§43)
- (6) Taiwan has executed 21 cooperative treaties, agreements or MOUs with 20 countries (including the EU), based on which Taiwan has established cooperative relations with the other countries, and engaged in the exchange of intelligence and cooperation in carrying out seizures in cases of customs fraud, contraband and gold smuggling. (§43)
- (7) Please refer to II, 5, (4), 2 “Establishment of Channels for Cooperation with Other Countries” in the Report on Responses to the Concluding Observations.

#### **104. Statistics (§43 I)**

- (1) From 2012 to 2021, Taiwan made 331 requests for mutual legal assistance with other countries and other countries made 185 requests for mutual legal assistance with Taiwan. The notable cases include the corruption and malfeasance of former president Chen Shui-Bian and the corruption in the procurement of La Fayette warships. The contents thereof cover the collection of evidence in the investigation, and the freezing and confiscation of assets. (§43 I)
- (2) By the end of 2021, the FSC has entered into 67 bilateral agreements on the cooperation in financial supervision with other countries. (§43 I)

#### **105. Promotion Strategies (§43)**

- (1) Diplomatically, Taiwan is in a very difficult situation which makes it difficult for Taiwan to enter into mutual legal assistance agreements with other countries. In practice, mutual legal assistance is usually handled through the diplomatic channel under the principle of reciprocity. However, when Taiwan uses this method to request mutual legal assistance from states, the progress of the requested state (party) tends to be slow. Accordingly, Taiwan usually cannot complete the

investigation and trial of cases in a timely manner. In most circumstances, Taiwan has to urge a quick response. Taiwan will continue to enter into agreements with other countries in mutual legal assistance in criminal matters, in order to accelerate the processing of cases. (§43 I)

- (2) According to the “Mutual Legal Assistance in Criminal Matters Act,” if the requesting party is willing to issue a declaration of mutual assistance which is in compliance with the requirements of the same law, Taiwan shall assist in serving documents, searching and seizure, and any other assistance not in violation of the laws of the Republic of China (Taiwan). Paragraph 2 of Article 10 of the Act also specifies that double criminality may serve as a reason for refusing assistance. However, there is no explicit regulation requiring it limited to the name of the same crime. Under the common practices of international mutual legal assistance, in consideration of the variations in the legal systems of different countries, and the protection of the rights of the parties in legal action, Taiwan is not prohibited from providing any assistance on the condition that the spirit of the rule of law is duly observed and the law and order of the Republic of China (Taiwan) is unaffected, and assistance may be provided on a case-by-case basis. Pursuant to Paragraph 3 of the same Article, if the request of the requesting parties can be declined or the assistance can be declined under Paragraph 1 and Paragraph 2 of the same Article, the Ministry of Justice shall require the requesting parties to provide additional information or revise the contents of the request for the consideration of providing assistance. (§43 I and II)

## **Article 44 Extradition**

### **Concluding observations of the international review committee of the first national report:**

*Measure 39: With regard to extradition, Taiwan has a number of practical and legal mechanisms in place to effect the removal and return of fugitives to requesting countries in accordance with the type of relationship existing with requesting states.*

*Measure 40: One of those mechanisms is through the “Law of Extradition” and the current law is being revised in order to remedy some deficiencies and improve its coverage including, for example, the acceptance of bribes by public officials of a foreign country. The Committee recognizes these proposed improvements and encourages the finalization and enactment of the revised draft.*

Please refer to Page 75 of the Report on Responses to the Concluding Observations.

Because of factors of international politics, Taiwan applies different legal regulations in the interaction with different political entities of the international community. It applies the “Law of Extradition” for extraditions with countries without extradition treaties with Taiwan, and applies the treaties for extradition with countries that have executed extradition treaties with Taiwan, including Paraguay, Swaziland, the Dominican Republic, the Federation of St. Christopher and Nevis, Saint Vincent and the Grenadines, the Marshal Islands and Palau. Taiwan has also signed extradition treaties with South Africa, the Commonwealth of Dominica, Costa Rica, Grenada and Malawi, which have severed their full diplomatic relations with Taiwan. In addition, Taiwan has also entered into the “Taiwan-UK Memorandum on the Extradition of Zain Taj Dean.” Expatriation of suspects from the Mainland China is based on the “Agreement on Cross-Strait Mutual Assistance in the Fight Against Crime” and the “Guidelines for Cross-Straits Arrest and Expatriation of Criminal Convicts or Criminal Suspects.” (§44 I and 18)

**106. Legal Regulations (§44 I, III-IX, XI, XII and XVI)**

The existing applicable laws, treaties, and agreements of the Republic of China (Taiwan) which comply with the requirements stated in Article 44 of the UNCAC (see Appendix 2) are specified below:

- (1) In compliance with Paragraphs 1, 5 and 6 of Article 44 of the UNCAC

Article 1 of the “Law of Extradition” states: “Extradition shall be effected in accordance with treaties. Where there are no treaties or no provisions applicable to a case in existing treaties, the provisions of this Law shall prevail.” Paragraph 1 of Article 2 states: “Extradition may be approved if the offense is committed within the territory of the country making requisition therefor and if it is punishable both under the laws of the Republic of China and those of the country making such requisition; provided, that this shall not apply where under the laws of the Republic of China the maximum basic punishment for such offense is a punishment of imprisonment for not more than one year or higher.” Both provide the relevant requirements. (§44 I, V and VI)

- (2) In compliance with Paragraphs 8 and 9 of Article 44 of the UNCAC

Articles 2 to 5 of the “Law of Extradition” specify the minimum penalty required for the validation of extradition, and the reasons for rejection of extradition. Articles 9 to 12, 17, 18, 20 and 23 specify the procedures for extradition. (§44 VIII and IX)

(3) In compliance with Paragraphs 11 and 12 of Article 44 of the UNCAC

According to Article 12 and Article 16 of the “Law of Extradition,” in case of emergency, a foreign government may, before presenting the written requisition for extradition, request by correspondence or telegram the arrest and detention of the person to be extradited. These provisions also set the time limit with respect to interrogation of the extradited party and case closure. No matter the general or emergent application for extradition, the request for arrest and detention of the person to be extradited may be made based on the same Law. The “Law of Extradition” adopts the principle of “no extradition of nationals,” but it also explicitly states that suspects shall be referred to a court of law for judicial proceeding if extradition is denied. (§44 XI and XII)

(4) In compliance with Paragraphs 3, 4, 7 and 16 of Article 44 of the UNCAC

Where it is explicitly stated in the extradition treaties binding the Republic of China (Taiwan) and other state signatories that such offenses should be punishable and the maximum basic punishment for them is a punishment of imprisonment for one year or more pursuant to the laws of both the Republic of China (Taiwan) and the requesting state (party), the extradition shall be approved absolutely. The said treaties also include the extradition of suspects in the crimes of bribery, corruption and tax evasion. (§44 III, VI, VII and XII)

**107. Important Measures and Practices (§44 II, XIII and XVII)**

The measures and practices corresponding to Article 44 of the UNCAC are stated as follows:

(1) Paragraph 2 of Article 44 of the UNCAC

In consideration of social charity or government policy (if Taiwan adopts this requirement but other countries do not and only Taiwan is able to assist the other party with the extradition, it contradicts the principle of reciprocity), the “Law of Extradition” doesn’t adopt the model of legislation under Paragraph 2 of Article 44 of the UNCAC. When reviewing the request of mutual legal assistance or extradition from the requesting party, Taiwan will not focus on the wording

but rather on the objective facts in determining whether the act of the suspect should be punished by the laws of the Republic of China (Taiwan). (§44 II)

(2) Paragraph 13 of Article 44 of the UNCAC

Paragraph 13 of Article 44 of the UNCAC states: “If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.” Notwithstanding, the legal assistance referred to in Article 6 of the “Mutual Legal Assistance in Criminal Matters Act” excludes enforcement of the sentence imposed under the domestic law of a requesting state or the remainder thereof per the requesting state’s application. Though the “Law of Extradition” doesn’t expressly state extradition for the purpose of enforcing a sentence, the draft of amendments thereto includes cases convicted by judgment into the claimable extradition cases. (§44 XIII)

(3) Paragraph 17 of Article 44 of the UNCAC

In practice, the administrative agency will allow an opportunity for the requesting state (party) to present a statement and provide supplementary information before declining a request. (§44 XVII)

**108. Statistics (§44 XVII)**

Eight suspects (wanted fugitives) of criminal offenses under the “Anti-Corruption Act” have been expatriated for criminal offenses under the “Agreement on Cross-Strait Mutual Assistance in the Fight Against Crime.” (§44 XVIII)

**109. Promotion Strategies (§44)**

- (1) The “Law of Extradition” currently in effect in Taiwan was enacted in 1954, with amendments to the wording in 1980. The changes in the international environment of extradition over the years have made the content of this law unable to keep up with reality. Furthermore, there is also discrepancy between the content of this law and the criminal procedures currently in effect, which makes this law difficult to attune to the rapid changes in the legal environment. In consideration of related international conventions of the UN and legislation in Germany, Japan,

and Korea, a draft has been planned for amendments to the “Law of Extradition.” The key points include: definitions of the crimes for extradition; declaring the principle of reciprocity for extradition; the work of the Ministry of Foreign Affairs or the Ministry of Justice after the request for extradition; specifying that the granting of extradition is a matter of exclusive jurisdiction; requirements and procedures for the application for approval of extradition, detention, summons, arrest warrants; the approval of the party to be extradited of the extradition or waiver of related protection; the right to rely on defense of the party to be extradited; designation of the simultaneous interpreter to the person to be extradited; requirements for detention for extradition and urgent detention for extradition; instructions for the procedures and execution; alternative measures; requirements and procedures for urgent extradition of the wanted; actions of the prosecutors in response to extradition that should be or could be overruled as realized through the court review procedure and the remedy for the ruling of the request for extradition; and the actions of the court. The Ministry of Justice has submitted the draft of the amendments to the “Law of Extradition,” consisting of 50 articles in total, to the Executive Yuan for review on May 17, 2018. However, in response to the amendments to Paragraph 1 and Paragraph 2 of Article 89-1, Paragraph 2 of Article 93-2, Articles 93-3 to 93-5, and Paragraphs 1, 2 and 4 of Article 116-2 of the “Code of Criminal Procedure,” the scope of applicability of the draft of the amendments to the “Law of Extradition” has been amended accordingly. In addition, a draft of amendments to Paragraph 4 of Article 16, Paragraph 2 of Article 29, and Article 30 of the “Law of Extradition” amended in response thereto was submitted to the Executive Yuan on April 1, 2020. (§43)

- (2) Article 1 of the current “Law of Extradition” – “Extradition shall be effected in accordance with treaties. Where there are no treaties or no provisions applicable to a case in existing treaties, the provisions of this Law shall prevail.” – is based on the principle of treaty precedence. The “Law of Extradition” is considered as the supplementary requirement to the treaties between Taiwan and other countries under the legal framework. Some of the crimes in the UNCAC (such as money laundering and the acceptance of bribes by public officials) are punishable under the law of criminal justice in Taiwan, and the severity of the penalty exceeds the minimum requirements of the above laws or treaties for double penalties and are not cited as a reason for the rejection



of extradition. Yet, a portion of the crimes (such the acceptance of bribes by public officials of foreign countries as stated in Paragraph 2 of Article 16 of the UNCAC, and the crime of influence on transactions as stated in Article 18 of the UNCAC) shall still be subject to inclusion in the law through amendment. (§44 I and VI)

- (3) The “Law of Extradition” has provided appropriate protection to the persons to be extradited, and the contents thereof are identical with those vested in the people of Taiwan. For example, the detention of persons to be extradited, or the discretion to choose a defense attorney, shall apply, or apply *mutatis mutandis*, the “Code of Criminal Procedures.” The draft of amendments will also make it clear that if the person sought to be extradited does not appoint a defense attorney, the court shall appoint a public defense attorney or attorney-at-law to take up the defense of the person. The draft will further strengthen the density of safeguards, including advice on related remedies. (§44 XIV)
- (4) Article 3 of the “Law of Extradition” states: “Extradition may be refused if the act of offense is of military, political or religious nature.” In practice, the requesting state will be contacted and allowed the opportunity to state and supplement any information before the request is denied. The draft of amendments to the “Law of Extradition” also includes requirements about the rejection of requests for extradition on grounds of the likelihood of any penalties or other disadvantages to be suffered by the person sought to be extradited due to their ethnicity, nationality, gender, religion, identity, political opinions or connections with social groups with different political positions. (§44 XV)
- (5) In consideration of the practical problems in the international environment, Article 11 of the “Conclusion of Treaties Act” enacted and promulgated on July 1, 2015, provides that for the treaties approved by the Legislative Yuan, those containing a ratification, acceptance, approval, or accession clause upon approval by the Legislative Yuan shall be sent by the competent authorities to the Executive Yuan to forward to the President for issuing an instrument of ratification, acceptance, approval or accession, with a carbon copy to the Ministry of Foreign Affairs. After the domestic procedure is complete and the exchange or deposit of the instruments of the treaties in accordance with the related provisions becomes effective, the competent authorities shall send the treaties to the Executive Yuan, which shall submit them to the President

for promulgation. In special cases in which an exchange or deposit of an international instrument is not possible, the competent authorities shall send the treaties to the Executive Yuan, which shall submit them to the President for promulgation. (§44)

- (6) Taiwan will further its effort to consult with countries with diplomatic relations and other countries in signing extradition agreements or treaties. (§44)

## **Article 45 Transfer of Sentenced Persons**

**Concluding observations of the international review committee of the first national report:**

*Measure 41: With regard to the transfer of sentenced prisoners Taiwan has, where possible, adequate agreements and arrangements in place to transfer sentenced prisoners.*

Please refer to Page 76 of the Report on Responses to the Concluding Observations.

Applicable legal rules have been enacted for handling the transfer of sentenced persons under the spirit of humanism in Taiwan, including the enactment of the “Transfer of Sentenced Persons Act” passed in 2013 and other international treaties and agreements. The Ministry of Justice responds to requests for the transfer of sentenced persons in conjunction with other entities or agencies with the common consent of Taiwan, the transferring state and the sentenced person. (§45)

### **110. Legal Regulations (§45)**

- (1) Article 2 of the “Transfer of Sentenced Persons Act” states: “The transfer of sentenced persons is subject to the treaties, which Republic of China (Taiwan) (hereinafter referred to as ‘ROC’) has signed with the Transferring States. The provisions of the Act herein shall be applicable only when there is no treaty or they are not regulated in treaties. Where matters are not regulated in this Act, the Criminal Code of ROC, Code of Criminal Procedure, Juvenile Delinquency Act and other relevant provisions of the laws shall govern.” (§45)
- (2) Taiwan and Germany, the United Kingdom, the Kingdom of Eswatini, Poland, Denmark and Switzerland have signed the “Arrangement between the Taipei Representative Office in the Federal Republic of Germany and the German Institute in Taipei on the Transfer of Sentenced Persons and Cooperation in the Enforcement of Penal Sentences,” the “Arrangement between the Justice Authorities of Taiwan and the Authorities of the United Kingdom of Great Britain and Northern Ireland on the Transfer of Sentenced Persons,” “Agreement Between the Government of the Republic of China (Taiwan) and the Government of the Kingdom of Eswatini on the

Transfer of Convicted Offenders and Cooperation in the Enforcement of Penal Sentences,” “Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters,” “Arrangement Between the Taipei Representative Office in Denmark and the Trade Council of Denmark in Taipei on the Transfer of Sentenced Persons,” and the “Agreement Between the Taipei Culture and Economic Delegation and the Trade Office of Swiss Industries on the Transfer of Sentenced Persons,” etc. In addition, Article 11 of the “Agreement on Cross-Strait Mutual Assistance in the Fight Against Crime” also provides requirements about the transfer of offenders convicted in criminal cases. Please refer to II, 5, (3), Table 19 in the Report on Responses to the Concluding Observations. (§45)

#### **111. Statistics (§45)**

- (1) As of June 2021, Ministry of Justice has transferred seven sentenced persons of German nationality, one sentenced person of UK nationality, one sentenced person of Danish nationality and one sentenced person of Polish nationality back to Germany, the UK and Denmark respectively to continue serving their sentences. (§45)
- (2) Since the “Agreement on Cross-Strait Mutual Assistance in the Fight Against Crime” was signed in 2009, there have been 19 sentenced persons sent back from Mainland China to Taiwan (including five in 2014 and three in 2015 upon enforcement of the “Transfer of Sentenced Persons Act” in 2013). From 2016 to 2021, Taiwan liaised with the competent authorities in Mainland China through official correspondence urging for initiating the transfer of sentenced persons of Republic of China (Taiwan) nationality as soon as possible, though Taiwan received no reply from Mainland China. (§45)

#### **112. Promotion Strategies (§45)**

Under the current international situation, the Ministry of Justice will work in conjunction with other entities and agencies to respond to the requests of foreign countries for the transfer of sentenced persons. According to the “Transfer of Sentenced Persons Act” and other international treaties, the transfers of sentenced persons shall be accomplished at the common consent of Taiwan, the transferring states, and the sentenced persons. As such, sentenced persons of Taiwan staying in other countries shall be primarily governed by the “Transfer of Sentenced Persons Act,”

whereby Taiwan will seek every opportunity to enter into treaties or agreements with other countries for the transfer of sentenced persons. (§45)

## **Article 46 Mutual Legal Assistance**

**Concluding observations of the international review committee of the first national report:**

*Measure 38: Taiwan has recently enacted a revised Act on Mutual Legal Assistance in Criminal Matters which is consistent with the requirements of the UNCAC and has entered into agreements and arrangements with several countries in order to implement the Act. Where that is not possible Taiwan can provide mutual legal assistance in criminal matters based on the principle of reciprocity.*

Please refer to Page 73 of the Report on Responses to the Concluding Observations.

In the area of international cooperation, Taiwan has entered into agreements (arrangements) with the USA, South Africa, the Philippines, Poland, Nauru, Belize and Slovakia on mutual legal assistance in criminal matters, and has entered into the “Cross-Strait Joint Crime-Fighting and Judicial Mutual Assistance Agreement” with Mainland China. For the proper implementation of the agreements (arrangements) on mutual legal assistance in criminal matters with the USA and Mainland China, Taiwan has also instituted the “Guidelines for the Prosecution and Investigation Entities/Agencies in the Pursuit of the Agreements on Mutual Legal Assistance in Criminal Matters with the USA” and the “Guidelines for Cross-Strait Investigation and Gathering of Evidence.” Among the laws of the Republic of China (Taiwan) governing mutual legal assistance, except for the “Transfer of Sentenced Persons Act” enforced in 2013, the “Law in Supporting Foreign Courts on Consigned Cases” and the “Law of Extradition” are already outdated. Considering that both laws cannot deal with the increasing requests for international mutual assistance, and in response to the third round of mutual evaluation by the APG in 2018, the Financial Action Task Force (FATF) suggested that a legal system for international mutual legal assistance in criminal matters should be established as the key indicator for judging the level of Taiwan’s compliance with international cooperation standard. Therefore, Taiwan enacted and promulgated the “Mutual Legal Assistance in Criminal Matters Act” on May 2, 2018, to establish a framework for comprehensive international mutual legal assistance in criminal matters dedicated to rapidly providing mutual legal assistance in

the investigation, indictment and legal actions on money laundering, predicate offenses and financing of terrorism to the utmost extent. (§46)

**113. Legal Regulations (§46 I, II, IV-VIII, XXII and XXIX)**

The existing applicable laws, treaties, and agreements of the Republic of China (Taiwan) which comply with the requirements stated in Article 46 of the UNCAC are specified below:

- (1) For the requirements under the “Mutual Legal Assistance in Criminal Matters Act” and other agreements/treaties corresponding to Article 46 of the UNCAC, please refer to Appendix 3.
- (2) In compliance with Paragraphs 1 and 2 of Article 46 of the UNCAC
  - A. The “Mutual Legal Assistance in Criminal Matters Act” has replaced the provisions about mutual legal assistance in criminal cases referred to in the current “Law in Supporting Foreign Courts on Consigned Cases.” Meanwhile, the scope of assistance set forth in the “Mutual Legal Assistance in Criminal Matters Act” remains unchanged, regardless of whether the case subject is a natural person or legal person. (§46 I and II)
  - B. Taiwan has already entered into arrangements (agreements) on mutual legal assistance in criminal matters with the USA, South Africa, the Philippines, Poland, Nauru, Belize, Slovakia, and Mainland China (as shown in Table 25). (§46 II)

**Table 25 Arrangements (agreements) on mutual legal assistance in criminal matters between Taiwan and other countries/jurisdictions**

<b>Time of signing</b>	<b>Full name of the arrangement (agreement)</b>	<b>Abbreviation of the arrangement (agreement)</b>
March 26, 2002	Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Representative Office and the American Institute in Taiwan	AIT-TECRO Mutual Legal Assistance Agreement
April 26, 2009	Cross-Strait Joint Crime-Fighting and Judicial Mutual Assistance Agreement	Cross-Strait Mutual Legal Assistance Agreement
April 19, 2013	Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Office in the Philippines and the Manila Economic and Cultural Office in Taiwan	Taiwan-Philippines Mutual Legal Assistance Agreement
July 24, 2013	Arrangement between the Taipei Liaison Office in the Republic of South Africa and the South	Taiwan-South Africa Mutual Legal Assistance Agreement

	African Liaison Office in Taipei on Mutual Legal Assistance in Criminal Matters	
June 17, 2019	Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters	Taiwan-Poland Mutual Legal Assistance Agreement
August 7, 2019	Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru	Taiwan-Nauru Mutual Legal Assistance Agreement
September 26, 2020	Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize	Taiwan-Belize Mutual Legal Assistance Agreement
August 3, 2021 (Effective Date)	Arrangement on Mutual Legal Assistance in Criminal Matters between the Taipei Representative Office, Bratislava and the Slovak Economic and Cultural Office, Taipei	Taiwan-Slovakia Mutual Legal Assistance Agreement

Data source: MOJ

(3) In compliance with Paragraph 4 of Article 46 of the UNCAC

According to Paragraph 2 of Article 21 of the “Money Laundering Control Act,” information on money laundering can be provided to other countries under the principle of reciprocity. (§46 IV)

(4) In compliance with Paragraph 5 of Article 46 of the UNCAC

- A. Taiwan has already entered into arrangements (agreements) on mutual legal assistance in criminal matters with the USA, South Africa, the Philippines, Poland, Nauru, Belize, Slovakia, and Mainland China, and also set forth the relevant requirements about the confidentiality of the mutual legal assistance materials or use of the materials beyond the intended scope. (§46 V)
- B. It is the obligation of personnel engaged in the mutual legal assistance of Taiwan to keep all information contained in the documents of mutual legal assistance in strict confidence pursuant to Points 49-76 of the “Document Handling Handbook” of the Executive Yuan. Additionally, after the Ministry of Justice has accepted the request for mutual legal assistance and notified the prosecutorial agency for execution, the prosecutors, prosecutor investigators, judicial police officers, and judicial police shall keep the information obtained for the purpose of executing the request of the Ministry of Justice related to mutual legal assistance in strict confidence pursuant to Paragraph 1 of Article 245 of the “Code of Criminal Procedure” about the principle of

investigation secrecy, and Article 14 of the “Mutual Legal Assistance in Criminal Matters Act.” (§46 V)

(5) In compliance with Paragraph 6 of Article 46 of the UNCAC

Nothing in Taiwan’s legal system affects the obligations under any other treaties, bilateral or multilateral, that govern or will govern the mutual legal assistance. Article 5 of the “Taiwan-South Africa Mutual Legal Assistance Agreement” and Article 4 of the “Agreement on Cross-Strait Mutual Assistance in the Fight Against Crime” specify the scope of cooperation. The non-mandatory measures provide the requirements about double criminality, but the definition of the crime of money laundering applicable in Taiwan already complies with the requirements under the “Vienna Convention on the Law of Treaties” and “Palermo Convention on the Law of Treaties.” The scope of predicate offenses also covers the types of offenses cited in the annex to the FATF assessment methodology. As such, even if the agreements (arrangements) on mutual legal assistance in criminal matters may regulate double criminality, it cannot be interpreted as an unjustifiable or inappropriate restrictive condition. If a country requests mutual legal assistance with Taiwan in the absence of an agreement (arrangement) on mutual legal assistance, Taiwan will consider international practices and general principles of mutual legal assistance under the principle of reciprocity. For example, the same type of crime or accusation of crime is not necessarily identical under the possibility of double criminality, and may not be interpreted as unjustifiable or inappropriate restrictive conditions. (§46 VI)

(6) In compliance with Paragraph 7 of Article 46 of the UNCAC

Subparagraph 8 of Article 6 of the “Mutual Legal Assistance in Criminal Matters Act” provides that the types of legal assistance that may be requested or granted under this Act include other types of assistance not contradictory to the law of the Republic of China (Taiwan). Article 12 of the Act states: “Requests shall be implemented in pursuant to the laws of ROC (Taiwan). They may be implemented in the manner suggested in the Letter of Request if such implementation is not against the laws of ROC (Taiwan).” Meanwhile, Article 2 of the “Law in Supporting Foreign Courts on Consigned Cases” states: “A court, when consigned by a foreign court to help to take charge of civil or criminal cases, shall not conflict laws of the Republic of China.” The said provisions correspond to the contents provided in Paragraph 9 to 29 of Article 46 of the UNCAC.

In principle, mutual legal assistance may be granted only if such assistance is in compliance with the laws of the Republic of China. (§46 VII)

(7) In compliance with Paragraph 8 of Article 46 of the UNCAC

Article 48 of the “Banking Act” provides that a bank may not reject providing mutual legal assistance on the sole ground of bank secrecy. Please refer to the section on Article 31 of the UNCAC. (§46 VIII)

(8) In compliance with Paragraph 22 of Article 46 of the UNCAC

The “Law in Supporting Foreign Courts on Consigned Cases,” “AIT-TECRO Mutual Legal Assistance Agreement,” “Taiwan-Philippines Mutual Legal Assistance Agreement,” “Taiwan-South Africa Mutual Legal Assistance Agreement,” “Taiwan-Poland Mutual Legal Assistance Agreement,” “Taiwan-Nauru Mutual Legal Assistance Agreement,” “Taiwan-Belize Mutual Legal Assistance Agreement” and “Taiwan-Slovakia Mutual Legal Assistance Agreement” provide no requirements that requests for mutual legal assistance involving financial and taxation information should be turned down. (§46 XXII)

(9) In compliance with Paragraph 29 of Article 46 of the UNCAC

According to the “Code of Criminal Procedure” and under the principle of mutual legal assistance in criminal matters, there is no doubt that government archives that are allowed to be disclosed to the public may be made available to foreign governments. However, the provision of government archives which cannot be disclosed to the public to foreign governments as per their requests, such as testimonies obtained by the police and investigation agencies of Taiwan in the process of investigation, or information on household registration and military service, is decided by the prosecutor at their sole discretion. According to Article 1 of the “Mutual Legal Assistance in Criminal Matters Act,” which provides that the Act is enacted in order to enhance international mutual legal assistance in criminal matters, on the basis of mutual respect and equality, there is no doubt that government archives already disclosed to the public can be provided to foreign governments. However, if the provision of assistance will cause damage to the national interests of Taiwan, or the result of assistance is in defiance of Taiwan’s legal system and spirit, Taiwan shall consider whether assistance should be provided. Article 10 of same Act specifies the reasons for refusing assistance. In consideration of the variations in the legal



systems of different countries and the rights of the parties concerned to legal action, assistance may be provided on a case-by-case basis on the condition that such assistance is not in defiance of the legal spirit and the public order of Taiwan. Therefore, Paragraph 3 of the same Article also specifies that if there is a reason that specific requests for assistance should be turned down, the Ministry of Justice may re-examine whether to provide assistance after the requesting party gives necessary supplemental material or documentation or otherwise revises the request. (§46 XXIX)

(10) For the requirements under the “Law in Supporting Foreign Courts on Consigned Cases,” “AIT-TECRO Mutual Legal Assistance Agreement,” “Taiwan-Philippines Mutual Legal Assistance Agreement,” “Taiwan-South Africa Mutual Legal Assistance Agreement,” “Taiwan-Nauru Mutual Legal Assistance Agreement,” “Taiwan-Belize Mutual Legal Assistance Agreement” and “Agreement on Cross-Strait Mutual Assistance in the Fight Against Crime” corresponding to Article 46 of the UNCAC, please refer to Appendix 3, “Regulations and explanations under the ‘Mutual Legal Assistance in Criminal Matters Act’ and other arrangements (agreements) on mutual legal assistance in criminal matters executed by Taiwan with other countries corresponding to Article 46 of the UNCAC.” (§46 XXIX)

(11) For information on the agreements, arrangements or MOUs between Taiwan and other countries for joint crime-fighting, please refer to the section on Article 48 of the UNCAC.

#### **114. Important Measures and Practices (§46 II, V, XVI, XVII, XIX and XXIV)**

The measures and practices under the “Mutual Legal Assistance in Criminal Matters Act” and other arrangements (agreements) on mutual legal assistance in criminal matters executed by Taiwan with other countries corresponding to Article 46 of the UNCAC are as follows:

(1) Paragraph 2 of Article 46 of the UNCAC

A. Taiwan has signed agreements with the USA, the Philippines, South Africa, Nauru, Belize, Poland, Slovakia and Mainland China on mutual legal assistance in criminal matters. In practice, the Ministry of Justice will directly liaise with the competent authorities of these contracting parties in requesting mutual legal assistance. In the absence of agreements on mutual legal assistance in criminal matters, the states (parties) making requests to Taiwan shall make the requests in accordance with applicable international laws and practices and thereby tender the

requests for mutual legal assistance through diplomatic channels to the Ministry of Foreign Affairs, which in turn forwards them to the Ministry of Justice for action. After the accomplishment of the request, the Ministry of Foreign Affairs will respond to the foreign affairs departments of the requesting states (parties). Regardless of whether or not an agreement on mutual legal assistance is in place, Taiwan will make arrangements in response to the request of a requesting state in criminal cases of top-priority significance. (§46 II)

- B. In the absence of any agreements on mutual legal assistance in criminal matters, requesting states may request mutual legal assistance in criminal matters from Taiwan if they are willing to present documentation for undertaking of reciprocity, such as documents containing wording indicating that “the state government is willing to provide mutual legal assistance of similar request from Taiwan to the fullest extent possible, insofar as it is permitted by the state’s laws and regulations” or similar wording, and in compliance with the legal requirements of Taiwan. Under the principle of reciprocity and in conformity with the international practices or general principles under the laws in mutual legal assistance in criminal matters, and for the purposes of joint crime-fighting, Taiwan will provide assistance to the fullest extent possible. (§46 II)

(2) Paragraph 5 of Article 46 of the UNCAC

Based on the principles of information exchange of EG and the international practices in information exchange, confidentiality of exchanged information is the first priority. According to the Egmont Group principles, a non-disclosure clause is indispensable. Likewise, Taiwan (the AMLD of MJIB) will inscribe the non-disclosure clause when negotiating into agreements or MOUs with foreign FIUs, indicating wording such as “The information acquired in application of this Memorandum of Understanding is confidential. It is subject to official secrecy and is protected by at least the same confidentiality as provided by the national legislation of the receiving Authority for similar information from national sources.” and “The obligation of undertaking of confidentiality of the information by the state parties shall survive the termination of the MOU.” or similar wording. (§46 V)

(3) Paragraphs 16, 17 and 24 of Article 46 of the UNCAC

According to the “Mutual Legal Assistance in Criminal Matters Act,” Taiwan will proceed to review requests immediately upon their receipt. If supplementary information is required, Taiwan will ask the requesting state to provide such information. If it is determined to reject the request, Taiwan will inform the requesting party. If all the conditions are satisfied, the request will be referred to the relevant agencies for execution. The requesting party’s inquiry on progress, if any, will be answered promptly. (§46 XVI, XVII and XXIV)

(4) Paragraph 18 of Article 46 of the UNCAC

According to Paragraph 2 of Article 17 of the “Mutual Legal Assistance in Criminal Matters Act,” for transnational mutual legal assistance requests, the proceedings during the interview or hearing in the requested state (party) are frequently requested to be transmitted to the requesting state (party) through a simultaneous audio-video link. Paragraph 1 of Article 18 of the Act provides that persons from the requesting party may be allowed to appear at the scene of the implementation of the request, upon the approval of the assisting body. As the execution of a request for international mutual legal assistance in criminal matters involves the exercise of state’s authority, the request shall be executed by the personnel of the requested state (party). However, considering that the personnel of the requesting state (party) would be more familiar with the individual requests for mutual legal assistance, the personnel of the requesting state (party) present on the site would provide assistance when the personnel of the requested state (party) executes the request on behalf of them, insofar as the presence of the personnel of the requesting state (party) would not interrupt the execution or violate any laws and regulations.

(5) Paragraph 19 of Article 46 of the UNCAC

Control and protection measures have been established for the security of the competent authorities in the exchange of information. The information furnished by the requested agency may only be used for the purposes for which the information is initially requested or provided, unless with prior authorization of the requested agency. The correspondences between the law enforcement agencies and foreign countries shall bear wording indicating that these correspondences are intended for intelligence and may be used by law enforcement agencies only, and shall not be disclosed to any third parties without prior consent. For example, before exchanging any information with the ARIN-AP and its member states for joint action for the

recovery of the proceeds of crimes, the Ministry of Justice shall first review the request to determine whether the information should be provided, and to define the scope of information to be provided and require that the information may be used for the requested purpose only.

According to Article 16 of the “Mutual Legal Assistance in Criminal Matters Act,” the contents and scope of the international mutual legal assistance in criminal matters must be defined clearly and specifically, and the requesting state (party) shall use any evidence or information provided by the requested state (party) based on the contents and scope of the request only. Unless with the prior consent from the requested state (party), the requesting state (party) is not allowed to use the evidence or information provided by the requested state (party) for any purpose other than that of the request. According to Article 20 of the Act, Taiwan may provide exhibits or documentary evidence in response to the requesting party’s request. However, if the said exhibits or documentary evidence is obtained from a third party, or involved in other legal proceedings in Taiwan, Taiwan shall request the requesting party to return the same immediately or within a designated time limit. Relevant requirements are currently also provided in Article 16 of the “AIT-TECRO Mutual Legal Assistance Agreement.” (§46 XIX)

#### 115. Statistics (§46)

- (1) The statistical data showing the cases of mutual legal assistance between Taiwan and other states (parties) are shown in Table 26. (§46)

**Table 26 Statistical data of cases of mutual legal assistance between Taiwan and other states (parties)**

Unit: Case

Year	America		Europe		Asia		Oceania		Africa	
	Requested by Taiwan	Requested by the other party	Requested by Taiwan	Requested by the other party	Requested by Taiwan	Requested by the other party	Requested by Taiwan	Requested by the other party	Requested by Taiwan	Requested by the other party
2018	20	15	11	21	18	5	5	0	2	0
2019	30	7	13	11	24	9	7	2	0	0
2020	27	11	10	11	17	12	3	3	0	0
2021	21	12	13	10	21	11	3	3	0	0

Data source: MOJ

- (2) The statistical data showing the cases of mutual legal assistance in corruption matters between Taiwan and other states (parties) is shown in Table 27. (§46)

**Table 27 Statistical data on cases of mutual legal assistance in corruption matters between Taiwan and other states (parties)**

Unit: Case

Year	America		Europe		Asia		Oceania		Africa	
	Requested by Taiwan	Requested by the other party	Requested by Taiwan	Requested by the other party	Requested by Taiwan	Requested by the other party	Requested by Taiwan	Requested by the other party	Requested by Taiwan	Requested by the other party
2018	2	0	2	0	0	0	1	0	0	0
2019	0	0	3	0	0	0	0	0	0	0
2020	1	0	3	0	0	0	0	0	0	0
2021	0	1	3	0	0	0	0	0	0	0

Data source: MOJ

Remarks: The requests made by Taiwan with European countries were all about mutual legal assistance in criminal matters derived from the same case prosecuted domestically. Despite it being the same case, it involved different countries and proceedings (e.g. freezing, extension of freezing, or petitioning for the return of the proceeds of crime, etc.). Accordingly, Taiwan made requests for mutual legal assistance with different countries, subject to the case development, in different years.

- (3) Under the liaison and coordination between Taiwan and the Supreme People’s Court, High People’s Court, and the Public Security Department of Mainland China, joint action has been taken to fight cross-border telecommunication fraud with property recovered and returned to the victims in 18 cases. Meanwhile, until 2009, the competent authorities of Mainland China returned an amount of NT\$14.42 million to victims in Taiwan, and Taiwan has returned an amount of NT\$44.32 million to victims in Mainland China. (§46)
- (4) Taiwan has entered into 51 agreements or MOUs with other countries or regions in cooperative intelligence exchange. For details, please refer to the section on Article 14 of the UNCAC. (§46 V)
- (5) From 2020 to December of 2021, the National Police Agency, Ministry of the Interior, arrested and repatriated 37 fugitives, 42 fugitives, and 55 fugitives from the USA, Thailand and the Philippines, respectively. (§46)

- (6) In terms of the joint effort between the police authorities of Taiwan and the Philippines in drug enforcement, Taiwan and the Philippine Drug Enforcement Agency (PDEA) have worked with each other successfully to solve the Chang X case involving 1kg of amphetamine. (§46)
- (7) Since the enforcement of the “Confiscation” Chapter added into the “Criminal Code” since July 1, 2016, the legal effect of a legal person’s liability is regulated. Please refer to the section on Article 26 and Article 31 of the UNCAC. (§46 II and III)

#### **116. Major Cases (§46)**

According to the “Mutual Legal Assistance in Criminal Matters Act” and related bilateral mutual legal assistance agreements, Taiwan makes the best effort to assist domestic/foreign judicial agencies in investigating and adjudicating matters concerning the requests for “immobilization of property,” “implementation of final and irrevocable judgment or order for confiscation of assets or collection of proceeds value relating to a criminal offense” and “restitution of proceeds of crime” derived from various crimes.

- (1) In 1989, the Taiwanese Navy purchased La Fayette-class frigates from France. Kuo X, the Navy’s person in charge, conspired with the arms dealer Wang X and other parties concerned, in which the overseas company established by Wang X received huge kickbacks of approximately 18.6%. Following the death of Wang X in 2015, the court has concluded a dismissal judgment, and the prosecutors have currently frozen the assets and bank accounts of the Wang family in several European countries. Taiwanese prosecutors are still actively using mutual legal assistance to request the relevant countries to continue to freeze the assets of the Wang family, and request the return of the proceeds of crime in compliance with the conditions of the foreign countries concerned. For the collection of the assets, please refer to the major cases in the section on Article 51 of the UNCAC.
- (2) Chen X purchased 2 real properties in the United States using the bribes he received from the second financial reform. In July 2010, prosecutors of the US Department of Justice (Asset Confiscation and Money Laundering Section of the Criminal Division) initiated civil confiscation proceedings on the grounds that the two properties were suspected to have been purchased with the illicit gains of corruption and bribery, and twice requested Taiwan on the basis of the “AIT-TECRO Mutual Legal Assistance Agreement” for mutual legal assistance.

Hence, the Special Investigation Division, SPD (dissolved on January 1, 2017) provided relevant evidence to its US counterpart.

- (3) When the US Department of Homeland Security investigated Latin American drug cartels in November 2011, it found out that a woman of ROC nationality was in the US importing, exporting and selling apparel to launder over US\$27 million of the proceeds from drug transactions and which was remitted into her domestic bank account in Taiwan. The US Department of Justice requested Taiwan for mutual legal assistance in September 2014. Therefore, Taiwan assisted it to seize the account suspected of the money laundering amounting to about US\$27 million, and successfully seized illegal gains amounting to US\$15 million from the money-laundering account maintained by the drug dealers in Taiwan, less the funds already remitted outward from the account.
- (4) The Taiwan Civil Government Foundation, which fabricated a story about the takeover of Taiwan by the US military government, has solicited more than NT\$700 million from people in Taiwan since 2011. Upon Taiwan's request with the US government for mutual legal assistance to freeze the Foundation's account in the USA, the US government sought an injunction from the court and froze the funds amounting to US\$1.46 million.

#### **117. Promotion Strategies (§46)**

Taiwan entered into the "Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize" with Belize, a diplomatic ally in Central America, in September 2020. This was the 7th mutual legal assistance treaty (agreement) following those signed by Taiwan with the USA, Mainland China, the Philippines, South Africa, Poland and Nauru, and the 2nd treaty (agreement) on judicial cooperation signed with Belize following the agreement to collaborate on integrity signed by the Ministry of Justice with the government of Belize in 2019, which both indicated that the ministries of justice and prosecutor general offices of the two states should be the competent authorities. All of these efforts are very important to Taiwan's development of judicial cooperation and friendship with Central America countries. Taiwan will continue to seek bilateral cooperation with countries without diplomatic relations but with substantive relations with

Taiwan under the principle of reciprocity and sign mutual legal assistance agreements with them to fight transnational crime effectively. (§46 II)

## **Article 47 Transfer of Criminal Proceedings**

### **118. Important Measures and Practices (§47)**

- (1) Article 47 of the UNCAC states: “States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.” In performing this obligation, Taiwan will consider the possibility of transferring proceedings, where appropriate, in cases involving several legal jurisdictions, and seek to enter into treaties, agreements or arrangements or under the principle of reciprocity to advocate transfers for facilitating the institution of proceedings. (§47)
- (2) The Ministry of Justice or the Ministry of Foreign Affairs may contact countries with a possibility of signing agreements of mutual legal assistance with Taiwan and exchange opinions in writing. When a preliminary consensus is reached, the Ministry of Foreign Affairs and various embassies and representative offices shall make positive effort in arranging consultation and meeting with each other with a view to signing agreements on mutual legal assistance for broadening the base of mutual legal assistance between Taiwan and other countries. Before signing an official agreement, the Ministry of Justice shall establish windows for liaison with the competent authorities of other countries for strengthening the efforts in mutual legal assistance in individual cases and avoiding difficulties in arresting criminals staying overseas, and seek the possibility of cooperation on individual cases under the principle of reciprocity. (§47)

### **119. Major Cases (§47)**

In October 2019, the prosecutor of the Taiwan Taichung District Prosecutors Office investigated a case involving a fraud crime syndicate consisting of the ROC nationals in the Balkans. In late December 2019, some defendants would reportedly return to Taiwan to vote in the presidential election held on January 9, 2020. In order to prevent the crime syndicate from destroying related evidence and escaping before they returned to Taiwan, Taiwan made a request for “urgent mutual



legal assistance in criminal matters” with Montenegro, with the causes of action including organized crime, aggravated fraud and violation of the “Human Trafficking Prevention Act.” As a result, Montenegro opened a case to start the investigation, and conducted a raid and seizure, and arrested the defendants. Then, the defendants in the case, together with all evidence, were transferred to the Taiwan Taichung District Prosecutors Office in a transfer of proceedings. This case was the first one of the transfer of proceedings accepted by Taiwan. Based on the available evidence, the Taiwan Taichung District Prosecutors Office initiated a public prosecution against the defendants on grounds of aggravated fraud and violation of the “Organized Crime Prevention Act” and “Human Trafficking Prevention Act.” Then, the Taiwan Taichung District Court and Taiwan High Court Taichung Branch Court both judged that the defendants should be convicted of committing the aggravated fraud and violating the “Organized Crime Prevention Act.” (§47)

**120. Promotion Strategies (§47)**

- (1) Please refer to the section on Article 42 of the UNCAC.
- (2) Although there is still room for further cooperation between Taiwan and Mainland China in the repatriation of criminals in economic crimes and the acceptance of criminals since the two sides have entered into the “Cross–Strait Joint Crime-Fighting and Judicial Mutual Agreement,” both sides performed well in other mutual legal assistance in other areas stated in the Agreement. In order to build a sound cross-strait crime-fighting and mutual legal assistance mechanism, the transfer of proceedings should be negotiated through addendum to the Agreement at an appropriate time, lest Mainland China should affect the execution of the Agreement due to any other factors. Taiwan should also make the best use of every available opportunity to communicate and collaborate with the competent authorities of Mainland China, in order to have the transfer of proceedings handled more appropriately. Please refer to II, 5, (4), 3 “Cross-Strait Information/Intelligence Exchange” in the Report on Responses to the Concluding Observations. (§47)

## Article 48 Law Enforcement Cooperation

**Concluding observations of the international review committee of the first national report:**

*Measure 42: In relation to law enforcement cooperation, Taiwan has various means available to it. These include mutual legal assistance in the investigation, pursuit and prevention of crime as well as joint law enforcement cooperation and exchanges of information on crimes such as economic crimes, narcotics, corruption and malfeasance and repatriation of fugitives. It can also, in some circumstances, access INTERPOL information, use dispatched police liaison officers and exchange information with foreign FIUs and through financial supervisory agencies. The Committee recognizes the proactive nature of these efforts.*

Please refer to Page 77 of the Report on Responses to the Concluding Observations.

### 121. Legal Regulations (§48)

- (1) The “AIT-TECRO Mutual Legal Assistance Agreement” and “Guidelines for the Prosecution and Investigation Entities/Agencies in the Pursuit of the Agreements on Mutual Legal Assistance in Criminal Matters with the USA” explicitly state that Taiwan and the USA prosecutors and law enforcement provide mutual legal assistance to each other in the investigation, pursuit, and prevention of crime and related criminal proceedings. (§48)
- (2) Articles 4 and 5 of the “Cross-Strait Joint Crime-Fighting and Judicial Mutual Agreement” specify the scope of cooperation in fighting crime and the agreement of both sides on the exchange of information on crimes, assistance in the pursuit and repatriation of criminals and suspects of crimes, and that they may, where necessary, assist investigation or cooperate in investigation. Please refer to II, 5, (4), 3 “Cross-Strait Information/Intelligence Exchange” in the Report on Responses to the Concluding Observations. (§48)
- (3) The “Agreement between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan on Enhancing Cooperation in Prevention and Combating of Serious Crime,” “Arrangement between the Taipei economic and cultural office in Thailand and the Thailand trade and economic office in Taipei on cooperation in combating transnational economic crime and other related crimes” “Memorandum of Understanding (MOU) Between the Taipei Economic and Cultural Office(TECO) and the Manila Economic and Cultural Office(MECO) on Combating Transnational Crimes” “Agreement Between the Government of the Republic of China (Taiwan) and the Government of St. Vincent and the

Grenadines on Combating Transnational Crimes” and the agreements (arrangements) or MOUs on cooperation in combating crimes containing confidentiality clauses between Taiwan and two other countries on jointly combating crime. Furthermore, Taiwan has signed the “ROC Supreme Court Prosecutors Office and the Kingdom of Bahrain MOU on Cooperation in Combating Crime” in 2016, in order to build channels for cooperation in combating crime with various countries in the world. (§48)

## **122. Important Measures and Practices (§48)**

- (1) Due to international political factors, Taiwan has not had the chance to attend any meetings, mechanisms or technical activities of INTERPOL since 1984; therefore, often had to rely on indirect means for access to information on international security. This made Taiwan spend more time and effort on establishing rules and regulations on countering terrorism and upgrading professional skills, which has hampered the efforts in fighting crime on the global level which requires timeliness and complete information and intelligence, and is likely to endanger the safety all over the world. The countering of terrorism needs the supports of all countries in the world. Taiwan can play a positive role in the international countering of terrorism and, therefore, should not be excluded. (§48)
- (2) Though Taiwan is not a member of INTERPOL for the time being, it maintains close liaison with the central authorities of INTERPOL in all countries and the law enforcement agencies in these countries for fortifying mutual assistance among member states. Taiwan can also receive encrypted e-mails from the headquarters of INTERPOL related to Taiwan through the central authority of INTERPOL in Tokyo, Japan. Meanwhile, Taiwan periodically sends its personnel to participate in the “International Conference on Transnational Organized Crime and Terrorism (ICTOCT)” for the exchange of information between the law enforcement officers of all countries in order to enhance the interaction and exchange of information with law enforcers from various countries and promote the cooperation in combating crime. (§48)
- (3) Taiwan has expatriated Police Liaison Officers (PLA) and related personnel to 12 jurisdictions including the East Coast of the USA (the West Coast of the USA is scheduled for September 2022), South Africa, Indonesia, Malaysia, Thailand, Vietnam, the Philippines, Japan, Korea, Australia, Singapore and the Netherlands. Interactions with local law enforcement agencies are

facilitated and carried out in a timely manner through e-mail communication. With the assistance and cooperation in investigation, and even assignment of personnel to assist in the investigation and collect evidence in other countries, Taiwan proactively seeks to cooperate with other countries in law enforcement. Furthermore, Taiwan has developed mechanisms for cooperation with 11 foreign anti-corruption institutions for mutual assistance in the investigation of individual corruption cases (§48).

- (4) In accordance with the “Cross-Strait Joint Crime-Fighting and Judicial Mutual Assistance Agreement,” Taiwan has established a communication channels with the Ministry of Public Security, the Supreme People’s Procuratorate of Mainland China, and five agencies at the provincial level for the exchange of information on different kinds of economic crimes, narcotics, corruption, and malfeasance, and joint law enforcement and repatriation of fugitives with Hong Kong, Macao and the Taiwan Affairs Office of the Ministry of Public Security and other law enforcement agencies of Mainland China for substantive cooperation in law enforcement. (§48)

### 123. Statistics (§48)

- (1) Statistics on requests for joint law enforcement are shown in Table 28.

**Table 28 Statistics on requests for joint law enforcement**

State party	Contents	Time period	Number of cases (case/person)
<b>Work with foreign anti-corruption institutions</b>	AAC requested foreign anti-corruption institution	From 2011 to 2016	24cases
	Foreign anti-corruption institution requested AAC		23cases
	AAC requested foreign anti-corruption institution	From 2017 to 2021	4cases
	Foreign anti-corruption institution requested AAC		19cases
<b>Hong Kong and Macao</b>	Exchange of information and intelligence on suspects economic crime, corporate corruption and felons at large	From 2013 to 2016	32 cases (AAC) 45 cases (MJIB)
		From 2017 to 2021	18 cases (AAC) 66 cases (MJIB)
<b>Mainland China</b>	UNCAC-related crimes, including money laundering, general economic crime, fraud related to corporate	From June 2009 to 2016	27 cases of joint investigation
		From 2017 to 2021	Deported 49 convicts (including 8 fugitives of corruption crimes and 7

	corruption, occupational embezzlement, or breach of trust	fugitives of corporate corruption crimes)	
<b>With other countries</b>	Corruption/Corporate Corruption	From June 2009 to 2016	Repatriation of 7 fugitives of corruption and 1 fugitive of corporate corruption
		From 2017 to 2021	Repatriation of 4 fugitives of corruption and 4 fugitives of corporate corruption

Data source: MOJ (AAC and MJIB)

- (2) As of December 2021, Taiwan has entered into AML/CFT MOUs or agreements on the exchange of related intelligence with 51 countries or jurisdictions. For further information, please refer to the section on Article 14 of the Report. (§48)
- (3) From 2012 to 2021, the Police Liaison Officers (PLAs) of the Criminal Investigation Bureau, National Police Agency, Ministry of the Interior, have successfully arrested and expatriated 759 fugitives (as shown in Table 29). (§48)

**Table 29 Statistics on Information on the arrest and expatriation of overseas fugitives**

Year	Grand total	Mainland China	Vietnam (including Cambodia)	Thailand	Indonesia	Japan	Philippines	Malaysia	South Africa (including Kenya)	USA	Others
2012	124	73	17	9	5	6	3	9	2	0	-
2013	98	57	10	5	10	6	2	4	2	2	-
2014	98	54	9	18	9	5	3	0	0	0	-
2015	111	54	9	17	15	6	4	4	2	0	-
2016	60	13	16	12	4	5	6	3	1	0	-
2017	67	13	16	11	8	10	3	5	0	0	1
2018	51	11	11	3	1	10	3	6	2	2	2
2019	48	11	12	5	0	5	3	4	0	4	4
2020	46	4	9	12	3	1	1	4	0	1	11
2021	56	1	7	11	3	8	2	14	1	3	6
Total	759	291	116	103	58	62	30	53	10	12	24

- (4) For the information on drug cases seized through cooperation with foreign law enforcement agencies from 2018 to 2021, please refer to Table 30. (§48)

**Table 30 Information on drug cases seized through cooperation with foreign law enforcement agencies from 2018 to 2021**

Year	Cooperating agency	Number of cases
2018	Royal Malaysian Police	2
	National Narcotics Bureau of Indonesia	1
	Law enforcement agencies of Australia and the USA	1
	Korea Customs Service	1
	Japan Coast Guard	1
2019	New Zealand Customs	1
	Law enforcement agencies of the USA and Malaysia	1
	Drug Enforcement Center, Criminal Investigation Office of Indonesia	1
	Law enforcement agencies of the USA and Thailand	1
	Law enforcement agencies of the USA	2
2020	Japan Coast Guard	2
	Law enforcement agencies of the USA, Thailand, Vietnam and the Philippines, etc.	5
	Law enforcement unit of Vietnam	1
2021	Law enforcement agencies of the USA and Canada	3

Data source: Ocean Affairs Council, Coast Guard Administration

#### **124. Major Cases (§48)**

- (1) On August 31, 2019, the suspect, an Iraqi national, who was found to have murdered his parents-in-law, ROC nationals, and escaped overseas was arrested (Shilin Double Murder Case).

The suspect, an Iraqi national, was suspected of murdering his parents-in-law, ROC nationals, and escaped with his one-year-old son on an airplane without approval of the child's mother, on April 30, 2019. Upon the proactive communication and negotiation via the Police to Police channel established by the Criminal Investigation Bureau, National Police Agency, Ministry of the Interior, and Japanese and Iraqi agencies, Taiwan successfully reached the Brigadier General in Iraqi Kurdistan, and provided him with the arrest warrant issued by Taiwan (in English and Arabic) and translations of relevant materials to help him to ask the local court to arrest the murderer on grounds of murder charges pursuant to the criminal laws of Iraq.

- (2) The fugitives, the husband and wife Yang X and Wang X, loaned more than NT\$47.2 billion through fraud from multiple financial institutions from 2012 to 2019, and suspected of violating the “Banking Act.” The couple escaped overseas on June 1, 2019, and was arrested through the cooperation of the MJIB and US Immigration and Customs Enforcement on December 12, 2019. They were repatriated from the USA on January 21, 2020, and March 8, 2020, respectively. (§48)
- (3) The fugitive, Tu X, was suspected of illegally raising funds amounting to NT\$200 million in 2016 and was suspected of violating the “Banking Act.” Tu X escaped overseas in October 2016 and was arrested through cooperation of the MJIB and the Bureau of Immigration of the Philippines on February 17, 2020. Tu X was repatriated from the Philippines on April 30, 2020. (§48)
- (4) The fugitive, Lin X, earned more than NT\$40 million through fraud since 2014 and was sentenced to the imprisonment of one year and six months by the Taiwan Ciaotou District Court on June 6, 2019, and put on the wanted list on June 25, 2019. After verifying Lin X’s whereabouts, the MJIB legal secretary in Osaka contacted the Immigration Bureau of Japan in writing to negotiate arrest and repatriation efforts. Lin X, realizing it was impossible to travel to another country, took a flight back to Taiwan and gave themselves up to the police on July 4, 2020. (§48)
- (5) The fugitive, Ching X, illegally raised funds of over NT\$4.7 billion in 2007 and was suspected of violating the “Banking Act.” Ching X absconded in 2016, and was proactively pursued by the MJIB. Eventually, Ching X was arrested and repatriated from Thailand on September 17, 2020. (§48)
- (6) On January 25, 2021, the suspects Wei X and Ku X were arrested in Ampang District, Selangor State, Malaysia on January 25, 2021, after having moved there. (Ku X was the bankroller of Control Room No. 1 and No. 2 in a fraud case in Montenegro, escaping to Malaysia after the joint law enforcement of Taiwan and the police of Montenegro.) They were repatriated to Taiwan on February 23, 2021.
- (7) On April 1, 2021, the suspect Hsu X, who hit a policeman’s head resulting in death in Taipei on September 13, 2014, was arrested in Malaysia. He was repatriated to Taiwan on April 28, 2021.

## **Article 49 Joint Investigations**

### **125. Legal Regulations (§49)**

According to Article 2 of the “AIT-TECRO Mutual Legal Assistance Agreement,” Article 1 of the “Taiwan-Philippines Mutual Legal Assistance Agreement,” Article 2 of the “Taiwan-South Africa Mutual Legal Assistance Agreement,” Article 2 of the “Taiwan-Nauru Mutual Legal Assistance Treaty” and the “Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters,” joint investigation is allowed on a case-by-case basis. (§49)

### **126. Major Cases (§49)**

- (1) On January 18, 2018, Taiwan and the police of Slovenia and Croatia worked together to conduct a raid and investigation and collect evidence. As a result, a total of 99 suspects, including 97 ROC nationals (including 2 fugitives), and 2 foreign suspects were arrested. They engaged in fraud under the disguise of public security police. The items seized on the site included laptops, iPads, iPhone5s, iPhone7s, and personal belongings, in addition to cash amounting to NT\$5,524,852, keys of 24 luxury cars, real property (1 house, and 3 land parcels), 21 domestic accounts, and 2 offshore accounts. The total amount was estimated to be about NT\$59,230,000.
- (2) A fraud crime syndicate led by the prime suspect, Chang X, was engaged in telecommunication fraud in Central America and Europe since 2017. They expanded their business to Los Angeles, the USA, in April 2019, where they rented a villa to set up their telecommunication control rooms. After obtaining the relevant intelligence, Taiwan, via the mutual legal assistance channel between Taiwan and the USA, requested the US Department of Justice for assistance in searching the control rooms and arresting and questioning the defendants in California. The US Department of Justice helped to communicate with the US Attorney in California, and the Attorney obtained a search warrant from the court within one month. After that, the Attorney directed the US Immigration and Customs Enforcement (ICE) to conduct a raid and seize a large amount of evidence. The defendants were later repatriated to Taiwan. The illegal deposits seized in this case totaled NT\$9 million, as well as evidence including luxury cars and watches valuing more than NT\$10 million. One victim, a Mainland China national, had been defrauded by the syndicate and



lost the money amounting to more than NT\$10 million. With the assistance from Ministry of Justice, the proceeds of crime were returned to the victim in whole. (§49)

- (3) At the beginning of 2018, in order to investigate a case involving a certain large-size technology company based in Taiwan and its employees suspected of stealing business secrets from a certain large-size technology company in the USA, the USA requested Taiwan for mutual legal assistance. In order to balance the protection of corporate business secrets and effective international cooperation, Taiwan negotiated and coordinated with the USA for about six months, provided the USA with relevant evidence, and helped to question the witnesses. The prosecutors of Taiwan and the USA convened multiple work meetings in Taiwan and the USA. With the assistance from the US Department of Justice and the US Attorney's Office in California, the case was prosecuted successfully. The Taiwan-based technology company agreed to a plea bargain in exchange for a lenient penalty during the court's trial in the USA, and also promised to work with the USA in the following investigation on a China-based technology company involved in the case. It set a good example of the joint investigation between Taiwan and the USA. (§49)
- (4) On September 19, 2018, Taiwan and the Department of Public Security of Guangdong Province solved the "Li X Dong Abduction and Ransom Case" together. The authorities in Mainland China arrested 5 suspects with ROC nationality. Taiwan arrested 7 suspects engaged in money laundering through illegal remittance. As a result, the ransom, NT\$16 million, and illegal remittance amount, NT\$430 million, were seized.
- (5) On May 27, 2019, Taiwan and the Narcotics Control Bureau of Ministry of Public Security of Mainland China worked together to solve the "Yu X and Chen X Suspected Narcotics Transportation Case." As a result, 1,054.04kg of the 4th-class drug "2-bromo-4-methylpropiofenone" were seized at the Keelung Port, and three suspects, all ROC nationals, were arrested.
- (6) In 2019, the prosecutors of Taiwan visited the Philippines, Vietnam and Thailand to attend work meetings for mutual legal assistance in criminal matters and negotiate for the cooperation in drug enforcement, intelligence sharing and joint action. At the same time, the prosecutors also invited the drug enforcement units of the Philippines, Vietnam and Thailand to organize an international

cross-border platform drug enforcement conference in Taiwan for the sharing of the narcotics information and planning for further cooperation. In November 2019, Taiwan and Vietnam arrested the international drug dealers' syndicate. 502 heroin bricks, weighing 190kg in total, were seized. The results were considered remarkable.

- (7) On January 2, 2020, Taiwan and Shanghai Municipal Public Security Bureau solved the "Liao X Suspected Money Laundering Waterhouse Fraud Case." Nine suspects, all ROC nationals, were arrested. The evidence, including 98 mobile phones, 388 USB shields, 19 Union Pay cards, 28 desktops, 4 laptops and tablets, 45 SIM cards, 24 USB sticks, 1 Lexus, and cash amounting to NT\$654,500, was also seized.
- (8) In January 2020, a fraud crime syndicate consisting of Taiwanese people was found moving to Montenegro in Europe. Taiwan established a Police to Police channel with the police of Montenegro and completed both parties' joint crime-fighting plan successfully. Taiwan worked with the police of Montenegro to search 3 telecommunication fraud control rooms on January 8, 2020. In Control Room No. 1 and 2, a total of 69 suspects were arrested, and 24 laptops, 19 tablets, 160 mobile phones, 23 routers, and various currencies equivalent to NT\$2 million were seized. Upon continued investigation, the bankroller of Control Room No. 1 and 2 in Taiwan was Chen X, who was detained on April 15. At the same time, a raid was conducted against 13 locations. As a result, 14 mobiles phones, cash amounting to NT\$9,274,200, 3 cars, a large amount of passbooks, and one surveillance system server were seized.
- (9) On March 15, 2021, Taiwan worked with the Belgian customs to seize drug packages, and arrested 2 suspects in Taiwan. At the same time, a raid was conducted on 4 locations, and the evidence, including cash amounting to NT\$2,379,000, 8 iPhones, 1 surveillance system, 1 server, a tray used for ketamine and 11g ketamine, was seized.
- (10) In May 2021, Taiwan worked with Belgium to seize 7,906 packs of the 3rd-level drug coffee (gross weight 37,530.4g), the 3rd-level drug ketamine (gross weight 2,378.37g), suspected semi-finished products for mixed drugs (including the ingredients amphetamine and MDMA, gross weight 586.99g), blue pills (preliminarily tests showing it to contain MDMA and benzodiazepines, gross weight 1,102.4g), cash amounting to NT\$528,480, as well as other evidence including electronic scales, cash counters and passbooks.

- (11) On June 30, 2021, Taiwan worked with the police of Singapore to solve the control room and Money Laundering Waterhouse fraud case involving ethnic Chinese in Singapore, and carried out detention and search work. As a result, 2 fraud control rooms and 1 fraud Money Laundering Waterhouse were seized, and 14 suspects were arrested or detained.
- (12) On September 9, 2021, Taiwan worked with the police of Japan to seize evidence that included 7 laptops, 44 mobile phones, 7 Wi-Fi routers, cash amounting to NT\$80,000, and 2 minivans. 13 suspects were arrested or detained.
- (13) On November 13, 2021, Taiwan worked with Indonesia to investigate cases of fake transnational investment projects and gambling fraud control rooms. As a result, 1 control room was seized and 46 suspects with Mainland China nationality and 2 suspects with Vietnamese nationality were arrested.
- (14) On November 22, 2021, Taiwan worked with Narcotics Suppression Bureau, Royal Thai Police to investigate a drug case. As a result, 23.9kg of amphetamine and 1.4 kg of ketamine, scales, dispensing tools, and fragrance bath gift boxes were seized, and one suspect surnamed Wu, an ROC national, was arrested on the spot in Thailand.
- (15) On November 25, 2021, Taiwan worked with Turkey to investigate a transnational fraud control room case. As a result, one control room, together with laptops, tablets and mobile phones, were seized, and 22 suspects with ROC nationality, 4 suspects with Mainland China nationality, and 1 suspect with Malaysian nationality were arrested in Turkey

## Article 50 Special Investigative Techniques

**Concluding observations of the international review committee of the first national report:**

*Measure 43: In relation to special investigative techniques, Taiwan is able to use controlled delivery mechanisms and has done so in successful investigations. However, unlike in many other countries, it is not yet legally able to use undercover operations or access computer systems in the investigation of corruption or other serious crimes. The committee encourages Taiwan to proceed with consideration of the draft “Undercover Investigation Act” and to consider legal means by which evidence and intelligence can be obtained from computer systems during authorized investigations.*

The Ministry of Justice is working on drafts of the “Science and Technology Investigation Act” and the “Undercover Investigation Act,” and will continue to collect opinions and suggestions from the

general public, so as to improve the overall legal system. Please refer to page 65 of the Report on Responses to the Concluding Observations.

### 127. Legal Regulations (§50)

- (1) Subparagraphs 1 and 3 of Paragraph 1 of Article 5 of the “Communication Security and Surveillance Act” provide the requirements for applying for communication surveillance in the investigation and handling of corruption cases. Unless the content of communication surveillance is obtained illegally and the content or evidence is derived from illegal surveillance, the content obtained from communication surveillance and the evidence derived therefrom shall be used in judicial investigations, trials or other relevant procedures as evidence or for other relevant purposes. (§50 I)
- (2) Articles 32-1 and 32-2 of the “Drug Control Act” provide relevant regulations for the investigation and handling of transnational drug crime cases, and the “Guidelines for Customs Service in the Controlled Delivery of Drugs” are formulated to regulate the implementation of controlled delivery operations. (§50 IV)
- (3) Article 133-2 of the “Code of Criminal Procedure” states that emergency seizure is allowed when there are reasonable grounds in the investigation to believe that the situation is urgent and it is necessary to perform seizure immediately. This regulation is for immediate seizure. In addition, Article 4 of the “Money Laundering Control Act” stipulates that when identifying the proceeds of crime, it is not necessary that there is a conviction for a specific unlawful activity. This regulation can expand the scope for confiscation. (§50)

### 128. Statistics (§50 I)

The details of the handling of applications for communication surveillance by local prosecutors’ offices from 2017 to 2021 are shown in Table 31. (§50 I)

**Table 31 Statistics on the handling of applications for communication surveillance by local prosecutors offices**

Time period	Verification by prosecutors’ offices			Issuance by courts		Corruption cases		
	Number of cases handled	Rate of application by police departments (%)	Rate of application by investigation agencies (%)	Number of cases handled	Approval rate (%)	Number of cases verified by prosecutors’ offices	Number of cases approved by courts	Rate of approval by courts (%)

2017	21,293	65.2	24.2	20,580	72.7	1,057	1,047	99.1
2018	20,400	72.5	16.5	19,717	74.2	1,100	1,092	99.4
2019	16,584	76.6	11.8	16,040	71.1	1,038	1,038	100
2020	13,536	75.9	12.0	13,160	75.3	831	824	99.2
2021	11,070	75.4	12.7	10,844	76.6	893	890	99.8

Data source: Department of Statistics, Ministry of Justice

Note: This table does not include cases under continued communication surveillance

### 129. Promotion Methods (§50 I-III)

- (1) With the development of science and technology and the changes of social structures, the methods of committing crime are also changing constantly. In the face of organized, hidden and international criminals, the conventional crime investigation models sometimes fall short. Undercover investigation has gradually become a recognized criminal investigation method in various countries. As an effective weapon for fighting crime, Taiwan has developed a draft of the “Undercover Investigation Act,” but a consensus has not been reached yet. In addition, the use of scientific and technological products such as real-time decoding stations and body cameras and other communication surveillance equipments are also special investigative techniques that Taiwanese law enforcement may adopt. For details, please refer to II, 4, (1), 7 “Promotion of Legislation of Special Investigation Methods” in the Report on Responses to the Concluding Observations. (§50 I)
- (2) Taiwan continues to develop investigative skills and actively builds communication surveillance equipment in accordance with the “Communications Protection and Supervision Act” and other regulations, on the premise of meeting all legal requirements. Since 2017, the National Police Agency, Ministry of the Interior, has established a 4G mobile broadband communication surveillance system for telecommunications companies such as Far EasTone, Taiwan Mobile and T-Star, which provides surveillance functions such as 4G mobile Internet access and voice calls to national prosecutors, integrity, police, investigation, coast guard, immigration, military police and national security and other agencies at all levels of the government to carry out communication surveillance in accordance with laws and regulations. (§50 II and III)

### 130. Major Cases Using Special Investigation Methods (§50 I)

- (1) Huang X, chairperson of the board of directors of a Hong Kong oil company, was granted bail in February 2015 after being involved in fraud and money laundering cases, and was approved to come to Taiwan for medical treatment. Later, Huang was kidnapped right outside his residence in September 2015 due to financial disputes and the kidnappers demanded a ransom of HK\$70 million (about NT\$290 million). Taiwanese police accompanied Huang’s wife to Hong Kong to pay a ransom of HK\$13 million, and they arrested 15 suspects in Taiwan and rescued Huang X and sent him to the hospital for treatment. (§50 I)
- (2) On May 26, 2017, prosecutors of the Taiwan Kaohsiung District Prosecutors Office commanded the former Coast Guard Administration of the Executive Yuan to monitor fishing boats using a radar system. On May 26, 2017, the prosecutors and the coast guard seized the “Yong Fu Sheng” fishing boat which was smuggling 1,800 blocks (693kg) of heroin, which was the largest amount of heroin smuggled into Taiwan in recent years. (§50 I)

## Chapter V Asset Recovery

### Article 51 General Provision

**Concluding observations of the international review committee of the first national report:**

*Measure 44: The Review Committee recognizes the challenges faced by Taiwan in recovering assets from corruption cases involving citizens and organizations based in those countries which do not have diplomatic relations with Taiwan. Nevertheless, Taiwan has been able to recover substantial assets in some cases.*

Please refer to page 84 of the Report on Responses to the Concluding Observations.

#### 131. Legal Regulations (§51)

- (1) Paragraph 5 of Article 38-1 and Paragraph 2 of Article 38-3 of the “Criminal Code” and Articles 142, 317, 473 and 475 of the “Code of Criminal Procedure” are the basic provisions of the substantive and procedural laws on the principle of giving priority to the return of the proceeds of crime to victims. (§51)
- (2) Articles 23 to 28 and Articles 33 to 36 of the “Mutual Legal Assistance in Criminal Matters Act” provide basic regulations of mutual legal assistance for the implementation of foreign judgments of confiscation and return, clearly specifying that in addition to assisting the requesting party in

seizing the proceeds of crime, Taiwan may also, based on the newly-added regulations (including provisions that the requesting party shall provide relevant information and the protection of third parties), recognize and enforce foreign confiscation judgments, which may be a basis for returning the proceeds upon legislation. Taiwan may also deduct the expenses incurred prior to the returning the proceeds. (§51)

- (3) Article 17 of the “AIT-TECRO Mutual Legal Assistance Agreement,” Articles 18 and 19 of the “Taiwan-Philippines Mutual Legal Assistance Agreement,” Article 17 of the “Taiwan-Nauru Mutual Legal Assistance Treaty” and Article 17 of the “Taiwan-Belize Mutual Legal Assistance Treaty” also provide relevant regulations. (§51)
- (4) Paragraph 5 of Article 13 of the Money Laundering Control Act states: “In the event that a request for assistance is made by foreign governments, institutions or international organizations, based on treaties or agreements concluded in accordance with Article 21, or on the principle of reciprocity, if the criminal activity involved constitutes an offense stipulated in Article 3, the preceding four paragraphs may also apply, even if the investigation or trial does not take place in the jurisdiction of the country.” (I.e. freezing and seizing the proceeds from crimes.) In addition, Article 18 of the the Act states that the benefits of the assets or property that is transferred, converted, concealed, obscured, accepted, obtained, possessed or used in the offense of money laundering shall be confiscated. (§51)

### **132. Major Cases (§51)**

- (1) The first case of successful mutual legal assistance between Taiwan and the United States in recovering property: Chen X purchased two properties in the United States using the bribes he received from the second financial reform. In July 2010, prosecutors of the US Department of Justice (Asset Confiscation and Money Laundering Section of the Criminal Division) initiated civil confiscation proceedings on the grounds that the two properties were suspected to have been purchased with the illicit gains of corruption and bribery, and twice requested the Ministry of Justice on the basis of the “AIT-TECRO Mutual Legal Assistance Agreement” for mutual legal assistance. Hence, the Special Investigation Division, SPD (dissolved on January 1, 2017) provided relevant evidence to its US counterpart. The US government auctioned the two properties in 2013 and received US\$1.5 million, which was remitted back to Taiwan in 2016. (§51)

- (2) In 1989, the Taiwanese Navy contacted France to purchase six La Fayette-class frigates. Kuo X, the Navy's person in charge, conspired with the arms dealer Wang X and other parties concerned, in which the overseas company established by Wang X received huge kickbacks of approximately 18.6%. Following the death of Wang X in 2015, the court has concluded a dismissal judgment, and the prosecutors have currently frozen the assets and bank accounts of the Wang family in several European countries. Taiwan's prosecutors filed a separate petition domestically to apply for confiscation. On July 21, 2017, the Taiwan Taipei District Court ruled to confiscate the principal and interests of the criminal proceeds of US\$900,146,887.18 and the interests generated until the execution is completed. After the motion to set aside the court rulings of both parties, the Taiwan High Court ruled on November 28, 2018, to declare that the criminal proceeds of US\$953,324,920.60 and the interests generated until the execution is completed shall be confiscated. On October 31, 2019, the Supreme Court ruled that the principal of US\$312,539,913.44 specified in the prosecutor's application for confiscation of the proceeds of crime was determined and final, and the rest amount was returned to the Taiwan High Court. On July 14, 2021, the Taiwan High Court ruled to allow the confiscation of the principal and interests of US\$520,748,645.83, and interest of the principal of US\$487,192,808.72 generated from January 1, 2017, until the execution is completed. Taiwanese prosecutors are still actively using mutual legal assistance to request the relevant countries to continue to freeze the assets of the Wang family, and request the return of the proceeds of crime in compliance with the conditions of the foreign countries concerned. (§51)
- (3) When the US Department of Homeland Security investigated Latin American drug cartels in November 2011, it found out that a woman of ROC nationality was in the US importing, exporting and selling apparel to launder over US\$27 million of the proceeds from drug transactions and which was remitted into her domestic bank account in Taiwan. The United States then continued to maintain close contact with Taiwan's competent authorities to exchange information. In September 2014, the US Department of Justice requested Taiwan for mutual legal assistance in accordance with the "AIT-TECRO Mutual Legal Assistance Agreement" to assist the US in seizing the woman's account in Taiwan involved in money laundering. The Taiwan Taipei District Prosecutors Office successfully seized more than US\$15 million in illicit gains. The US



Department of Justice reached a settlement with the woman in 2018, and Taiwan actively negotiated with the US Department of Justice on matters related to the return of the illicit gains seized. (§51)

- (4) In order to implement the provisions of Article 9 (Transfer of Illicit Gains) of the “Agreement on Cross-Strait Mutual Assistance in the Fight Against Crime,” Taiwan contacts and coordinates with Mainland China’s Supreme People’s Court, the Supreme People’s Procuratorate and the Ministry of Public Security to continue handling cases of cross-border telecommunication fraud involving the seizure and return of asset of victims. Since 2009, assets of over NT\$14.42 million from 18 cases have been returned from Mainland China to victims in Taiwan, while about NT\$44.32 million has been returned from Taiwan to victims in Mainland China. For example, Taiwan investigated a cross-border telecommunication fraud case involving 22 people including Luo X who were prosecuted based on the “Organized Crime Prevention Act” (Directing or Participating in an Organized Crime) and the “Criminal Code” (Aggravated False Pretense). During the investigation, the victim from Mainland China came directly to Taiwan to testify, and was referred by the agency to the Taiwan Taichung District Court for mediation. By means of mediation and on-the-spot compensation, compensation of NT\$10.4 million was returned to the victim.

## **Article 52 Prevention and Detection of Transfers of Proceeds of Crimes**

### **133. Legal Regulations (§52 I, II and IV-VI)**

- (1) The “Regulations Governing Anti-Money Laundering of Financial Institutions” amended and promulgated on November 14, 2018, and the sample template of precautions for preventing money laundering and counter-terrorism financing stipulated by the relevant associations provide clear regulations for financial institutions to confirm customer identity, identify beneficiary ownership, record keeping, large-amount currency transactions and suspicious transaction reporting and other money laundering and terrorism financing risks, as well as AML/CFT operations, etc.
- (2) Paragraph 2 of Article 8 of the “Money Laundering Control Act” and Articles 12, 13 and 15 of the “Regulations Governing Anti-Money Laundering of Financial Institutions” require keeping accounting certificates, records of transactions with customers, and financial institutions’

reporting records, customer identification records and transaction certificates in their original form for at least 5 years. The “Regulations Governing Anti-Money Laundering of Financial Institutions” provide the following detailed regulations: (§52 I and II)

- A. Article 12 states that a financial institution shall keep records on all business interactions and transactions with its customers in hard copy or electronical form, and shall maintain all necessary records on domestic and international transactions for at least five years. A financial institution shall keep all records and information on business interactions of customers obtained for at least five years after the business relationship is ended or after the date of occasional transactions
  - B. Article 13 states that financial institutions shall keep relevant transaction records and report cash transactions above a certain amount to the Investigation Bureau. The data reported to the Investigation Bureau and relevant transaction records shall be kept for at least five years.
  - C. Article 15 states that financial institutions shall file suspicious money laundering or terrorism financing transaction reports to the Investigation Bureau. The data reported to the Investigation Bureau and relevant transaction records shall be kept for at least five years.
- (3) Article 53 of the “Banking Act” states that the establishment of a bank shall be approved the central competent authority. Article 29 of the Act states that any person other than a bank may not accept deposits, manage trust funds or public property under mandate or handle domestic or foreign remittances. In case of violation, remedial action is taken by the competent authority or the competent authority in charge of the particular enterprise, together with the juridical police authority, and the case shall be referred to the court for action. If the person concerned is a legal person, the responsible person shall be jointly and severally liable for repayment of the relevant obligations. (§52 IV)
- (4) Subparagraph 6 of Article 3 of the “Regulations Governing Internal Audit and Internal Control System of Anti-Money Laundering and Countering Terrorism Financing of Banking Business and Other Financial Institutions Designated by the Financial Supervisory Commission” states it is prohibited to enter into correspondent relationships with shell banks or commissioned institutions that allow shell banks to use their accounts. (§52 IV)
- (5) Articles 11 to 13 of the “Act on Property-Declaration by Public Servants” provide certain punishments (including administrative and criminal penalties) to agencies (institutions), groups

or individuals under investigation in accordance with the Act who refuse to provide explanation without justifiable reasons or make untruthful statements, those obliged to declare property intentionally conceal the property for untruthful declaration, fail to declare within the prescribed time limit without justifiable reasons, or intentionally make untruthful declaration, and those with fiduciary duties that fail to trust the property within the prescribed period without justifiable reasons or intentionally fail to the trust property, etc. The “Act on Property-Declaration by Public Servants” states the relevant review, punishment and inspection mechanism, and requires all declaration obligors making declarations according to the above regulations. The properties to be declared include domestic and overseas properties. Those who intentionally make false declarations or intentionally conceal matters will be punished according to laws and regulations. (§52 V and VI)

**134. Important Measures and Practices (§52 III)**

- (1) Through the participation of international organizations such as the Egmont Group, APG and ARIN-AP, Taiwan has established a mutual consultation channel with overseas counterparts. (§52 III)
- (2) TWSE and TPEX have respectively set up special departments to monitor illegal transactions such as speculation and insider trading in accordance with the “Taiwan Stock Exchange Corporation Rules Governing Implementation of the Stock Market Surveillance System” and the “Regulations Governing Implementation of the Market Surveillance System for Securities Traded on the TPEX.” (§52)
- (3) When a client is the trustee of a legal person, group or trust, the financial institution shall fully understand the ownership and control structure of the client or trust, identify the final natural person who directly or indirectly holds the shares of the juristic person or over 25% of the capital, and identify whether there is any natural person who exercises control power over the client in other manners or identify the senior management, so as to identify the beneficiary ownership of the client and take reasonable measures for verification. In addition, the financial institution shall adopt a risk-based approach to determine the strength of their implementation of customer identity confirmation measures and continuous review mechanisms. For high-risk situations, prior to establishing or adding new business relationships, the financial institution shall obtain

the consent of its senior management, and shall take reasonable measures to understand the source of a client's wealth and funds, and the enhanced ongoing monitoring of business relationships shall also be adopted. (§52 I)

### **135. Major Cases (§52)**

L was the former person in charge of Department Store A and Company B. In order to take back the control of Department Store A, from 2013 to 2020, L respectively provided bribes of NT\$26.8 million, 1.49 million, 2.34 million, 7.9 million, 1.8 million, 1 million and 500 thousand to Legislator O, P (the director of O's office), Legislator Q, Legislator R, S (the director of R's office), Legislator U, and V (the director of U's office) through M (the person in actual charge of Consultancy Firm C) and N (the general manager of Department Store D). L additionally promised to provide a bribe of NT\$2 million to Legislator W in exchange for favorable actions during the submission of bills, interpellations, resolutions, public hearings, and consultative discussion by the above-mentioned legislators to affect the officials of the Ministry of Economic Affairs to cancel the registration of the capital increase to Company B by Department Store E and allow L to return as the person in charge of Company B. This case was investigated and handled by the Taiwan Taipei District Prosecutors Office under the command of the Investigation Bureau. Taiwan's FIU participated in the investigation and provided more than 20 pieces of financial intelligence to assist in the investigation and sorting out of the illegal flow of funds of the case, and to expose the whole picture of the crime. The indictment of the case was conducted by the Taiwan Taipei District Prosecutors Office on September 21, 2020. (§52)

## **Article 53 Measures for Direct Recovery of Property**

### **136. Legal Regulations (§53)**

- (1) In Taiwan, the confiscation of the proceeds of crime adopts the principle of prioritized return to the victim (for relevant provisions, please refer to the section on Article 51 of the UNCAC).
- (2) The "Taiwan Code of Civil Procedure" does not restrict the victim (state, government agency or individual) from claiming damages according to laws and regulations. If any specific case is involved in litigation, the court that accepts the case will make a judgment based on the actual circumstances of such a case. (§53)

- (3) Article 33 of the “Mutual Legal Assistance in Criminal Matters Act” states that in the case of the assistance provided by both domestic and foreign parties for the confiscation of assets or collection of the proceeds value, or vice versa, the Ministry of Justice may negotiate with its counterparts regarding the issue of the sharing of the confiscated assets collected or value of proceeds. Prior to the restitution of assets or value to a foreign government, foreign institution or international organization, the costs and expenses incurred in the implementation of the assistance extend to the foreign government, foreign institution or international organization shall be deducted from the sum of the said assets; however, the interests of the legitimate rights holders and victims shall be properly considered in advance. Article 34 of the Act also stipulates the requirements and time for the foreign government to return or pay the seized, confiscated and recovered property to the foreign national. In addition, the mutual legal assistance agreements signed between Taiwan and the governments of other countries or regions also establish a mechanism for bilateral process by the governments on both sides to handle the return of cross-border criminal proceeds. (§53)
- (4) Paragraph 2 of Article 19 of the “Money Laundering Control Act,” amended and promulgated on December 28, 2016, states: “For proceeds of unlawful activity confiscated or recovered as a result of assistance or efforts by this government and foreign governments, institutions or international organizations, based on treaties or agreements concluded in accordance with Article 21, or on the principle of reciprocity, the Ministry of Justice may return or share the property confiscated to, or request for return or sharing the property confiscated from, foreign governments, institutions or international organizations, based on treaties or agreements concluded, or on the principle of reciprocity.” The legislative reasons for the amendment of this Article are as follows: “Article 57 of the UNCAC expressly states international mutual assistance in returning and sharing of proceeds of crime. However, the current provisions of the Article stipulate that when a foreign government, institution or international organization assists Taiwan in executing confiscation, the Ministry of Justice can return the amount in full or in part to the assisting party. However, there are no specific regulations for requests for sharing when Taiwan helps a foreign government, institution or international organization, which leaves no solid basis for practical operations to comply with. Therefore, the provisions of Paragraph 2 shall be

amended accordingly, so that the Ministry of Justice can request international sharing from foreign governments, institutions or international organizations. In the case of mutual assistance between Taiwan and foreign governments, institutions or international organizations, sharing mechanism will be adopted. Moreover, the legal system for international cooperation in recovering criminal proceeds varies. For example, in addition to the criminal confiscation system, countries with a common law system often have a civil confiscation in the rem litigation system. Hence, to facilitate international cooperation, the confiscation and sharing system shall include the implementation of confiscation and also other acts of recovering the proceeds of crimes, which all lead to the necessity of amending the Article.” (§53)

### **137. Major Cases**

Please refer to the major cases in the section on Article 51 of the UNCAC.

## **Article 54 Mechanisms for Recovery of Property through International Cooperation in Confiscation**

### **138. Legal Regulations (§54)**

- (1) Regulations specified in Article 6 and subsequent articles of the “Mutual Legal Assistance in Criminal Matters Act” (mutual legal assistance on seizure and prohibition of disposition of assets) and those specified in Article 23 and subsequent articles (mutual assistance in the enforcement of foreign confiscation or recovery based on judgments or orders). (§54 I and II)
- (2) Article 40 of the “Criminal Code,” Articles 259-1 and 455-34 to 455-37 of the “Code of Criminal Procedure” are all provisions for independent declaration of confiscation. (§54 I and II)
- (3) Article 17 of the “AIT-TECRO Mutual Legal Assistance Agreement,” Articles 18 and 19 of the “Taiwan-Philippines Mutual Legal Assistance Agreement,” Article 17 of the “Taiwan-Nauru Mutual Legal Assistance Treaty” and Article 17 of the “Taiwan-Belize Mutual Legal Assistance Treaty.” (§54 I and II)
- (4) Paragraph 5 of Article 13 of the “Money Laundering Control Act” states: “In the event that a request for assistance is made by foreign governments, institutions or international organizations, based on treaties or agreements concluded in accordance with Article 21, or on the principle of reciprocity, if the criminal activity involved constitutes an offense stipulated in Article 3, the

preceding four paragraphs may also apply, even if the investigation or trial does not take place in the jurisdiction of the country.” This is the practice for implementing the freezing order issued by a foreign court; and there are also provisions for confiscation in Paragraph 3 of Article 18 of the Act. (§54 I and II)

- (5) Any foreign country’s request for mutual legal assistance for identification, seizure or confiscation is handled based on the treaty or agreement on the prevention of money laundering or the principle of reciprocity. If the crime concerned is a specific crime specified in Article 3 of the “Money Laundering Control Act,” the competent authority in Taiwan may, take prompt action to respond following domestic laws and regulations regarding seizure, prohibition of disposition or confiscation even there is no domestic investigation or trial. Furthermore, because the current definition of money laundering officially adopted by Taiwan is in line with rules of the “Vienna Convention” and the “Palermo Convention,” the scope of money laundering also includes predicate offenses.

### **139. Important Measures and Practices (§54)**

- (1) Taiwan can take swift action in response to foreign requests for mutual legal assistance in criminal matters regarding the identification, freezing, seizure or confiscation of the source of property for money laundering, the source of criminal proceeds, the instrument of crime, or property intended to be used as instrument of crime or the equivalent property. (§54 I and II)
- (2) The AMLD of MJIB is Taiwan’s FIU, and its practice is as follows: (§54 I and II)
  - A. For details on the international information exchange and requests to exchange relevant financial information, please refer to the section on Article 38 of the UNCAC.
  - B. According to the operational mechanism for EG, each member state shall explain the reasons for the request, whether there is an ongoing judicial investigation, any expectation of asset confiscation or preservation. Hence, when a foreign FIU requests for information exchange to the AMLD of MJIB on behalf of the judicial or law enforcement agencies of the foreign country, the expectation of subsequent asset confiscation or preservation (if any) shall be indicated in such request. On the other hands, AMLD may submit an information request to foreign FIUs on behalf of the prosecutors or other judicial agencies in Taiwan. In such requests, the prosecutors

or other judicial agencies in Taiwan shall declare the needs of assets confiscation or preservation based on the investigation in advance and such statement will be included in AMLD's request.

- C. For the handling of the international information exchange, if a foreign FIU on behalf of a foreign judicial or law enforcement agency submits a request for asset confiscation or preservation through the Egmont Group network, it will be referred to the prosecutors for further process in accordance with the separation of duties and contact practice.

#### **140. Major Cases (§54)**

Taiwan has achieved several successful cases of coordinated seizure and confiscation actions with other countries, such as:

- (1) Coordinating with the United States to confiscate the real estate located in the United States involved in the corruption case of the former Taiwanese President Chen X, and seizing the illicit gains of Central and South American drug cartels deposited in a Taiwanese bank account for money laundering. (§54 I and II)
- (2) Countries such as Switzerland coordinated to seize or freeze the bank accounts of XX Wang related to the Lafayette case. Please refer to the sections on Articles 31, 46 and 51 of the UNCAC. (§54 I and II)

### **Article 55 International Cooperation for Purposes of Confiscation**

#### **141. Legal Regulations (§55 I-III, VI and IX)**

- (1) The "Money Laundering Control Act" is put into practice for enforcing foreign court confiscation orders. Please refer to the section on Article 53 of the UNCAC. In cases of violation of Paragraph 1 of Article 13 of the Act (crimes committed by moving property through bank accounts, wire transfers, currency exchanges or other means of payment), following with Paragraphs 1 and 2 of the same Article, the withdrawal, transfer, payment, delivery and assignment may be prohibited, or to other necessary disposition may be made. In addition, Paragraph 5 of the Act states that such a special provision is also applicable to cases in which foreign countries requesting mutual legal assistance. (§55 I and II)
- (2) For the confiscation or seizure regulations specified in the "Code of Criminal Procedure," the "AIT-TECRO Mutual Legal Assistance Agreement," the "Taiwan-Philippines Mutual Legal



Assistance Agreement,” the “Taiwan-Nauru Mutual Legal Assistance Treaty” and the “Taiwan-Belize Mutual Legal Assistance Treaty,” please refer to the section on Article 54 of the UNCAC. (§55 I and II)

- (3) Paragraph 3 of this Article applies *mutatis mutandis* to the provisions of Article 46 of the UNCAC, please see the section on Article 46 of the UNCAC.
- (4) The “Criminal Code” has added a dedicated chapter on confiscation and the “Money Laundering Control Act” has added provisions to expand the confiscation of proceeds from illegal acts (please refer to the section on Article 31 of the UNCAC). The second part of Paragraph 1 of Article 142 of the “Code of Criminal Procedure” states that “Where the seized property constitutes stolen property and is not claimed by any third party, it shall be returned to the victim of the crime.” Moreover, Subparagraph 4 of Paragraph 2 of Article 18 and Paragraph 3 of Article 19 of the “Taiwan-Philippines Mutual Legal Assistance Agreement” are all relevant provisions that do not prejudice the rights of third parties. (§55 IX)
- (5) The “Mutual Legal Assistance in Criminal Matters Act” expressly stipulates that if certain conditions are met, Taiwan may recognize and enforce the definite judgment or order of the requesting country’s confiscation or recovery related to the crime (please refer to the section on Article 51 of the UNCAC), but these do not include anything made by any civil procedure. Paragraph 2 of Article 2 of UNCAC states that the performance of obligations involving international law shall be based on treaties; if there are no treaties or the treaties do not provide for it, it shall be based on the principle of reciprocity. (§55 III and VI-IX)
- (6) Articles 23 to 28 and 34 of the “Mutual Legal Assistance in Criminal Matters Act” provides regulations for assisting foreign confiscation, which state that for confiscation or recovery related to crimes, in addition to specifying that the requesting party may request Taiwan to assist in seizing property and executing the criminal judgment or order determined by the requesting party when specific requirements are met, procedural protection is also provided to third parties for stating their own opinions. As for the property confiscated or recovered according to the relevant regulations, Taiwan may negotiate with the requesting party to share a certain percentage after deducting the expenses and returning it to the legal rights holder. For the confiscation orders of requesting countries (parties) for mutual legal assistance involving the rights of any third parties,

such third parties are given sufficient opportunities to claim the rights, which also demonstrates that Taiwan has formulated comprehensive regulations on protecting the rights and interests of third parties. (§55 I, II, VI and IX

## **Article 56 Special Cooperation**

### **142. Important Measures and Practices in Taiwan (§56)**

Taiwan is a member state of the APG, the Egmont Group and the ARIN-AP. Member states of these organizations are required to exchange information on money laundering and the flow of criminal proceeds.

- (1) Taiwan actively participates in various APG conferences, and acts as an APG member in the activities of the FATF to prevent money laundering, and actively participates in APG and FATF-related international conferences and money laundering seminars to expand the space for international cooperation and learn from the relevant experience in the prevention and control of money laundering and the recovery of criminal proceeds as a reference for practice in Taiwan.
- (2) Taiwan is one of the founding member states of ARIN-AP. Through ARIN-AP, Taiwan continues to exchange experience with other member states in the recovery of proceeds of crimes, and also conducts exchanges of information such as the flows of criminal proceeds for illegal cases. The scope of provision of intelligence is reviewed and defined in advance, and the intelligence can only be used within the defined scope of the request.
- (3) According to the Egmont Group's intelligence exchange network practice, when a foreign FIU on behalf of the judicial or law enforcement agencies of such foreign country requests exchange of intelligence with Taiwan, it shall explain the reason for such request, the content of the information requested, whether there is an ongoing judicial investigation, and whether there is any expectation of confiscation or preservation of assets. If it is indeed necessary to confiscate or preserve any asset, such request will be referred to the prosecutor in accordance with the division of work and liaison methods for further processing in accordance with the international mutual legal assistance procedure. On the other hand, when Taiwanese prosecutors or other judicial agencies, due to needs in investigating cases of integrity or corporate corruption, assist the AMLD of the Investigation Bureau to handle international exchange of intelligence and

request any FIU to assist in the investigation of financial information, if it is believed that there is a possibility of requesting the foreign country where the assets concerned are located to assist in confiscation or preservation in the subsequent investigation process and it is necessary to inform such foreign country in advance, it will also be explained when handling the international information exchange operation according to the requirements of the requesting agency. Please refer to the section on Article 14 of the UNCAC. (§56)

## **Article 57 Return and Disposal of Assets**

### **143. Legal Regulations (§57)**

- (1) The “Criminal Code” has added a dedicated chapter on confiscation and the “Money Laundering Control Act” added new provisions to expand the scope of regulations to confiscation of proceeds from illegal acts. Please refer to the section on Article 31 of the UNCAC. (§57)
- (2) Both Articles 142 and 473 of the “Code of Criminal Procedure” demonstrate the purpose that the seized items shall be returned to the victim or any third party concerned. Article 473 states: “If the rights holders file a motion to have confiscated items or force-collected property returned, or if persons, who are allowed to exercise the right to a claim as a result of the defendant’s crime, have obtained the civil compulsory execution and file a motion to be paid, within a year after the judgment is finalized, the prosecutor shall return such items/property or pay such claims, with the exceptions of: items/property that should be destroyed or abandoned; if the items/property are sold, the price of the sale shall be returned.” The latter part of Paragraph 1 of Article 142 states: “Where the seized property constitutes stolen property and is not claimed by any third party, it shall be returned to the victim of the crime.” This also demonstrates that the return of the seized items in Taiwan is mainly based on the original rights holder and interests, regardless of whether they are victims or third parties. Paragraphs 1 and 2 of Article 38-3 of the “Criminal Code” state although the confiscated assets will be transferred to the government when the judgment is finalized, the third party’s ownership of the confiscated items remains unchanged. Therefore, after the items concerned have been confiscated, the victim of the crime may request the enforcement prosecutor to return the items in accordance with the provisions of this Article. If the person who is entitled to exercise the right of request due to the crime has obtained the

entitlement, they are also allowed to apply to the enforcement prosecutor to claim the confiscated items for compensation of property to prevent the criminals from becoming insolvent after the confiscation by the government, which could result in the victim becoming unable to reclaim anything and leading to a negative impression of the government competing for profits with the general public. (§57 I)

- (3) According to Paragraph 1 of Article 19 and Article 20 of the “Money Laundering Control Act,” for the property confiscated in money laundering crimes, there are plans to set up a dedicated fund for its usage and management. The “Code of Criminal Procedure” and “Important Notice to Prosecution Entities on the Change in the Value of Objects Seized from the Pursuit of Criminal Investigation” also provide regulations on the disposal and sale of seized property. (§57 I)
- (4) Paragraph 2 of Article 19 of the “Money Laundering Control Act,” Paragraph 2 of Article 17 of the “AIT-TECRO Mutual Legal Assistance Agreement,” and Paragraph 3 of Article 19 of the “Taiwan-Philippines Mutual Legal Assistance Agreement” provide similar regulations about the return of property. (§57 III)
- (5) Article 33 of the “Mutual Legal Assistance in Criminal Matters Act” provides regulations on the sharing of the confiscated or collected proceeds of crime and the deduction of relevant fees. Articles 35 and 36 state the “Mutual Legal Assistance in Criminal Matters Act” shall apply *mutatis mutandis* to any request for mutual legal assistance in criminal matters between Taiwan and Mainland China, Hong Kong or Macao. Please refer to the section on Article 55 of the UNCAC. (§57 I and III)

#### **144. Statistics (§57 III)**

For the issues of the seizure, confiscation, and return of property to the victims of cross-border communication fraud cases between Taiwan and Mainland China, please refer to the section on Article 46 of the UNCAC. (§57 III)

#### **145. Major Cases (§57)**

In 1989, the Taiwanese Navy contacted France to purchase six La Fayette-class frigates. Kuo X, the Navy’s person in charge, conspired with the arms dealer Wang X and other parties concerned, in which the overseas company established by Wang X received huge kickbacks of approximately 18.6%. Following the death of Wang X in 2015, the court has concluded a

dismissal judgment, and the prosecutors have currently frozen the assets and bank accounts of the Wang family in several European countries. Taiwan's prosecutors filed a separate petition domestically to apply for confiscation. On July 21, 2017, the Taiwan Taipei District Court ruled to confiscate the principal and interests of the criminal proceeds of US\$900,146,887.18 and the interests generated until the execution is completed. After the motion to set aside the court rulings of both parties, the Taiwan High Court ruled on November 28, 2018, to declare that the criminal proceeds of US\$953,324,920.60 and the interests generated until the execution is completed shall be confiscated. On October 31, 2019, the Supreme Court ruled that the principal of US\$312,539,913.44 specified in the prosecutor's application for confiscation of the proceeds of crime was determined and final, and the rest amount was returned to the Taiwan High Court. On July 14, 2021, the Taiwan High Court ruled to allow the confiscation of the principal and interests of US\$520,748,645.83, and interest of the principal of US\$487,192,808.72 generated from January 1, 2017, until the execution is completed. Taiwanese prosecutors are still actively using mutual legal assistance to request the relevant countries to continue to freeze the assets of the Wang family, and request the return of the proceeds of crime in compliance with the conditions of the foreign countries concerned. (§57)

#### **146. Promotion Methods (§57 III and V)**

Regarding Paragraph 5 of Article 57 of the UNCAC, Taiwan may consider the feasibility and necessity of entering into agreements or mutual acceptance arrangements on a case-by-case basis to the extent permitted by the domestic legal system. (§57 V)

### **Article 58 Financial Intelligence Unit**

#### **147. Important Measures and Practices (§58)**

The AMLD of the Investigation Bureau joined the Egmont Group in 1998, and may exchange financial information including corruption-related information (mainly relevant information contained in suspicious transaction reports received by the FIUs of various countries) with foreign FIUs in accordance with relevant treaties, agreements or the Egmont Group's charter and information exchange principles, etc. In other words, the AMLD of the Investigation Bureau may accept requests from and act on behalf of domestic law enforcement agencies for specific objects

or funds to submit requests for information exchange to specific FIUs via Egmont Secured web (ESW), and may also accept the actively-shared financial intelligence related to domestic criminal activities by FIUs of other countries or regions. Relevant communication documents shall be marked with wording such as “for intelligence sharing,” “for use by law enforcement agencies only,” and “do not disclose to any third parties without prior permission.” (See Table 16 in the section on Article 14 of the UNCAC for the results of the information exchange works). In addition, the “Money Laundering Control Act” stipulates that in order to prevent international money laundering activities, the Taiwanese government may, in accordance with the principle of reciprocity, enter into cooperation treaties or other international written agreements on the prevention of money laundering with foreign governments, institutions or international organizations. As of June 2021, the AMLD of the Investigation Bureau has signed anti-money laundering and countering-terrorism financing cooperation agreements/MOUs with 51 countries or jurisdictions. (See Table 15 in the section on Article 14 of the UNCAC). (§58)

## **Article 59 Bilateral and Multilateral Agreements and Arrangements**

**148. For agreements on return of assets, please refer to the section on Article 51 of the UNCAC, Legal Regulations (3)**

## **Chapter VI Technical Assistance and Information Exchange**

### **Article 60 Training and Technical Assistance**

**Concluding observations of the international review committee of the first national report:**

*Measure 23 : Establishment of specialized authorities to combat corruption (Article 36), the AAC and MJIB, with trained central and regional staff to prevent and combat corruption.*

*Measure 46: The Review Committee recognizes Taiwan's commitment to the training of specialized staff as mentioned above.*

Taiwan continues to organize training and seminars to judges who are in charge of judicial corruption cases, prosecutors, Investigation Bureau, anti-money laundering agencies and financial institutions. Please refer to page 88 of the Report on Responses to the Concluding Observations.

### **149. Important Measures and Practices (§60)**

(1) Training Programs (§60 I)

Taiwan provides training to judges, prosecutors, integrity staff and investigation agents responsible for preventing and combating corruption (see Table 32). For the implementation status of training programs, please refer to II, 6, (2) “Training and Joint Training Program of Professional Staff” in the Report on Responses to the Concluding Observations.

**Table 32 Training programs**

Training subject	Training contents
Judges, prosecutors and other staff designated by law enforcement authorities	The Judicial Yuan conducts professional courses on money laundering prevention and major economic crime cases for presiding judges who are in charge of judicial corruption cases (which include courses on the legal system for money laundering prevention, the investigation of practical and abnormal funds, abnormal transactions, combating terrorism financing, and public servants’ property declaration and recusal due to conflict of interests)
Integrity Staff	New recruits: Pre-employment professional study (for a period of 5 months) Current staff: Courses for effective measures to prevent, monitor, detect, punish and control corruption, for abilities to formulate and plan anti-corruption policies, for government procurement and interpretation of financial statements, for monitoring, recovery, and return of proceeds of crime and for other related topics.
Investigation Staff	New recruits: Professional training on anti-corruption work Current staff: Courses for specialization in corruption investigation, policy directions of investigation of bribery in elections, investigation and handling of relevant cases, investigation of illicit gains, etc., and courses on strengthening mutual judicial assistance and cooperation with various countries, enhancing crime scene investigation for drugs, improving scientific and technological investigation, and money laundering prevention and investigation of transnational criminals

Data source: MOJ (AAC and MJIB)

- (2) Provide Training, Assistance and Exchange of Experience (§60 II, III, V, VI and VII)
  - A. Taiwan continues to donate to the “Biennial Program Assisting to APG’s Pacific Sub-Region” of the APG to assist its Pacific Islands members to enhance their anti-money laundering and countering terrorism financing (AML/CFT) capabilities. In addition, Taiwan also continues to make donations to the “Egmont Group” (EG) for training programs to help to enhance EG

members’ AML/CFT-related knowledge. Aside from routinely participating in EG annual meeting and related conferences, Taiwan actively participates in the affairs of EG’s “Membership, Support, and Compliance Working Group” (MSCWG) to serve as the sponsor for member for Vietnam, Cambodia and Nepal to provide relevant technical assistance. Of these countries, Cambodia and Nepal have successfully joined the Egmont Group. (§60 II and III)

B. In order to effectively assist in preventing corruption, Taiwan promotes the “Information and Communication Project” in countries located in Central America and the Caribbean which have official diplomatic relations with Taiwan. Using the abundant experience and information as well as communication technology capabilities of Taiwan’s e-government, related projects were promoted from 2013 to 2017 to assist local governments to integrate the import and export system of goods and control the import and export process, build a complete customs and trade e-certificate issuance system, and carry out cross-agency online application, inspection, processing, review, approval and certificate issuance and other process digitization operations. In addition, from 2017 to 2021, Taiwan assisted Belize in building a national traffic supervision system, integrating the central and local government supervision databases, and providing the general public with transparent and reliable traffic supervision services. Furthermore, relevant training courses such as trade facilitation were provided, which was helpful for the partner countries to control their import and export process of goods, analyze data and make the information and data transparent. (§60 II and VII)

(3) Sub-regional, Regional and International Conferences and Seminars (§60VI)

A. For the information on events of international organizations that Taiwan participated in, please refer to Table 33. For the details on conferences that we participated in, please refer to II, 5, (4), 1 “Participation in International Organizations” and II, 6, (3), 1 “Conducting Joint Training Programs and Participation in International Conferences” in the Report on Responses to the Concluding Observations.

**Table 33 List of Events of international organizations that Taiwan participated in**

Organizations		Activities
Asia-Pacific Cooperation (APEC)	Economic	The 24th to the 33rd “Anti-Corruption and Transparency Experts Working Group” (ACTWG) of APEC, ACT-EGILAT of ACTWG and online conferences of units



related to anti-corruption and law enforcement units of ACT-NET

Transparency International (TI)	The 18th and 19th International Anti-Corruption Conference (IACC)
Egmont Group	Egmont Group WG Meeting and Egmont Group Annual Meeting (regular participation)
Financial Action Task Force (FATF)	The members' meeting and working group meeting of the FATF (regular participation)
Asia/Pacific Group on Money Laundering (APG)	Asia/Pacific Anti-Money Laundering Annual Conference and APG Seminar on Money Laundering and Terrorism Financing (regular participation)
Asset Recovery Interagency Network - Asia Pacific (ARIN-AP)	ARIN-AP annual meeting and the International Symposium on Economic Crime (regular participation)

Data source: MOJ (AAC and MJIB)

- B. In 2015, 2017, 2019 and 2021, Taiwan respectively held the 2nd to 5th “Taiwan West Asia Forum - International Symposium on Regional Security and Cross-Border Crime” to reach a consensus with the law enforcement agencies of participating countries for strengthening mutual cooperation. (§60 VI)
- C. In 2017, the “APEC Exchange Workshop on Enhancing Whistleblower Protection in Corruption Cases” was held to discuss the results of the “APEC Guiding Principles for the Protection of Whistleblowers” to implement the consensus of APEC regional cooperation on the protection of whistleblowers. (§60 VI)
- D. In 2019, the 22nd FBINAA Asia Pacific Chapter Retraining Conference was held to discuss the current law enforcement issues and countermeasures such as combating corruption in the public sector and global corporate corruption. (§60 VI)
- E. In 2019 and 2020, Taiwan, along with the United States, Japan and Australia, jointly held the 2019 Global Cooperation and Training Framework (GCTF) - Anti-Corruption in the Public and Private Sectors and the 2020 GCTF - Combatting COVID-19 related Crimes international workshops. (§60 VI)
- F. In 2021, Taiwan, the American Institute in Taiwan, the Japan-Taiwan Exchange Association, and the Australian Office in Taipei jointly held the “2021 Global Cooperation and Training

Framework (GCTF) - Workshop on Anti-Money Laundering” international webinar to discuss money laundering prevention and law enforcement actions. In addition to demonstrating Taiwan’s contribution to the international community, partnerships with other countries were also established and the international participation of Taiwan’s law enforcement agencies was expanded. (§60 VI)

- G. In November 2021, the AAC participated in the webinar of the 3rd “Taiwan-US Indo-Pacific Democratic Governance Consultation” between Taiwan and the United States, and presented and shared the background of Taiwan’s promotion of anti-corruption in the private sector and the specific implementation and results under the title “Taiwan’s Current Development of Public-Private Cooperation in Anti-Corruption<sup>30</sup>,” as well as the results of integrity governance by all competent authorities under the coordination of the Ministry of Justice in the three areas of “robust laws and effective law enforcement,” “establishment of private sector guidelines for encouragement of corporate self-discipline” and “public-private dialogue.”

(4) Evaluation, Analysis and Research on Corruption (§60 IV)

- A. The AAC annually conducts the public satisfaction survey. By surveying and studying the general public’s perceptions and expectations of government integrity, the changes and trends of the public on clean government issues can be measured and tracked over the long term, so as to provide reference for future government integrity promotion measures. In addition, the Government Employee Ethics Units have implemented tools for analyzing and researching the types, causes, and impacts of government corruption, which include early warnings, measures to prevent corruption, public opinion surveys on clean government, guidelines for preventing corruption, government ethics surveys and holding relevant seminars, etc. (§60 IV)
- B. For details on the institutional integrity assessment mechanism promoted by the AAC, please refer to the section on Article 5 of the UNCAC.

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<sup>30</sup> The website of Ministry of Foreign Affairs: [https://www.mofa.gov.tw/News\\_Content.aspx?n=95&s=96822](https://www.mofa.gov.tw/News_Content.aspx?n=95&s=96822)

## Article 61 Collection, Exchange and Analysis of Information on Corruption

Concluding observations of the international review committee of the first national report:

*Measure 47: Taiwan has implemented successful projects to share anti-corruption expertise in the region. For example, Taiwan led a project with APEC member economies on best practices for whistle-blower legislation and systems. Taiwan should continue to explore the possibility of initiating joint training programmes with anti-corruption agencies in other countries and participation in regional or international anti-corruption workshops.*

Taiwan continues to participate in relevant international anti-corruption seminars, and voluntarily reports the latest progress of its promotion of the UNCAC and other anti-corruption measures at these seminars, and actively raises proposals to seek APEC subsidies for international seminars. Please refer to page 92 of the Report on Responses to the Concluding Observations.

### 150. Important Measures and Practices (§61)

- (1) Taiwan takes the data of the annual “Corruption Perceptions Index” (CPI) published by Transparency International (TI), Asian Intelligence of the Political and Economic Risk Consultancy Ltd, and the World Competitiveness Yearbooks of the International Institute for Management Development, as the reference for evaluating Taiwan’s national integrity policies. Taiwan also extensively collects related international integrity assessments, including the clean government indicator from the American think tank The Heritage Foundation’s Economic Freedom Index, the World Economic Forum’s Global Competitiveness Report which evaluates government transparency, and the global commercial anti-bribery NGO TRACE’s Bribery Risk Matrix and other data for regular review and analysis, and submits improvement proposals in a timely manner, so as to grasp the international trends in clean government from multiple perspectives and achieve the goal of getting in line with international developments. (§61)
- (2) From 2017 to 2021, CPI annually evaluated 180 countries and regions (including Taiwan) worldwide, and Taiwan respectively ranked 29th (with a score of 63 out of 100), 31st (63/100), 28th (65/100), 28th (65/100) and 25th (68/100) in the world. Because the CPI score is mainly measured from the subjective impression of experts and business managers on corruption in the public sector in Taiwan; therefore, greater effort will be made on making government decision-making transparent, and implementing the necessary measures to improve the transparency of government administrative departments in Article 10 of the UNCAC in the future to avoid doubts

about corruption in the public sector due to the lack of transparency in government and administrative decisions. Taiwan shall also focus on mitigating the adverse impact of corruption on corporate activities, preventing improper interaction between officials and businesspeople, i.e., preventing potential bribery among enterprises and the public sector, conflicts of interest, and corruption in government procurement and public construction projects.

- (3) During all previous committee meetings of the Central Integrity Committee of the Executive Yuan, reports were submitted on “Current Integrity Situation and Analysis” which included the review and analysis of international integrity assessments and statistics on crimes of corruption to grasp the latest trends in corruption and the context of corruption crimes, and external commissioners were also consulted for their independent opinions. Please refer to II, 3, (1) “Full Play to the Functions of the Central Integrity Committee of the Executive Yuan” in the Report on Responses to the Concluding Observations. (§61 I)
- (4) The central and local agencies are chaired by the heads of the agencies, regularly convene anti-corruption conferences to discuss the anti-corruption matters of the agency, and introduce experts, scholars and independent community representatives to serve as members to provide consultation. In 2021, 1,165 meetings were held, 1,784 special reports were submitted, and 2,495 proposals (including extempore motions) were discussed and approved. (§61 I)
- (5) For details on the public opinion survey of the Ministry of Justice, please refer to the section on Article 10 of the UNCAC.
- (6) For details on the international conferences or seminars Taiwan held or participated in, please refer to the section on Article 60 of the UNCAC.

## **Article 62 Other Measures: Implementation of the Convention through Economic Development and Technical Assistance**

### **151. Important Measures and Practices (§62)**

- (1) Taiwan has promoted the “Information and Communication Project” in Central America and the Caribbean countries that have official diplomatic relationships with Taiwan (i.e., St. Lucia, St. Vincent, St. Christopher and Belize, etc.). Please refer to the section on Article 60 of the UNCAC. (§62)

- (2) Taiwan regularly sends staff to participate in international seminars, forums and training courses, and to discuss anti-corruption policies and practical practices with officials from other countries in the areas of integrity, anti-corruption, investigation, and law enforcement, so as to improve the ability to combat corruption, as shown in Table 34. (§62)

**Table 34 List of international seminars, forums and training courses Taiwan sends staff to participate in**

<b>Time period</b>	<b>Participation contents</b>
<b>Staff annually dispatched for participation since 2007</b>	Symposium on Police Studies of Cross Straits cum Hong Kong and Macao
<b>Staff annually dispatched for participation since 2012</b>	Criminal Law Forum of Mainland China, Hong Kong, Macau and Taiwan
<b>Staff annually dispatched for participation since 2015</b>	“Wealth Survey International Seminar (presented in English)” and “Wealth Survey International Seminar (presented in Chinese)” organized by the Hong Kong Police
<b>Staff dispatched for participation in 2017</b>	“The 42nd Asia Region Law Enforcement Management Program (ARLEMP)” organized by the Australian Federal Police
	The 268th Training Session by the FBI National Academy
	Clerkship at the New York City Police Department
	Clerkship and training at the City of Miami Police Department
	Pacific Training Initiative of the FBI
	Training program of the FBI National Academy
	International training program of the French Police
<b>2018-2020</b>	Human Trafficking Investigator’s Course by the Canadian Police College
	The Pacific Training Initiative of the FBI, the training program of the FBI National Academy, the “International Symposium on Drugs Investigation” jointly held and organized by Japan’s National Police Agency and the Japan International Cooperation Agency (JICA) and the International Conference on Transnational Organized Crime and Terrorism
	FBI National Academy training program (cancelled due to COVID-19)

<b>Staff planned to be dispatched for participation in 2020</b>	International Law Enforcement Academy (ILEA) of Thailand anti-corruption program (cancelled due to COVID-19) FBI 32nd Pacific Training Initiative (cancelled due to COVID-19)
<b>Staff dispatched for participation in 2021</b>	“Seminar on Corruption and Money Laundering Prevention” jointly organized and held by the Investigation Bureau and Internal Revenue Service (IRS), the US Department of the Treasury The Investigation Bureau and Direction de la Coopération Internationale (DCI) of the Ministre de l’Intérieur of France jointly organized the webinar for “Cybercrime Investigation”
<b>Staff planned to be dispatched for participation in 2021</b>	FBI National Academy training program (cancelled due to COVID-19) International Law Enforcement Academy (ILEA) of Thailand anti-corruption program (cancelled due to COVID-19) FBI 33rd Pacific Training Initiative (cancelled due to COVID-19)

Data source: MOJMJIB), MOI (NPA)

## Chapter VII Mechanisms for Implementation (Articles 63 to 64)

## Chapter VIII Final Provisions (Articles 65 to 71)

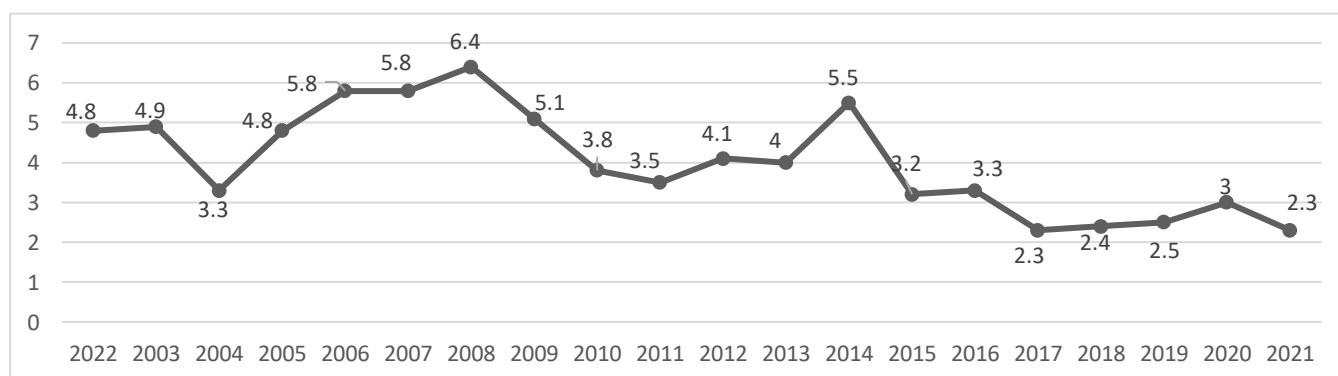
152. Taiwan is not a state party, so the provisions of Articles 63 to 71 cannot be applied.

## 【Appendix】

### Appendix 1: Statistical Data and the trend of Corruption Cases charged by the Prosecution

Office in all district courts from 2002 to June 2021

Year/ Mont /Day	Number of cases for criminal indictment	Number of indictment on corruption (case)			Number of persons indicted for criminal offenses	Number of indictment on corruption (person)			
		Sub-total	Anti-corruption Act	Malfeasance		Sub-total	Indictment rate per mid-term population of 100,000	Anti-corruption Act	Malfeasance
2002	125,289	524	498	26	153,003	1,085	4.8	1,044	41
2003	113,004	591	561	30	136,258	1,101	4.9	1,065	36
2004	118,851	357	339	18	139,454	756	3.3	728	28
2005	134,624	465	445	20	158,817	1,092	4.8	1,056	36
2006	158,889	512	485	27	189,943	1,330	5.8	1,274	56
2007	188,422	529	491	38	221,486	1,331	5.8	1,267	64
2008	199,374	512	468	44	231,813	1,467	6.4	1,393	74
2009	187,179	438	400	38	216,540	1,179	5.1	1,118	61
2010	187,424	354	310	44	218,443	887	3.8	830	57
2011	182,051	354	317	37	211,783	814	3.5	755	59
2012	176,379	407	380	27	203,760	943	4.1	897	46
2013	180,508	356	320	36	208,262	929	4.0	875	54
2014	192,915	426	386	40	219,121	1,292	5.5	1,226	66
2015	199,963	337	308	29	226,278	760	3.2	719	41
2016	209,913	282	244	38	235,549	770	3.3	712	58
2017	215,504	265	242	23	239,483	541	2.3	508	33
2018	213,855	267	239	28	238,568	568	2.4	537	31
2019	206,488	270	228	42	232,564	600	2.5	535	65
2020	198,808	315	266	49	227,504	714	3.0	653	61
2021	175,810	237	216	21	203,523	531	2.3	499	32
<b>Total</b>	<b>3,565,250</b>	<b>7,798</b>	<b>7,143</b>	<b>655</b>	<b>4,112,152</b>	<b>18,690</b>		<b>17,691</b>	<b>999</b>



Note:

1. Indictment rate per mid-term population of 100,000 = number of persons indicted for corruption/mid-term population 100,000.
2. Mid-term population = (population at the end of census period + population at the end of the previous census period)/2.
3. Note to statistics: in the field of Number of indictment on corruption includes the offenses of the Anti-Corruption Act and malfeasance.
4. Source: Department of Statistics, Ministry of Justice



**Appendix 2 : Regulations (and Their Explanations) in the Law of Extradition and Its Draft related to Article 44 of the UNCAC**

Items	Law of Extradition-related regulations	Draft-related regulations
2 16		Pursuant to Article 10, Paragraph 1, Subparagraph 1 of the draft, Taiwan may reject other countries' requests to extradite the accused committing crimes that are not punishable in Taiwan; however, this should not be the reason for Taiwan to reject such requests. Thus, Taiwan may still extradite the accused committing crimes stipulated in the UNCAC that are currently not punishable in Taiwan.
1 3 4 7	Pursuant to Article 2, Taiwan may extradite the accused who are to be punished for a maximum of at least one year according to the laws of the Republic of China and those of the requesting countries (the crimes committed by the accused include those stipulated by the UNCAC).	Pursuant to Article 10, Paragraph 1, Subparagraph 2 of the draft, Taiwan may refuse other countries' requests to have the accused extradited if the accused are to be sentenced to imprisonment for a maximum of three years or less according to its laws. Concerning crimes stipulated in the UNCAC (e.g., civil servants receiving bribes and money laundering), corresponding criminal laws regulations and punishments have already been established in Taiwan. For these crimes, the punishments all exceed a maximum imprisonment of more than 3 years, and reasons for Taiwan to refuse to extradite those who commit these crimes have not been listed.
4	Related regulations can be found in Article 3.	Pursuant to Article 9, Paragraph 1, Subparagraph 2 of the draft, crimes of extradition are political crimes. Thus, extradition should be refused. However, the reason for amendment column states "political crimes are broadly defined and can include connotations such as political opinions, different political positions, and social associations." Crimes stipulated in the UNCAC have also not been categorized as political crimes.

8	Related regulations can be found in Articles 2-5.	Articles 9 and 10 clearly state the circumstances under which extradition may and should be refused.
9		<ol style="list-style-type: none"> <li>1. Pursuant to Articles 15 and 16 of the draft, during the extradition process, arrest and detention-related rulings are made by courts to reduce extradition time.</li> <li>2. Pursuant to Articles 20 and 21 of the draft, the accused may decide whether to accept the extradition procedures and effects.</li> </ol>
10	Related regulations can be found in Article 12.	Article 25 of the draft contains emergency extradition and detention-related regulations.
11	Related regulations can be found in Article 4.	Pursuant to Article 9, Paragraph 2 of the draft, if Taiwan refuses other countries' requests to extradite the accused as described in Subparagraph 5 of the preceding paragraph, it should transfer the accused to the responsible prosecutors' offices if their crimes are at risks of violating its penal laws.
13		<ol style="list-style-type: none"> <li>1. Taiwan's Mutual Legal Assistance in Criminal Matters Act does not include, at the requests of the other countries, that Taiwan impose punishments on the accused or demand that the accused finish their sentences in Taiwan pursuant to the laws of the requesting countries.</li> <li>2. Pursuant to Article 9, Paragraph 1, Subparagraph 5, Item 3 of the draft, when other countries request that Taiwan extradite the accused so that they can have the accused serve their imprisonment sentences, Taiwan may reject the said requests if the imprisonment sentences or remaining imprisonment sentences are less than a year, regardless of whether or not the accused are Taiwanese nationals. However, Taiwan has the option of accepting the said requests and extradites the accused to the countries making the requests.</li> </ol>

14	<ol style="list-style-type: none"> <li>1. Related regulations can be found in Article 20.</li> <li>2. The accused must or should be protected by the Code of Criminal Procedure.</li> </ol>	<ol style="list-style-type: none"> <li>1. Pursuant to Article 20 of the draft, judges interrogating the accused shall inform them of relevant matters.</li> <li>2. Pursuant to Article 21 of the draft, the accused agree to be extradited or forfeit related protection procedures and effects.</li> <li>3. Articles 22 and 23 of the draft stipulate the defense and interpretation assistance rights of the accused.</li> </ol>
15	Related regulations can be found in Article 3.	Related regulations can be found in Article 9, Paragraph 1, Subparagraphs 2-4 of the draft.
17		Pursuant to Article 11 of the draft, when the Ministry of Foreign Affairs receives extradition requests from other countries, and when the said ministry forwards such requests to the Ministry of Justice, both the Ministry of Foreign Affairs and the Ministry of Justice may ask the requesting countries to provide supplementary information or explanations before the deadlines.
18		<ol style="list-style-type: none"> <li>1. Extradition treaties: Paraguay, Eswatini, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Marshall Islands, Palau, South Africa, Dominica, Costa Rica, Grenada, and Malawi.</li> <li>2. Memorandum: Memorandum on the Extradition of Zain Taj Dean from the United Kingdom to Taiwan.</li> <li>3. Agreements: Article 4 of the Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters, and Article 3 of the Agreement between the Taipei Representative Office, Bratislava and Slovak Economic and Cultural Office in Taipei on the Legal Cooperation in Criminal Matters.</li> <li>4. Taiwan and China: Cross-Strait Joint Crime-Fighting and Judicial Mutual Agreement, and</li> </ol>

Operation Guidelines for Arresting and Extraditing Criminals or Suspected Criminals from Taiwan to China and Vice Versa.

**Appendix 3 : Note to the Act on International Mutual Assistance in Criminal Matters and agreements (arrangements) on mutual legal assistance in criminal matters between Taiwan and other countries in relation to Article 46 of the UNCAC**

Item	The draft of 《International Criminal Justice Mutual Legal Assistance 》	Applicable legal rules
3	Related requirements are specified in Article 6.	<p>Article 2 of the AIT-TECRO Mutual Legal Assistance Agreement.</p> <p>Article 2 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.</p> <p>Article 2 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matter.</p> <p>Article 1 of the Cross-Strait Joint Crime-Fighting and Judicial Mutual Agreement.</p> <p>Article 3 of the Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters.</p> <p>Article 1 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.</p> <p>Article 1 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.</p>
5	Article 14 requires that unless the parties hereto agreed otherwise or the law specified otherwise, information requested or in execution shall be kept in strict confidence.	<p>Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement.</p> <p>Article 5 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.</p> <p>Article 6 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matter.</p> <p>Article 16 of the Cross-Strait Joint Crime-Fighting and Judicial Mutual Agreement.</p> <p>Article 12 of the Agreement between the Taipei Representative Office in Poland and the Polish</p>

Office in Taipei on the Legal Cooperation in Criminal Matters.

Article 5 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.

Article 5 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.

6 Article 2 rules the order of law. Matters concerning mutual legal assistance in international criminal law have always been signed by multilateral or bilateral treaties. To fulfill their international obligations, our country should give priority to those treaties if they have been signed.

Article 18 of the AIT-TECRO Mutual Legal Assistance Agreement.

Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.

Article 20 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.

Article 14 of the Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters

Article 20 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.

Article 20 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.

9 Paragraphs 1 and 2, Article 10, specified that the reasons for rejection for assistance and discretion in rejection for assistance are in conformity to the requirements in international cooperation and the essential principle of international mutual legal assistance in criminal matters as stated in Chapter 4 of the

Paragraph 3, Article 2, and Subparagraph 4, Paragraph 1, Article 4 of the AIT-TECRO Mutual Legal Assistance Agreement.

Article 3, Paragraph 1, Subparagraph e of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.

Article 1, Paragraph 3, and Article 3, Paragraph 1,

UNCAC. The restriction on double penalty has been eased to a certain extent, which helps to bolster the interaction between Taiwan and the international community and also allows for flexibility in individual cases. Compared with the laws of Australia, they also have similar regulations.

Subparagraph e of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.

- 10 Article 19, paragraph 2. If the contents of the request are arranged for the defendants and suspects in the criminal proceedings of our country or those who have restricted their personal liberty or have been allowed to exit the country to the designated place, the former is still in the process of judicial investigation and trial in our country, The complicated exit procedures, as well as the guardianship and safety of personnel, are not easy. In principle, they should not be allowed to arrange for such personnel to leave for assistance. However, unless otherwise agreed by both parties, the person in charge of custody shall freely consent to his knowledge and shall not be subject to the above-mentioned principle in accordance with the priority principle of Article 2 of this Law
- Paragaphs 1 and 2, Article 11 of the AIT-TECRO Mutual Legal Assistance Agreement.

- 11 Related requirements are specified in Paragraph 3, Article 11 of the AIT-TECRO Mutual  
12 Paragraphs 4 of Article 19. Legal Assistance Agreement.

- 13 Related requirements are specified in Article 3 of the AIT-TECRO Mutual Legal  
Article 7 and Article 9. Assistance Agreement.  
Article 2 of the Taiwan-Philippines Agreement on  
Mutual Legal Assistance in Criminal Matters.

		<p>Article 1 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.</p> <p>Article 8 of the Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters</p> <p>Article 2 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru</p> <p>Article 2 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize</p>
14	Related requirements are specified in Paragraphs 1, 2, and 5 of Article 8.	<p>Paragraph 1, Article 5 of the AIT-TECRO Mutual Legal Assistance Agreement.</p> <p>Paragraph 1, Article 4 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.</p> <p>Paragraph 1, Article 3 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.</p> <p>Articles 8 and 9 of the Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters</p> <p>Article 4, Paragraph 1 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru</p> <p>Article 4, Paragraph 1 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize</p>
15	Related requirements are specified in Paragraph 3, Article 8.	<p>Paragraphs 2, Article 5 of the AIT-TECRO Mutual Legal Assistance Agreement</p> <p>Paragraphs 2 and 3, Article 4 of the Taiwan-</p>



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	<p>Philippines Agreement on Mutual Legal Assistance in Criminal Matters.</p> <p>Paragraphs 2 and 3, Article 3 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.</p> <p>Article 4, Paragraph 2 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.</p> <p>Article 4, Paragraph 2 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.</p>
<p>16      Related requirements are specified in Paragraph 4.</p>	<p>Paragraphs 4, Article 5 of the AIT-TECRO Mutual Legal Assistance Agreement</p> <p>Paragraphs 4, Article 4 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.</p> <p>Paragraphs4, Article 4 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.</p> <p>Article 4, Paragraph 4 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.</p> <p>Article 4, Paragraph 4 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.</p>
<p>17      Related requirements are specified in Article 12.</p>	<p>Article 2 of The Law in Supporting Foreign Courts on Consigned Case.</p> <p>Paragraph 3, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement.</p> <p>Paragraph 1, Article 5 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.</p>

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Paragraph 2, Article 1 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.

Article 11 of the Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters.

Article 5, Paragraph 3 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.

Article 5, Paragraph 3 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.

18 Related requirements are specified in Paragraph 2, Article 17 and Article 31.

This provision specified that the personnel of the requesting state may be present at the scene of execution with the consent of the competent authority of the Taiwan (refers to the court or Prosecution Office).

Article 11 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.

(There are similar kinds of requests stated in the mutual legal assistance agreements in criminal matters between Taiwan-USA and Taiwan-Philippines).

Article 3, Paragraph 2, Subparagraph b of the Agreement between the Taipei Representative Office in Poland and the Polish Office in Taipei on the Legal Cooperation in Criminal Matters.

Article 11 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.

Article 11 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.

19 Related requirements are specified in Subparagraph 3, Paragraph 2, Article 10; Article 16; Sub-paragraph 2, Paragraph 1, Article 32.

Article 8 of the AIT-TECRO Mutual Legal Assistance Agreement.

Article 7 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.

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(No regulations of the applicability of crimes without proof).

Article 7 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru

Article 7 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize

20 Related requirements are specified in Article 14 that information pertinent to the request for assistance and the execution of the request shall be kept in strict confidence unless it is not necessary for the execution of the request or the parties hereto agreed otherwise, or the law specified otherwise.

Paragraph 5, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement.

Paragraph 2, Article 7 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.

Paragraph 6, Article 4 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.

Article 5, Paragraph 4 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.

Article 5, Paragraph 4 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.

21 Related requirements are specified in Article 10.

Article 4 of the AIT-TECRO Mutual Legal Assistance Agreement.

Article 3 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.

Article 5 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.

Article 3 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru,

Article 3 of the Treaty on Mutual Legal Assistance

23 As stated in Paragraph 4, Article 8, if the content of the request note contains insufficient information that execution could not be done, the requested state may ask the requesting state to provide supplementary information or proceed to Sub-paragraph 1, Paragraph 2, and Article 10 for rejection of the request. In addition, the requested state may consult with the requesting state as provided by Paragraph 3 that assistance could be provided on condition that necessary information is complete or the content of information has been properly revised. In practice, any rejection of the request will be explained. For example: countries other than the USA, the Philippines, and South Africa, directly send the requesting note to the Ministry of Justice without passing through the Ministry of Foreign Affairs for requesting assistance. It is clarified that in the absence of an agreement on mutual legal assistance, Taiwan asks the requesting state to refer the request for assistance through diplomatic channels of the Republic of China. The Ministry of Justice shall return the request note to the requesting state. The requesting state makes the request for mutual legal assistance

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Sub-paragraph 7, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement.

Paragraph 4, Article 3 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.

Paragraph 5, Article 5 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.

Article 5, Paragraph 7 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.

Article 5, Paragraph 7 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.

through diplomatic channels and proposes the guarantee of reciprocity. The Ministry of Justice then accepts the request for action.

- 24 Related requirements are specified in Paragraph 2, Article 8. As well as the case of urgent cases in accordance with the proviso 7, may not be able to implement mutual legal assistance through diplomatic channels. In particular, the requesting party is allowed directly to the MOJ as the liaison channel for mutual legal assistance.
- Paragraphs 1, 6, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement.  
Paragraphs 1, 3, Article 5 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.  
Paragraphs 1 to 4, and 7, Article 4 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.  
Article 5, Paragraphs 1 and 6 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.  
Article 5, Paragraphs 1 and 6 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.
- 25 Related requirements are specified in Paragraphs 2 to 6, Article 10. Taiwan will consider if the request affects the domestic legal proceedings as a vital concern before granting the assistance. In practice, if a specific request from foreign countries affects the legal proceedings of Taiwan, Taiwan should defer the execution of assistance, which would be fully justifiable.
- Paragraph 4, Article 6 of the AIT-TECRO Mutual Legal Assistance Agreement.  
Paragraph 2, Article 3 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.  
Paragraph 5, Article 4 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.  
Article 5, Paragraph 4 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru  
Article 5, Paragraph 4 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.

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- 26      Related requirements are specified in Paragraph 3, Article 10.
- Paragraph 2, Article 4 of the AIT-TECRO Mutual Legal Assistance Agreement.
- Paragraph 3, Article 3 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.
- Paragraph 5, Article 4, and Paragraph 4, Article 5 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.
- Article 3, Paragraph 2 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru
- Article 3, Paragraph 2 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.
- 27      Related requirements are specified in Paragraph 4, Article 19 and Paragraph 3, Article 32.
- Article 12 of the AIT-TECRO Mutual Legal Assistance Agreement.
- Article 10 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru
- Article 10 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize
- 28      Related requirements are specified in Article 15.
- Article 7 of the AIT-TECRO Mutual Legal Assistance Agreement.
- Article 6 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.
- Article 8 of the Taiwan-South Africa Arrangement on Mutual Legal Assistance in Criminal Matters.
- Article 6 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru
- Article 6 of the Treaty on Mutual Legal Assistance
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in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize

29 As stated in Article 1, there should be no doubt that government archives already disclosed to the public could be availed of by foreign governments for joint efforts in combating crimes under the principle of mutual respect and equity for the improvement of mutual legal assistance in international criminal justice. If the supply of such information will cause damage to the national interest of Taiwan, or the results of assistance If there is a reason for refusing assistance as provided for in Article 10, it is not appropriate to provide assistance based on the customary practice of mutual legal assistance in criminal matters. However, considering the differences in the legal systems of different countries and safeguarding the litigation rights of the parties concerned, without prejudice to the rule of law Spirit and influence of the law and order in our country, Taiwan still could not provide any assistance at all. We can decide whether to provide assistance according to the specific circumstances of a case.

Article 10 of the AIT-TECRO Mutual Legal Assistance Agreement.

Article 9 of the Taiwan-Philippines Agreement on Mutual Legal Assistance in Criminal Matters.

Article 9 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of the Republic of Nauru.

Article 9 of the Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of China (Taiwan) and the Government of Belize.